EDITORIAL

THE NEPAD AFRICAN PEER REVIEW MECHANISM
Prospects and challenges

The African Peer Review Mechanism (APRM) is generally described as the most innovative aspect of the New Partnership for Africa's Development (NEPAD). Recently there has been much controversy around both NEPAD and the APRM. Days ahead of the 5th NEPAD Heads of State Implementation Committee (HSIC) meeting in Abuja, South African Deputy Foreign Minister Aziz Pahad revealed a compromise position that would be discussed in Nigeria. The African Union (AU), through various structures dealing with democratisation, good governance and human rights, would be responsible for the political review component of the APRM. This was confirmed in the subsequent communiqué from Abuja.

The compromise, long in the offing, caused a storm in the media and the donor community, as it appeared to water down the expectation of an independent, stringent test of African commitment to better political governance. Indeed, the competence and credibility of the African Commission on Human and Peoples' Rights is questionable, while other AU institutions which could be tasked with this political review, such as the Economic, Social and Cultural Council (ECOSOCC) and the Pan-African Parliament do not yet exist.

From the start NEPAD had been promising a process of self-monitoring and what is now being called 'peer learning'. The experience within the Organisation for Economic Co-operation and Development (OECD) from which NEPAD is taking its cue indicates that peer review must be non-adversarial and collegial, relying on mutual trust and understanding between countries being reviewed. It is unrealistic to expect Africa, where democracy is less entrenched and patronage politics is the order of the day, to adopt much more punitive practices. The Abuja decision therefore came as a 'reality check' for many of the NEPAD partners and the donor community, the G8 in particular. It could certainly have been explained and sold to them in a less alarming way, however.

The Abuja HSIC meeting also settled long-simmering tensions between the AU Commission and the NEPAD Secretariat. The communiqué clearly subordinates the NEPAD Secretariat and insists on its closer co-operation with the AU, until such time as it is merged into the new AU structure. This is in line with the original adoption of NEPAD as an official programme of the Organisation of African Unity (OAU)/AU, by Heads of State and Government in Lusaka, Zambia in July 2001.

Much of the rivalry between the AU and NEPAD relates to an earlier, Nigerian-driven initiative within the OAU. The Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) predates NEPAD by several years and had slowly but steadily been building consensus around a series of benchmarks, standards and timetables towards a continental African peer review process. At

the Durban Summit in July, African leaders adopted a memorandum of understanding that set out a framework and process of peer review including a set of core values and commitments and some 50 specific key performance indicators regarding democracy, human rights, security, economic issues and development.

While there are important differences between the AU peer review process embodied within the CSSDCA and that of NEPAD, there are also obvious areas of overlap, most glaring of which is the proposed creation of a parallel panel of eminent African persons. The most important difference between the two is that the CSSDCA process is inclusive of all AU member states, while NEPAD is voluntary. While the CSSDCA benchmarks are very specific and ambitious, those of NEPAD constitute a series of best practices culled from international institutions.

In October 2001, the first meeting of the NEPAD HSIC met in Abuja, Nigeria, and decided that, at its next meeting, it would consider and adopt an appropriate peer review mechanism and a code of conduct. As a result the next HSIC meeting of March 2002 adopted the APRM, although the document was only publicly available some months later.

The third HSIC meeting in Rome, in June 2002, approved a Declaration on Democracy, Political, Economic and Corporate Governance. The committee approved the establishment of a Panel of Eminent Persons and recommended that the proposed Secretariat of the APRM be located in the UN Economic Commission for Africa (UNECA) based in Addis Ababa.

When eventually available for public scrutiny several months later, the APRM document did not provide for the location of the APRM Secretariat in the UNECA, but within the Commission of the AU. Despite the clear decision to locate the APRM within the UNECA as reflected in the Rome communiqué of the 3rd NEPAD HSIC meeting, Nigerian President Obasanjo reversed his position thereafter. Now Obasanjo was arguing that the UNECA was non-African and inappropriate since it represented the interests of the Washington consensus. The fact that he was really defending the legitimacy and role of the Nigerian-driven CSSDCA initiative was apparent to all.

Ever since the early discussions in Tripoli where the UNECA presented its much acclaimed Compact for African Recovery became the substantive part of what was then known as the Millennium Africa Recovery Programme (MAP), South African enthusiasm for the role of the UN Economic Commission for Africa (UNECA) has been key to understanding the debates around the APRM. The original South African intention was simply to use the UNECA Governance Project as a basis for the entire APRM. In time, this idea became hostage to any number of other agenda's.

In October 2002, the NEPAD Secretariat organised a two-day workshop in Cape Town. The purpose of the meeting was to operationalise the APRM by developing indicators and benchmarks, and to provide a detailed framework and content for the review process. While the UNECA did, to a degree, defuse the barrage of criticism about its methodologies and processes during the Cape Town meeting, it had no defence when it came to its lack of expertise on human rights and standards of democracy. In fact, by the end of the meeting, the complexity of the challenge of peer review became apparent. Four of the most relevant papers from this workshop are reproduced in this issue of *African Security Review*, with the permission of the NEPAD Secretariat. These include perspectives on peer review from the UNECA, the OECD, the AU and a private sector view from the Commonwealth Business Council.

Having toyed with the idea of comprehensive review, one could sense the desire of the Secretariat to return to their original idea to use the existing UNECA Governance Project as the basis for the APRM. Eventually the UNECA argued in favour of a two-track approach with one track focusing on democracy and political governance which the UNECA

recommended should be undertaken by persons or institutions appointed by the Panel of Eminent Persons.

The second track would cover economic and corporate governance issues. Of these the UNECA would deal with economic governance issues while the African Development Bank focused on banking and financial standards.

This pragmatic consideration, together with the need to present a practical compromise acceptable to Nigeria and the Commission of the AU were the considerations that saw the compromise position first floated by Deputy Foreign Minister Aziz Pahad a few days before the Abuja meeting.

Despite recent difficulties, the achievements of NEPAD are significant even in the face of the trade-offs and concessions made in the process. Never before has Africa been the focus of so much engagement and support. Had it not been for Mbeki and NEPAD, Africa would have suffered severe marginalisation after the events of 11 September 2001. Instead it was the focus of discussions at the G8 in Canada and will again be that in Italy in 2003. Finally, NEPAD has invigorated and spurred much action at the continental level.

FEATURE

THE AFRICAN PEER REVIEW MECHANISM
Process and procedures

UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA

The African Peer Review Mechanism (APRM) is perhaps the most innovative aspect of the New Partnership for Africa's Development (NEPAD). For the APRM to serve its full potential, it is important that the application of the peer review process meet the criteria of credibility, integrity and professionalism. This paper sets out clarifications by the United Nations Economic Commission for Africa (UNECA) on the nature and content of the APRM process. However, we first offer a brief summary of the concept and international experience related to peer reviews as best practice for the APRM.

Concept and international experience

Peer review refers to the systematic examination and assessment of the performance of a state by other states (peers), by designated institutions, or by a combination of states and designated institutions. The ultimate goal is to help the reviewed state improve its policy making; adopt best practices; and comply with established standards, principles, codes and other agreed commitments. Peer review examinations and assessments are conducted in a non-adversarial manner, and they rely heavily on the mutual trust and understanding between the state being reviewed and the reviewers, as well as their shared confidence in the process.

Peer reviews can be conducted based on subject areas or themes. For example, an individual country peer review could relate to economics, governance, education, health, the environment or other policies and practices. Within one or more of these subject areas, a state may be examined against a wide range of codes and standards for compliance, for example. Similarly, several countries can be examined at the same time with respect to a particular theme. However, whether based on subject areas or

The UNECA in Addis Ababa, Ethiopia prepared this paper for the NEPAD Workshop held in Cape Town in October 2002. This paper was presented by Kempe Ronald Hope, Senior Chief Policy Advisor in the Cabinet Office of the Executive Secretary. The views in this paper do not necessarily represent those of the NEPAD Secretariat.

themes, individual country peer reviews are typically undertaken on a regular basis with each review exercise resulting in a report that assesses accomplishments, indicates shortcomings and makes recommendations. They never imply a punitive decision, sanctions, or any form of legally binding acts or enforcement mechanisms.

Nonetheless, related to the concept of peer review is the concept of peer pressure. Indeed, the effectiveness of peer review relies on the influence of peer pressure—that is, the persuasion exercised by the peers. The peer review process can give rise to peer pressure through, for example: a mix of formal recommendations and informal dialogue by the peer countries; public scrutiny, comparisons and ranking among countries; and the impact of the foregoing on domestic public opinion, policy makers, and other stakeholders. Lessons from peer reviews done elsewhere suggest that the greatest impact is derived when the outcomes of peer reviews are made available to the public. When the media is provided with information on peer reviews, the story can then be mass distributed to the public. It is that public scrutiny that is most likely to coerce change and corrective actions.

While several international organisations including UN bodies and the International Monetary Fund (IMF) conduct peer reviews, the most notable experience with peer reviews can be found at the Organisation for Economic Co-operation and Development (OECD). The OECD has used this method of assessment since its creation four decades ago. Within that organisation, peer reviews are undertaken in several substantive areas and the performance of the reviewed state can be assessed against principles, criteria and standards. They may include:

- *Policy recommendations and guidelines.* The assessment of the performance of a country in its implementation of policy recommendations and guidelines. This is the most common form of peer review and can also include an examination of the consistency and coherence with respect to the country's own policies. It is undertaken in such areas as economic policy, education, environment, energy and development assistance.
- *Specific indicators and benchmarks.* Indicators and benchmarks provide specific and numerical targets to achieve. They are used in, for example, environmental performance reviews and development assistance reviews.
- *Legally binding principles.* Peer review can also be a mechanism for monitoring compliance with international norms such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Although each peer review in the OECD has its own procedure, it is possible to identify a common pattern among them. This comprises three stages:

- *The preparatory stage.* The first stage of the review consists of background analysis and of some form of self-evaluation by the country under review. During this stage a questionnaire is sent to the country for responses by the competent authorities or as an agenda for dialogue in the next stage.
- *The consultation stage.* The examiners and the OECD Secretariat conduct the consultation with a division of responsibility which depends on usual practice and the topic under review. This stage entails a visit to the country under review for consultations with the competent authorities. The examiners and Secretariat staff are also free to consult with interest groups, civil society, and academics. At the end of this phase, the OECD Secretariat prepares a draft report. The Secretariat may share the report in draft with the examiners and with the reviewed country and make adjustments it considers justified before the draft is submitted to the members of the body responsible for the review.
- *The assessment stage.* In this final stage, the draft report is discussed in the plenary meeting of the body responsible for the review. The examiners lead the discussion, but the entire body is encouraged to participate. Following discussions among members of the body,

including the reviewed state, the final report is adopted by the whole body. In some cases non-governmental organisations (NGOs) may be given an opportunity to influence the discussion by submitting papers and documents. Often, the final report is followed by a press release, which summarises the main issues for the media. Other press events and briefings may also be held to publicise the findings of the report.

Based on the experience of the OECD and other international organisations, we can conclude that the effectiveness of peer reviews depends upon a combination of a number of factors:

- *Value sharing*. There must be convergence among the participating countries on the standards or criteria against which to evaluate performance. Specificity is required to prevent uncertainty or backtracking during the process.
- *Adequate level of commitment*. Peer review can function properly only if there is an adequate level of commitment by the participating countries in terms of both human and financial resources.
- *Mutual trust*. Given the co-operative and non-adversarial nature of the peer review process, mutual trust is an important basis for its success. This will facilitate, among other things, the disclosure of data, information and documentation that are essential to the process.
- *Credibility*. The credibility of the peer review process is essential for its effectiveness. To ensure credibility, the reviewer organisation must guarantee independence, transparency and quality of work. Credibility can be undermined if the process is flawed by such factors as unqualified examiners, bias stemming from national interests, inadequate standards or criteria against which to undertake the review, or attempts by the reviewed state to unduly influence the final outcome.

Following on the international experience with peer reviews—and taking into consideration the African landscape of diversity of countries and the significance of African ownership in the New Partnership for Africa's Development (NEPAD) framework—we outline below the process and procedures for the African Peer Review Mechanism (APRM). In that context, we have also developed a set of core indicators for tracking progress through the APRM and these are set out in the United Nations Economic Commission for Africa (UNECA) paper entitled 'The African Peer Review Mechanism: Core indicators for tracking progress'.

Purpose, principles and participation in the APRM

The mandate of the APRM is to ensure that the policies and practices of participating states conform to the agreed political, economic and corporate governance codes and standards contained in the Declaration on democracy, political, economic and corporate governance that was approved by the African Union (AU) Summit in July 2002. The APRM is a mutually agreed instrument for self-monitoring by the participating member governments.

The primary purpose of the APRM is to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated integration through the sharing of experiences and the reinforcement of successful and best practice, including identifying deficiencies and assessing the needs for capacity building.

Every peer review exercise carried out under the authority of the mechanism must be technically competent and free of political manipulation. It must also comply with the mandate of the APRM referred to above. These stipulations together constitute the core guiding principles of the mechanism.

Participation in the APRM process will be open to all member states of the AU. Countries wishing to participate in the APRM will notify the chairperson of the Heads of State and Government Implementation Committee (HSGIC). This

will automatically entail an undertaking to submit to periodic peer reviews, as well as to facilitate such reviews with logistical and other support, and to be guided by agreed parameters for good political governance and good economic and corporate governance.

An Independent Panel of Eminent Persons (IPEP) will be established. It shall comprise five to seven members. There shall be at least one member from each of the AU sub-regions. All members shall be appointed by the HSGIC including the chairperson and vice chairperson who shall be selected from among the members. The presence of five members shall constitute a quorum, and the vice chairperson will act as the chairperson in the absence of the latter. The composition and functions of the IPEP are set out later in this paper.

The NEPAD Secretariat will be the Co-ordinating Secretariat for the peer review process. As such, it shall be responsible for, among other things, providing secretarial and technical support to the IPEP and the Implementation Committee.

Given the context outlined above, UNECA sees its role in the APRM process as comprising the following key elements:

- The UNECA will lead the further development of the APRM process, including the provision of technical backstopping for the peer reviews.
- The UNECA will conduct the economic management and governance peer reviews.
- In addition to UNECA experts, representatives from two African countries will also be members of the peer review teams. The African Development Bank (AfDB) will also be invited to cover banking and financial standards.
- Prior to the actual peer review, UNECA experts will visit the country to be peer reviewed for consultations with government representatives on the scope and content of the peer review.
- In order to test the approach and kick-start the process, UNECA will conduct pilot consultations in two or three countries over the next few months.
- On the basis of these consultations, UNECA will prepare the Initiating Memorandum (see Annex I) on a country by country basis.
- The UNECA will be responsible for preparing the findings and recommendations of the peer review.

Stages of the APRM process

There shall be five stages to the APRM process. Stage One will entail a careful analysis of the governance and development environment in the country being reviewed. This analysis will draw heavily on the UNECA Governance Project, which would have covered 20 to 25 countries by December 2002. That project aims at defining and measuring governance on the African continent through a number of country studies, each of which will provide more than 80 indicators on the nature and quality of governance. These indicators will provide background on the key governance and development issues in the following areas:

- *Political representativeness and rights.* To cover issues of political systems and electoral processes, representation and participation of various stakeholders in decision making.
- *Institutional effectiveness.* Including issues related to the nature and workings of the legislature, judiciary and executive branches of government, as well as the state of the non-governmental sector.
- *Economic management and governance.* Addressing issues of macroeconomic management, public financial accountability, monetary and financial transparency, accounting and auditing systems, and regulatory oversight bodies, as well as issues of capacity, effectiveness, and accountability of the economic decision making and service delivery systems and processes.

A critical element of the UNECA Governance Project, and one which will be used to inform the APRM process, is the country consultation. Those consultations entail the seeking of advice through national

steering committees and the dissemination of findings through workshops. They provide for wide-ranging interaction and buy-in by a large number of stakeholders including civil society organisations. Together with the findings of the Governance Project, the consultations will identify those key issues in political governance (peace and security, human rights, electoral participation, etc.) that should be examined in the peer review process.

Stage Two will constitute the country visits by peer review mission teams. This stage will be informed by the analysis prepared in Stage One and the work of the missions will be conditioned by the contents of the respective Initiating Memoranda, as set out in Annex I.

There shall be two tracks to Stage Two. One track will be concerned with the political governance issues identified through the country consultations and country governance reports as described in Stage One. The IPEP will select and appoint appropriate institutions or individuals to conduct the political governance peer reviews based on those identified issues.

The second track will cover the economic and corporate governance issues. These peer reviews will be conducted by the UNECA in conjunction with the AfDB. The former will be responsible for all of the standard set of issues pertaining to economic management and governance, while the latter will have responsibility for matters on banking and financial standards. The mission will be led by UNECA experts and will also include representatives from two African countries.

Mission teams will consult and extensively interview relevant government officials, parliamentarians, opposition party members not in parliament, private sector representatives, representatives of civil society groups (including the media, academia, trade unions, NGOs) and officials of resident missions of regional and international organisations.

Stage Three involves the preparation of mission findings of the peer review. A draft of each report will be discussed with the government concerned, prior to submission to the IPEP. Those discussions will be designed to ensure the accuracy of the information and to provide the government an opportunity to react to a mission's findings and to provide its own views on how the identified shortcomings may be addressed. These responses of the government will be appended to the final draft of the report. However, each mission report will remain independent and its findings will not be altered or vetted by the government concerned.

Stage Four entails discussion and adoption of the peer review reports by the NEPAD structures. Each report will be submitted through the NEPAD/APRM Secretariat for consideration and adoption by the IPEP and, ultimately, by the HSGIC. It is also recommended that the reports be considered by a technical committee comprising the IPEP and senior officials of countries that have agreed to be peer reviewed so as to reinforce the mutual learning and adoption of best practices aspects of the APRM process.

Stage Five will entail the formal and public tabling of the APRM reports in key regional and sub-regional structures and, in particular, the AU structures.

Composition and functions of the Independent Panel of Eminent Persons

Composition of the panel

The IPEP shall comprise Africans who have distinguished themselves in careers and service that are considered relevant to the APRM process. Members should be selected with a view to ensuring their independence, a sufficiently diverse background and gender balance, and a wide spectrum of appropriate experience.

Once appointed, members of the IPEP shall serve in their individual capacities and not as country or sub-regional representatives, nor as representatives of any organisation. They shall not seek or receive instructions from any government or be influenced by any other authority external to the NEPAD/APRM Secretariat with regard to peer review matters under their consideration.

Functions of the panel
The IPEP shall be tasked:
- to exercise oversight with respect to the APRM process with a view to ensuring the independence, professionalism and credibility of that process;
- to select and appoint appropriate institutions or individuals to conduct political governance peer reviews;
- to meet periodically to review and make objective assessments of peer review reports submitted to it by the NEPAD/ APRM Secretariat;
- to consider and approve recommendations contained in the peer review reports submitted to it by the NEPAD/ APRM Secretariat; and
- through the NEPAD/APRM Secretariat, to transmit to the HSGIC all peer review reports considered and adopted and the recommendations agreed to.

Frequency of peer reviews

Peer reviews will be conducted within the timeframes as approved by the 2002 AU Summit. Specifically, there will be four types of reviews:
- The first country review being the base review to be undertaken within 18 months of a country becoming a member of the APRM.
- Then there is a periodic review that takes place every two years.
- In addition to these, a member country can, for its own reasons, ask for a review that is not part of the periodically mandated reviews.
- Early signs of impending political and economic crises in a member country would also be sufficient cause for instituting a review.

We recommend, however, that some flexibility is needed to accommodate special circumstances, for instance, where the timing of a peer review would create difficulties given the electoral cycle in the country concerned, but also to allow for early reviews in the case of serious emerging political and/or economic problems in a member country.

Furthermore, to maintain an efficient scheduling of peer reviews, the authorities of a country to be peer reviewed should make every effort to provide written responses to the questionnaires as well as other relevant background information to the reviewer institution prior to the start of the peer review mission.

Role of the Implementation Committee

The HSGIC has ultimate responsibility for oversight of the APRM and for applying the peer pressure required to make this voluntary peer review process effective, credible and acceptable by both Africans and the international community. In addition to its current mandate and responsibilities, the HSGIC shall:
- appoint members of the IPEP and its chairperson;
- consider, adopt and take ownership of peer review reports submitted by the IPEP;
- exercise peer pressure to effect changes in country practice where recommended;
- influence development partners to support the recommendations contained in peer review reports by providing suggested technical and other assistance;
- transmit peer review reports to the appropriate AU structures in a timely manner; and
- make public, through the NEPAD/APRM Secretariat, peer review reports and press releases pertaining thereto.

Conclusion

This paper has provided some clarity on the nature and content of the APRM process and the procedures involved for its implementation. As stated at the beginning, the APRM is perhaps the most innovative aspect of NEPAD. It is an idea whose time has come. Participation in the APRM is voluntary and it is conducted in a non-adversarial manner. It is not an unwanted or unwarranted intrusion in how countries are managed. Rather, it is an important tool as part of domestic efforts to improve

governance and track progress in that regard.

ANNEX I
Initiating Memorandum

Prior to the conduct of a peer review of any country, UNECA experts will visit the country for consultations on the scope of, and the process that will guide the peer review. The results of these consultations will be reflected in an Initiating Memorandum.

Discussions will be held with senior government officials as well as other stakeholders. The visiting team will help to prepare the Memorandum. However, the Memorandum will be owned by the country to be reviewed.

The Memorandum shall be brief and succinct and focused on relevant issues. The following is an illustration of the contents of an Initiating Memorandum:

Background
- Country background information; and
- Objective of the peer review.

Scope
- Areas to be reviewed;
- Specific issues deserving attention; and
- Methodology.

Process
- Role and identity of country authorities and other in-country stakeholders;
- Role and identity of collaborating partners; and
- Planned contributions by country authorities and other in-country stakeholders.

Timetable and reporting arrangements
- Proposed timetable for conducting the peer review; and
- The arrangements for submission and consideration of the reports.

Team composition
- The leaders and members of the peer review team and their biographical data.

Budget
- The anticipated costs of completing the entire peer review exercise.

FEATURE

PEER REVIEW AS A TOOL FOR CO-OPERATION AND CHANGE

An analysis of an OECD working method

FABRICIO PAGANI

Peer review can be described as the systematic examination and assessment of the performance of a state by other states, with the ultimate goal of helping the reviewed state improve its policy making, adopt best practices and comply with established standards and principles. This paper examines the practice of peer review and the related effect of peer pressure in the context of international organisations, particularly the Organisation for Economic Co-operation and Development (OECD). It outlines the main features of these two concepts and attempts to establish a model based on the different peer review mechanisms used at the OECD.

Introduction

While there are other documents available that list the peer reviews of the Organisation for Economic Co-operation and Development (OECD),[1] this paper will provide an analysis of the practice of peer reviews.[2]

The concept of peer review

The term 'peer review' in the present context has not been rigorously defined. However, over the years, the expression has assumed a specific meaning in the practice of international organisations. Peer review can be described as the systematic examination and assessment of the performance of a state by other states,[3] with the ultimate goal of helping the reviewed state improve its policy making, adopt best practices and comply with established standards and principles. The examination is conducted on a non-adversarial basis, and it relies heavily on mutual trust among the states involved in the review, as well as on their shared

This study was prepared by **FABRICIO PAGANI** with the assistance of colleagues of the Directorate for Legal Affairs. It benefited from the contributions of several services and directorates, and particularly of the Centre for Co-operation with Non-Members, the Economics Department, the Development Co-operation Directorate, the Environment Directorate, and the Public Affairs and Communications Directorate. A longer version of this paper (which includes several annexures) was presented at the NEPAD APRM conference in Cape Town. This paper does not necessarily reflect the views of NEPAD.

confidence in the process. When peer review is undertaken in the framework of an international organisation—as is usually the case—the Secretariat of the organisation also plays an important role in supporting and stimulating the process. With these elements in place, peer review tends to create, through this reciprocal evaluation process, a system of mutual accountability.

An individual country peer review could relate to economics, governance, education, health, environment, energy or other policies and practices. Within one or more of those subject areas, a state may be examined against a wide range of standards and criteria, such as conformity with policy guidelines, or implementation of legally binding principles. Peer review can also be carried out thematically,[4] where several countries are examined at the same time with respect to a particular theme. Peer review with regard to an individual state or themes, typically is carried out on a regular basis, with each review exercise resulting in a report that assesses accomplishments, spells out shortfalls and makes recommendations.

Other mechanisms for monitoring and ensuring compliance with internationally agreed policies and norms[5] may be distinguished from peer review, as follows:

- *Judicial proceedings*. Unlike judicial proceedings, the final outcome of a peer review is not a binding act or a legal judgement by a superior body. In practice, peer review may play some of the role of a dispute settlement mechanism, by encouraging dialogue among states that helps to clarify their positions and interests. However, it is not intended to serve as a procedure for resolving differences and peer review never implies a punitive decision or sanctions.
- *Fact-finding missions*. Independent bodies, such as commissions of experts from international organisations, carry out on-site fact-finding missions exclusively to investigate specific events or to establish facts. Peer review, on the other hand, is not always conducted on-site, and it generally goes beyond fact-finding to include an assessment of the performance of the state. Fact-finding can be a part of the peer-review process.
- *Reporting and data collection*. There are several systems in place for periodic reporting by states to independent bodies, who then analyse the submitted reports.[6] By contrast, peer review is characterised by dialogue and interactive investigation, which can comprise the recourse to questionnaires, and it usually involves no formal reporting by the examined state.

A related concept: Peer pressure

The effectiveness of peer review relies on the influence and persuasion exercised by the peers during the process. This effect is known as 'peer pressure'.[7] The peer review process can give rise to peer pressure through, for example: a mix of formal recommendations and informal dialogue by the peer countries; public scrutiny, comparisons and, in some cases, even ranking among countries; and the impact of all the above on domestic public opinion, national administrations and policy makers. The impact will be greatest when the outcome of the peer review is made available to the public, as is usually the case at the OECD. When the press is actively engaged with the story, peer pressure is most effective. Public scrutiny often arises from media involvement.

Peer pressure does not take the form of legally binding acts, as sanctions or other enforcement mechanisms. Instead, it is a means of soft persuasion which can become an important driving force to stimulate the state to change, achieve goals and meet standards.

Peer pressure is particularly effective when it is possible to provide both qualitative and quantitative assessments of performance. The quantitative assessment might take the form of a ranking of countries according to their performance, and the drawing of real scoreboards reflecting such rankings. An example is the OECD Jobs Strategy—a programme which sets out principles and benchmarks, carries

out quantitative analysis and ranks countries according to their performances in reducing unemployment.[8] Another example, outside the OECD, of a very effective scoreboard is the Internal Market Scoreboard, maintained by the European Commission, which ranks the EU members states according to their performance in the completion of the internal market.[9] A variation of this system is the 'naming and shaming' technique, which singles out poor performers. However, these methods are appropriate and produce positive results only when the 'rules of the game' are clear and the countries accept them. In other cases, this type of approach could risk shifting the exercise from an open debate to a diplomatic quarrel to gain position on the scoreboard.

Peer review in international organisations

While peer review as a working method is most closely associated with the OECD, several other intergovernmental organisations and international programmes make use of this technique as well.

Within UN bodies and specialised agencies, states use peer review to monitor and assess national policies in various sectors, from environment[10] to investment.[11] The IMF Country Surveillance mechanism also has some aspects in common with peer review.[12]

Peer review has also been developed within the World Trade Organisation (WTO) under the Trade Policy Review Mechanism.[13] The WTO system monitors trade policy and practice in the member states. A designated WTO body then meets to review the policy statements presented by the member under review and a report prepared by the Secretariat. This examination is led by two reviewing countries. The procedure concludes with the Final Remarks of the Chair, which are published together with the policy statement of the country under review, the report of the Secretariat and the minutes of the meeting.

In the European Union framework, peer review is used in several areas. For example, the DG Employment and Social Affairs of the European Commission has developed peer review for national labour market policies to identify good practices and to assess their transferability.

Peer review within the OECD

There is no other international organisation in which the practice of peer review has been so extensively developed as the OECD, where it has been facilitated by the homogeneous membership and the high degree of trust shared among the member countries. The OECD has used this method since its creation and peer review has, over the years, characterised the work of the Organisation in most of its policy areas.[14]

Within the Organisation, peer review is carried out in several substantive areas and there is no standardised peer review mechanism. However, all peer reviews contain the following structural elements, which will be described further below:[15]

- A basis for proceeding.
- An agreed set of principles, standards and criteria against which the country performance is to be reviewed.
- Designated actors to carry out the peer review.
- A set of procedures leading to the final result of the peer review.

The basis

Peer review within the OECD may proceed on the following bases:

- *Decision by or request to an OECD subsidiary body.* Subsidiary bodies of the Organisation can decide to undertake peer reviews which are within their scope of activities. Subsidiary bodies may also carry out one-time peer review exercises at the request of the country to be reviewed.
- *Council/Ministerial Council.* For far-reaching programmes of review, a decision at council level is sometimes necessary and, in certain cases, the decision follows directly from the

Ministerial Council meeting. The competent subsidiary bodies then implement the programmes. The review on regulatory reform, for instance, which is based on a 1997 ministerial request[16] and successive council decisions, is carried out by a number of subsidiary bodies including the Ad Hoc Multidisciplinary Group on Regulatory Reform, the Public Management Committee and its Regulatory Management and Reform Working Party.

- *International norms.* Provisions in treaties or in other legally binding instruments can be the basis for peer review mandates. One of the first systems of mutual review was established by the OECD Codes of Liberalisation of Capital Movement and Current Invisible Operations, which have a binding status on all OECD members.[17] Another example is the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which provides, in its Article 12, that "Parties shall co-operate in carrying out a programme of systematic follow-up to monitor and promote the full implementation of this Convention". This provision has been the basis for the establishment of a rigorous process of multilateral surveillance, including peer review, to foster the effectiveness of the Convention and its related instruments.

Council retains control over the development of peer review programmes through its annual examination of the proposed Programme of Work and Budget of the Organisation.

The principles, criteria and standards

The performance of the reviewed state can be assessed against principles, criteria and standards which differ widely in character and scope. These may include:

- *Policy recommendations and guidelines.* The assessment of the performance of a country in its implementation of policy recommendations and guidelines is the most common form of peer review. This peer review can also include an examination of the consistency and coherence with respect to the country's own policies. It is carried out in many of the Organisation's activity areas, including economic policy, education, environment, energy, regulatory reform and development assistance. For example, in the peer reviews, or surveys, carried out by the Economic and Development Review Committee, country performance is assessed in relation to broad economic policy principles and best practices that have been developed over the years, the policy orientations of the OECD Growth Project, as well as specific guidelines such as those contained in the OECD Jobs Strategy. Similarly, peer reviews carried out in connection with the regulatory reform process draw on a number of policy recommendations agreed at the ministerial level. The Education Committee also undertakes peer monitoring and assessment of countries on general policy guidelines. The DAC Peer Reviews take into account principles agreed in development co-operation, such as guidelines (e.g., poverty reduction, conflict prevention) or emerging themes (e.g., policy coherence, harmonisation of donor procedures), in order to assess the performance of the donor under review.
- *Specific indicators and benchmarks.* Indicators and benchmarks provide specific and often numerical targets to achieve, and they are more susceptible than policy guidelines to being assessed according to quantitative measures. Indicators and benchmarks are used, for instance, in the environmental performance review, and in the regulatory reform and development assistance reviews.[18]
- *Legally binding principles.* Peer review can also be a mechanism to monitor compliance with international norms. For example, the OECD Committee on Capital Movements and Invisible Transaction assesses, through a peer review mechanism, the performance of each member in the application of the Codes of Liberalisation and examines its

reservations or derogation, in order to progressively limit their scope.[19] In the framework of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Working Group on Bribery assesses the integration of the principles of the Convention into the national legislation of the states, party, and it also evaluates their implementation and enforcement.[20] This review creates a sophisticated mechanism for monitoring compliance with the Convention, and it is widely regarded as an interesting model for monitoring and improving compliance with other international legal obligations. Finally, peer review can also be conducted to assess a country's compliance with rules contained in its own national legislation or in non-OECD international instruments to which the country has adhered.[21]

Within the same peer review, the assessment can be conducted against all these different measures. For instance, in the Working Party on Environmental Performance, the environmental performance of the countries is reviewed against objectives set out in policy guidelines—such as the OECD Environmental Strategy for the First Decade of the 21st Century—and it is also reviewed against benchmarks and national and international legislation and regulations.

When a peer review programme reaches a second round of reviews, it is quite common to refer to the conclusions adopted in the previous review of the country. The recommendations and the outstanding issues noted in the earlier report become a very important part of the measures against which to assess the progress of the country, and to highlight trends and fluctuations. This process also allows for the creation of a shared knowledge base beneficial to all countries via the identification of best practices or policies that work.

The actors

Peer review is the combination of the activity of several actors: the collective body within which the review is undertaken; the reviewed country; the examiner countries; and the Organisation Secretariat:

- *The collective body.* Peer reviews are undertaken in the framework of the activities of a subsidiary body of the Organisation, such as a Committee or a Working Party. The frequency of the reviews depends on the programme of work of the body, and it can range from the 6–7-year cycle for the Environmental Performance Reviews to the 12–18-month cycle of the Economic and Development Review Committee.
- *The reviewed country.* Usually all countries which are members of the body are subject to the peer review. Certain peer reviews are considered an obligation of membership. Moreover, in some cases, officials of the country may have an interest in peer review, as a means of stimulating reform in their national policies and practices. Participation implies the duty to co-operate with the examiners and the Secretariat by, among other things, making documents and data available, responding to questions and requests for self-assessment, facilitating contacts and hosting on-site visits. The individuals responsible for participating on behalf of the reviewed country could include civil servants from ministries and agencies and at different levels of government. On several occasions, the OECD has also reviewed the performances of non-member countries, at their request or with their agreement.[22] On occasion, the reviewed country contributes to the financing of the review.
- *The examiner countries.* Peer review implies by definition that officials in the relevant policy field from other countries (peers) will be involved in the evaluation process. Generally, the choice of examiners is based on a system of rotation among the member states, although the particular knowledge of a country relevant to the review may be taken into account. The role of the examiners is to represent the collective body in the early stages of the process and to provide guidance in the collective debate itself.

Hence their task includes the examination of documentation, participation in discussions with the reviewed country and the Secretariat, and a lead speaker role in the debate in the collective body. In some cases, the examiners also participate in missions to the country. While individual examiners generally carry out the reviews in their official capacity as representatives of their state, certain reviews require the participation of examiners in their personal capacity. In either case, however, examiners have the duty to be objective and fair, and free from any influence of national interest that would undermine the credibility of the peer review mechanism.

- *The Secretariat.* The Organisation Secretariat has the role of supporting the whole review process by producing documentation and analysis, organising meetings and missions, stimulating discussion, upholding quality standards, and maintaining continuity as the keeper of the historical memory of the process. The independence, transparency, accuracy and the analytic quality of work of the Secretariat are essential to the effectiveness of the peer review process. The intensity of the interaction between the examiners and the Secretariat and the degree of involvement of the examiners vary widely. In certain cases, the Secretariat works very closely with the examiners, and the division of labour between them is not always well defined. However, normally the most labour-intensive part of the work is carried out by the Secretariat, which may also have the most expertise in the substantive area of the review.

The procedures

The procedures of each peer review are outlined in documents adopted by the responsible subsidiary body. The level of procedural detail provided can vary widely, with certain reviews relying more on well-established practice than on formally adopted rules of procedure.

Although each peer review has its own procedure, it is possible to identify a common pattern, consisting of three phases:

- *The preparatory phase.* The first phase of the review often consists of background analysis and of some form of self-evaluation by the country under review. This phase includes work on documentation and data as well as a questionnaire prepared by the Secretariat. The questionnaire, which can be a sophisticated instrument, is sent to the country for responses by the competent authorities or as an agenda for a dialogue in the next phase.
- *The consultation phase.* The examiners and the Secretariat conduct the consultation with a division of responsibility which depends very much on the practice of the body and the topic under review. During this phase, the Secretariat and the examiners maintain close contact with the competent authorities of the reviewed country, and in some cases, they carry out on-site visits. The examiners and the Secretariat are also free to consult with interest groups, civil society and academics. At the end of this phase, the Secretariat prepares a draft of the final report, which usually follows a standardised model comprising an analytical section, where the country performance is examined in detail and individual concerns are expressed, and an evaluation or summary section setting forth the conclusions and recommendations. The Secretariat—in most peer review processes, but not always—shares the report in draft with the examiners and with the reviewed country and may make adjustments it considers justified before the draft is submitted to the members of the body responsible for the review.
- *The assessment phase.* The draft report is discussed in the plenary meeting of the body responsible for the review. The examiners lead the discussion, but the whole body is encouraged to participate extensively. Following discussions, and in some cases negotiations, among the members of the body, including the

reviewed state, the final report is adopted, or just noted, by the whole body. Generally, approval of the final report is by consensus, unless the procedures of the particular peer review specify otherwise. In some cases, the procedures may call for the final report to state the differences among the participants. In some cases, NGOs also have the opportunity to influence the discussion by submitting papers and documents. As already mentioned, the final report and particularly its recommendations form an important basis for follow-up monitoring of the performance of the state and, ultimately, for a subsequent peer review. Often, the final report is followed by a press release, which summarises the main issues for the media, and press events or dissemination seminars are organised to publicise the findings of the review.

The functions of peer review

Peer review can be used in a broad range of areas, including those not covered by OECD peer review exercises—for example, human rights and democratic governance. In each of these fields, peer review, directly or indirectly, can serve the following purposes:

- *Policy dialogue.* During the peer review process, countries systematically exchange information, attitudes and views on policy decisions and their application. This dialogue can be the basis for further co-operation, through, for example, the adoption of new policy guidelines, recommendations or even the negotiation of legal undertakings.[23]
- *Transparency.* The reviewed country has the chance, in the course of a peer review, to present and clarify national rules, practices and procedures and explain their rationale. As a result, the Secretariat is usually able to develop documentation and, in certain cases, a database which remains at the disposal of the member countries, and which often is also made available to the public and published on the Organisation web site. In the case of the Anti-Bribery Convention, for example, all the country implementation reports adopted at the end of the peer review process are published on the OECD web site.[24] The combination of these two levels of enhanced transparency—toward peer countries and toward public opinion—contributes to the effectiveness of the peer review and the related peer pressure.
- *Capacity building.* Peer review is a mutual learning process in which best practices are exchanged. The process can therefore serve as an important capacity building instrument—not only for the country under review, but also for countries participating in the process as examiners, or simply as members of the responsible collective body. For example, certain methodologies commonly used in peer review—such as benchmarking or recourse to quantitative indicators in assessing compliance with policies—are unfamiliar to some officials and even to some public administrations before they participate in the peer review, and the exercise therefore represents an important learning opportunity.
- *Compliance.* An important function of peer review is to monitor and enhance compliance by countries with internationally agreed policies, standards, and principles. However, unlike a traditional legal enforcement mechanism, peer review works as a sort of 'soft enforcement' system,[25] resulting in non-coercive final reports and recommendations rather than binding coercive acts, such as sanctions. In many contexts, the soft law nature of peer review can prove better suited to encouraging and enhancing compliance than a traditional enforcement mechanism. For example, unlike a legal enforcement body, examiners in a peer review have the flexibility to take into account a country's policy objectives, and to look at its performance in a historical and political context. Peer review can therefore assess and encourage trends toward compliance even among relatively poorly performing countries, while

noting negative trends in countries that may presently have a higher performance record. Peer review can also tend to enhance compliance by helping to clarify differences in policy positions among countries, thereby leading to the resolution of those differences.

Conclusion: When can peer review and peer pressure be effective?

The effectiveness of peer review depends upon the combination of a number of factors, which may be summarised as follows:

- *Value sharing*. One precondition for an effective peer review is convergence among the participating countries on the standards or criteria against which to evaluate performance. A strong common understanding on these will prevent uncertainty or backtracking during the process.
- *Adequate level of commitment*. Peer review can function properly only if there is an adequate level of commitment by the participating countries in terms of both human and financial resources. Thus, the participating countries must not only place adequate financial means at the disposal of the Secretariat; they must also be fully engaged in the process at different times as examiners, as active members of the collective body, and as subject of the examination.
- *Mutual trust*. Since peer review is, by its nature, a co-operative, non-adversarial process, mutual trust is an important basis for its success. While the peer review process itself can contribute to confidence building, a large degree of trust and value sharing among the participants should be present from the beginning to facilitate, among other things, the disclosure of data, information and documentation which are essential to the process.[26]
- *Credibility*. The credibility of the peer review process is essential to its effectiveness, and to its added value in comparison with governmental reports or consultants' certifications. There is a strong linkage between the credibility of the process and its capacity of influence. To assure this credibility, the approach that the examiners—with the help of the Secretariat—take in the review must be objective, fair and consistent. In the same way, the Secretariat must guarantee independence, transparency and quality of work. Credibility can be undermined if the process is flawed by such factors as unqualified examiners, bias stemming from national interests, or inadequate standards or criteria against which to undertake the review. However, the main threat to the credibility of the process is the possibility of attempts by the reviewed state to unduly influence the final outcome. The involvement of the reviewed state in the process and its ownership of the outcome of the peer review is the best guarantee that it will ultimately endorse the final report and implement its recommendations. The state's involvement should, however, not go so far as to endanger the fairness and the objectivity of the review. For example, the state under review should not be permitted to veto the adoption of all or part of the final report.

With each of these factors in place, peer review can serve as a stimulus to incremental change and improvement. Through the accompanying effect of peer pressure—including both persuasion by other countries and the stimulus of domestic public opinion—peer review can create a catalyst for performance enhancement which can be far-reaching and open-ended.

Notes

1 For a general list of the peer review mechanisms within the OECD, see *Executive Committee in special session, monitoring and surveillance activities at the OECD and co-operation with other international organisations* (Note by the Secretary-General), 27 April 1999, (ECSS(99)3). On peer review and peer pressure, especially in the area of economic policy, see also *Peer pressure as part of surveillance by international institutions*, discussion led by Niels Thygesen, chairman, Economic and Development Review Committee, 4 June 2002 <www.oecd.

org/pdf/M00031000/M00031293.pdf>. For an analytical paper on the use of peer review in a subject area, see Joint Group on Trade and Competition, *Peer review: Merits and approaches in a trade and competition context*, 6 June 2002, COM/TD/DAFFE/COMP(2002)4/FINAL.

2 Literature on peer review is scarce. Peer review is sometimes addressed, but always marginally, in the context of the debate on 'compliance', and particularly within the scholarly dispute 'enforcement vs. co-operation', which opposes the managerial school of international relations to the institutionalists. See, for example, G W Downs, D M Rocke and P N Barsoom, Is the good news about compliance good news about co-operation?, *International Organisation* 50(3), Summer 1996, pp 379 ff, or G W Downs, Enforcement and the evolution of co-operation, *Michigan Journal of International Law* 19(2), 1988, pp 319 ff. For a general introduction to the mechanisms of follow up and compliance in international organisations, see N Blokker & S Muller (eds.), *Towards more effective supervision by international organisations. Essays in honour of Henry G. Schermers* I, Dordrecht/Boston/London, 1994, and more recently, H R Fabri, L-A Sicilianos, J M Sorel (eds.), *L'effectivité des Organisations Internationales: Mécanismes de suivi et de contrôle*, Athènes/Paris, 2000.

3 In some contexts, entities other than states participate in peer review processes. An OECD example is certain reviews of the European Community in the economic, trade and development assistance policies.

4 See, for instance, the thematic reviews in the sector of education. One example is the thematic review on adult learning, see Education Committee, *Thematic review on adult learning: Proposed terms of reference*, 19 July 1999, DEEELSA/ED/WD(99)9/REV1.

5 On this subject, with a particular emphasis on legal obligations, see A Chayes, A H Chayes, *The new sovereignty. Compliance with international regulatory agreements*, Cambridge Mass., 1995.

6 See, for instance, the International Labour Organisation review and assessment process. For a general review of these mechanism see Chayes, op cit, pp 154 ff.

7 The term peer pressure was used by the social sciences, and particularly in pedagogy and behavioural studies.

8 See The OECD Jobs Strategy: Progress report on implementation of country-specific recommendations, OECD Economics Department Working Paper 196.

9 See, for instance, Internal Market Scoreboard, May 2002, n 10.

10 See, for example, the Environmental Performance Reviews Programme carried out by the UN Economic Commission for Europe, initiated as a joint undertaking with the OECD Environment Directorate. Several activities within UNEP follow peer review mechanisms.

11 Within UNCTAD, there are programmes which submit the investment policies of developing countries to peer review.

12 For a brief description of the IMF Country Surveillance mechanism, see IMF Annual Report 2001.

13 A more extensive description and evaluation of the Trade Policy Review Mechanism is contained in Joint Group on Trade and Competition, *Peer review: Merits and approaches in a trade and competition context*, 6 June 2002, COM/TD/DAFFE/COMP(2002)4/FINAL. See also S Laird, The WTO's trade policy review mechanism—from through the looking glass, *The World Economy* 22, n 6, August 1999, pp 741 ff.

14 Officials involved in peer review can be from any level of government—central, regional, local.

15 Executive Committee in Special Session, *Monitoring and surveillance activities at the OECD and co-operation with other international organisations* (Note by the Secretary-General), 27 April 1999, (ECSS(99)3).

16 See Meeting of the Council at Ministerial Level, *Communiqué*, Paris, 26–27 May 1997, SG/COM/NEWS(97)45.

17 See OECD, *Introduction to the OECD codes of liberalisation of capital movements and current invisible operations*, Paris, 1995.

18 In development assistance, see the Millennium Development Goals <www.oecd.org/pdf/M00017000/M00017310.pdf>.

19 For a detailed description of the mechanism, see OECD, *Introduction to the OECD codes of liberalisation of capital movements and current invisible operations*, Paris, 1995.

20 See Working Group on Bribery in International Business Transactions, *A procedure of self- and mutual evaluation of implementation of the convention and the revised recommendation*, DAFFE/IME/BR(98)8/REV1.

21 As is the case of the Environment Performance Review.

22 See Executive Committee in Special Session, *Monitoring and surveillance activities at the OECD and co-operation with other international organisations* (Note by the Secretary-General), 27 April 1999, (ECSS(99)3). An interesting case of peer review specifically designed for non-members is the mechanism for their adherence to the OECD Declaration on the International Investment and Multinational Enterprises. These reviews are divided into three parts. The first consists in a general assessment of the country's actual performance in attracting foreign direct investment (FDI). The second involves a review of the country's regulatory framework for FDI and domestic business operations. The last part consists of an examination of the country's proposed exceptions to the principle of national

treatment as well as of the steps envisaged to promote the OECD Guidelines for Multinational Enterprises. This process may lead to the formulation of specific recommendations to the country on how to further promote the objectives of the Declaration.

23 On peer review as a tool for convergence and convergence vs. negotiations, see Joint Group on Trade and Competition, *Peer review: Merits and approaches in a trade and competition context*, 6 June 2002, COM/TD/DAFFE/COMP(2002)4/FINAL.

24 See <www.oecd.org/EN/documents/0,,EN-documents-88-3-no-3-no-88,00.html>

25 On the notion of soft law see the relevant entry in J Salmon (ed.), *Dictionnaire de droit international public*, Bruxelles, 2001.

26 In this regard, peer review is an instrument that appears difficult to apply in the context of security and defence.

FEATURE

BENCHMARKS AND INDICATORS FOR CORPORATE GOVERNANCE

A private sector perspective

STEVE GODFREY

In addition to the South African King Report, there has been a rapid growth in the development of African thinking on corporate governance. In a period in which the private sector is accepted as the motor for growth, good corporate governance is an essential lever for development and social justice. As the New Partnership for Africa's Development (NEPAD) recognises, the link with economic and political governance criteria is critical. New thinking is to attack on the supply side of corruption (company bribes) by complementary anti-corruption measures by the state. The recent initiative of the African Union (AU) to develop an AU Convention on Combating Corruption addresses the importance of declaring public officials' assets, and also breaks ground by targeting unfair and unethical practices in the private sector.

Introduction

Corporate governance is now established as an important component of the international financial architecture, but barely half a decade ago it was little known beyond specialists in a few countries such as the US, the UK, Australia, Canada and South Africa. In 1999, there were an estimated 274 conferences in 39 countries on corporate governance, but most were in developing countries, and almost none in Africa.

That is changing. In addition to the King Report, which was authored in South Africa—which in the view of many is the global benchmark—there has been a rapid growth in the development of African thinking on corporate governance. In many African countries this interest in corporate governance has its origins less in the context of private sector financial systems, and more in the need to improve the performance of, and then to privatise, state enterprises.

In general, it is easy to see why corporate governance has grown in status. The Asian financial crisis, which caused so much damage to the global economy, was triggered by poor corporate governance practices; just as the recent Enron scandal in the US has shown poor practice undermines

This paper was presented by **STEVE GODFREY** of the Commonwealth Business Council (CBC) at the NEPAD Workshop held in Cape Town in October 2002, on behalf of the NEPAD Business Group.The views in this presentation are the CBC's and not necessarily those of the contributing institutions/individuals.

investor confidence and hits overall market stability. Institutional investors rely on the quality of corporate governance regimes in making decisions, and place a financial premium (a cost) where systems are weak. An effective regime to promote corporate governance contributes positively to the development of both national capital markets and to the promotion of foreign direct investment. Thus the significance of corporate governance is now widely recognised both for national development, and as part of the international financial architecture. In the words of the President of the World Bank: "The proper governance of companies will become as crucial to the world economy as the proper governance of countries."

The fundamental purpose of corporate governance is healthy national development. In a period in which the private sector is accepted as the motor for growth, good corporate governance is an essential lever for development and social justice. The question addressed by this workshop is not why or whether, but how the state and the private sector work together to promote this, and what are realistic measures which can be agreed to set goals and measure performance.

Corporate governance in context

The critical areas to be addressed by corporate governance can be easily described: the efficient, responsible, transparent and honest governance of economic entities, whether they be private or state owned, large, medium or small. The principles set out by the Commonwealth Association for Corporate Governance (CACG) are a well-recognised benchmark within the Commonwealth; but similar codes and principles, for example the Cadbury and King Reports, are available in other jurisdictions.[1]

The pillars of corporate governance are accountability, fairness, responsibility and transparency. These pillars must be supported by an adequate legal and regulatory structure that has credibility and is enforced.

The CACG Guidelines were agreed by the Commonwealth Business Council (CBC) in 1999 and presented to Commonwealth Heads of Government at their 1999 Summit, which endorsed them. The guidelines have been designed with particular focus on the emerging and transitional economies, making up a large part of the Commonwealth, but also meet the needs of international investors and multilateral international agencies. The CACG Guidelines also explore some of the complex issues relating to public and state enterprises, business ethics and corruption, and the role of international professions operating in emerging and transitional economies.

Already, there are many examples of the use of these guidelines in Africa, including the Private Sector Corporate Governance Trust in Kenya, and examples in Ghana through the efforts of the African Capital Markets Forum.

Private sector perspective

From a private sector perspective two general comments are important at the outset.

First, corporate governance should not be seen in isolation from the wider concept of corporate citizenship. Any successful modern company has to take responsibility, in co-operation with government, in developing sustainable business and commercial activities that serve communities. Shareholder value and profits are not sustainable in isolation from this broader business strategy which demands quality services, the good will of communities, and a belief in the ethical standards of companies.

Exceptions to these standards of behaviour serve to underline the penalties which companies pay when they forfeit public trust. The NEPAD Business Group (NBG) and its member companies support the development of improved standards of corporate governance as core business drivers.

Second, the link with economic and political governance criteria is critical. As NEPAD recognises, corporate governance is part of a wider economic and social regeneration programme. Commonwealth Heads of Government approved at their March 2002 meeting a set of 16 investment principles proposed by the CBC, setting out actions by governments, by business and joint actions to promote investment. Of these one relates to corporate governance, and the other 15 to wider measures for economic and social action, including key issues such as the rule of law and enforceability of contracts, as well as liberalisation of markets to promote competition. Exposure to the rigours of the market helps to promote good corporate governance standards. But without fair competition and rule of law, the best companies will stay away.

Corporate governance and NEPAD

The proposal by various African structures to develop and agree a pan-African set of principles is an essential step—the first benchmark for NEPAD—to advance corporate governance. For most of Africa, the practices of corporate governance developed internationally will have limited impact if the following conditions are not recognised, and targets, indicators and benchmarks adapted accordingly:

- The predominance of state-owned or state-controlled enterprises in all sectors of the economy. While general principles of corporate governance apply, these entities require special rules, especially regarding appointments of senior personnel, and on the relationships between the executive, parliament and the managers of the business.
- Capital markets are not well developed and the market capitalisation of listed companies is low. The financial sector has a critical role to play, since equity markets are small and many companies rely more on debt finance from their banks. There are therefore fewer institutional investors to encourage corporate governance than in the Organisation for Economic Co-operation and Development (OECD) countries, but this role can be fulfilled to some extent by banks and lenders.
- Central banks have a particular importance, as they can exert influence over these commercial banks and set requirements for all licensed commercial banks in accordance with the standards set by the Bank of International Settlements. The commercial banks can in turn recommend good corporate governance practices for their customers, which include small and medium enterprises, and family- and community-owned companies that are unlisted.[2]
- Other forms of business enterprises, e.g. co-operatives and community-based small- and medium-sized business organisations, are important parts in the economy. One way to reach them is through the supply chain of the larger companies and parastatals, suggesting that the latter have a special role to play in advancing corporate governance in African economies. Large public and private national, and international, companies can strengthen good corporate governance practice in this way. Their level of involvement in this process is a key indicator of likely progress. The importance of business-to-business standards in advancing good corporate governance cannot be overemphasised, and national strategies should take this into account—and require large entities to meet their responsibilities.
- Good corporate governance requires culture change, and cannot be created only by regulation from above. This means that the benchmarks for progress should include adoption of codes by national business associations and groupings—both formal and informal—as well as including a measure of the roll out of these standards.
- While basic principles are not difficult to agree, making codes effective is not always easy, and the regulations should not be too general. The Enron and other

recent accounting scandals show that there always needs to be effective drilling down of principles, and a system to evolve rules.
- Africa's challenges of corporate governance are compounded by inadequate administrative systems, weak human resource institutions, infrastructure and financial resources. This requires careful targeting of efforts to build up skills within the civil service and to use existing professional and business associations.
- Development of reporting and enforcement is critical. Without measures and penalties for non-compliance, it can be hard to move from paper to practice. There is therefore a need to agree systems of penalties for infringement, such as delisting, debarring and disqualification from the relevant market or professional body, and to be seen to apply these.
- New thinking emphasises that it is vital to attack on the supply side of corruption (company bribes) by complementary anti-corruption measures by the state. This includes improved transparency on the assets and interests of public servants and politicians, and in simplifying the interactions with the private sector through streamlined administrative arrangements. The recent initiative of the AU to develop an AU Convention on Combating Corruption addresses the importance of declaring public officials' assets, and also breaks ground by targeting unfair and unethical practices in the private sector.

In an evolving system, leadership is important, especially from parliament and from business and government leaders. It is important to identify the critical alliances to promote corporate governance as a national policy:
- Government agencies and parliament can pass legislation and set up the monitoring of agreed instruments for good practice in corporate governance. As noted above, parliament should, if its leadership is to be credible, set its own standards of corporate governance dealing with the declaration of members' interests. Parliament has to take a lead.
- The stock exchange or capital markets authority, which can influence the application of good corporate governance practices among listed companies and can also recommend standards for the content of company reports.
- The central bank, which should make clear requirements for all licensed commercial banks in accordance with the standards set by the Bank of International Settlements.
- Professional institutes, in particular the institutes of directors, of chartered company secretaries and administrators, accountants and lawyers and management training centres must be involved, so that directors of companies can be trained in their duties and responsibilities.

Benchmarks and standards

The above points lead to the following observations on appropriate targets, benchmarks and indicators:
- The first priority is to agree a national framework for corporate governance suited to national conditions and priorities, treating the subject in its full dimensions of conformance and performance, and as a lever for change, not just regulation.
- The second priority is for a national monitoring and reporting system led by government and parliament to be established. To succeed this must involve the private sector and professional bodies.
- These steps would be assisted by NEPAD agreeing an African policy framework for corporate governance, drawing on international best practice and based on the work done over the past 18 months to develop an Africa standard.
- Some of the most important indicators are not the establishment of a legal or regulatory framework, but are operational:
  - Is there a working structure between national business associations and the government to monitor a programme of education and outreach?

– How far is the corporate sector itself engaged in training, and developing and rolling out corporate governance policies?
– Are professional organisations engaged in setting and monitoring standards?
– Is there a national institution capable of training and development?
– Has parliament, in conjunction with representatives from business associations and the professions, set up a monitoring or compliance mechanism?
– What resources are provided to the company registrar and departments and governments?

A reporting grid including these factors could be developed with the participation of the stakeholders, and a report could be compiled on an annual basis.

Conclusion

The CBC and NBG believe that a co-operative programme between government and the private sector, with legal teeth and enforcement, is the correct route. Progress depends on creating an effective partnership led by government. We would be happy to continue to work with NEPAD and governments to advance the principles of best practice and to co-operate with the structures set up under NEPAD to advance this issue.

Notes

1 See also for example the OECD Principles of Corporate Governance, 1999; the Corporate Governance Reform Principles, 1998, Japan; and The Boards of Directors of Listed Companies in France (Vienot Report), France 1995.

2 For example, Commonwealth Finance Ministers Meeting in Malta in September 2000 endorsed proposals developed by Commonwealth Central Bank governors to set up a Commonwealth Working Group, which has produced a draft policy paper, elaborating on the guidelines issued by the Bank for International Settlements.

GOAL	INDICATIVE TARGET	INDICATORS OR BENCHMARKS
Improved corporate governance	***Agreement of African Code***	***Approval by AU***
	Regulatory framework	
	National legislation to entrench provisions	National legislation
	Financial regulatory regime	Listing requirements by Stock Exchange
		Central Bank Licensing (BIS standards)
	Provision on Declaration of Interests and Assets for Office Bearers	Adoption by Parliament/Assembly
	National roll out programme	
	Monitoring	Establishment of Stakeholder Committee
	Development of National Training Programme	Private Sector Strategy (actions by companies, professional bodies)
		Reporting Grid (Annual) on training, penalties, application

AFRICA WATCH

AFRICAN REGIONAL ORGANISATIONS' PEACE OPERATIONS

Developments and challenges[1]

ERIC G BERMAN

This paper reviews recent developments among African regional organisations in undertaking peacekeeping operations, as well as in preparing for future missions. It focuses on those that have been the most active: the Organisation of African Unity/African Union, the Economic Community of West African States and the Southern African Development Community. The paper goes on to briefly describe and analyse the activities of the French, UK, and US capacity-building programmes designed to develop African peacekeeping capacities. The author then identifies some specific concerns and recommends actions to help meet today's challenges. The paper concludes with a short analysis of African organisations' capacities and proclivities to provide a peacekeeping force for Sudan.

Introduction

Even though the United Nations (UN) Security Council's approach toward Africa has changed dramatically in recent years, the number of Blue Helmets made available for peacekeeping duties on that continent will continue to be far below what is required. Since 1999, the UN Security Council has substantially re-engaged Africa, launching significant peace operations in Sierra Leone, the Democratic Republic of Congo (DRC), as well as along the border in Ethiopia and Eritrea. Today, of the some 44,000 UN peacekeepers serving around the world, roughly three in five are deployed in Africa. This responsibility is being undertaken by a sizeable number of countries. Seventy-five of the 90 UN member states contributing uniformed personnel are providing Blue Helmets in Africa—more than two thirds of which are from outside the continent. And yet, this much larger commitment is still far below the level of engagement from some ten years ago.[2] Moreover, the number of UN peacekeepers in Africa is likely not politically sustainable. It is more likely that there will be a reduction of Blue Helmets rather than a further increase.

African countries' willingness to participate in peace operations has dramatically increased in recent years. Prior

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to 1988, just 12 had contributed personnel to a UN peacekeeping operation, most only to a single mission. Since 1999, 29 have had contributed to a UN peacekeeping operation, most to more than one. This increased willingness is not limited to UN peacekeeping operations. Since 1990, at least one African country has participated in 8 of the 10 UN-authorised multinational forces (MNFs)[3]—all but the Italian-led MNF in Albania and the initially UK-led[4] MNF in Afghanistan. All told, 41 African countries have contributed troops, observers or police to an internationally recognised peacekeeping operation.[5]

African regional organisations have also become more active. Of the 27 African-led peace operations that have been undertaken,[6] 21 have involved regional organisations. All but three of the missions involving African regional organisations have been undertaken since 1990. Five organisations have undertaken one or more such missions, but many more have created new conflict resolution mechanisms, strengthened their secretariats, undertaken training, and sought new funding streams to better prevent, manage or resolve conflict among their members.

Aware that African countries and regional organisations were experiencing growing pains as they assumed these new responsibilities, Western countries, led by France, the UK and the US—the self-proclaimed 'P-3'—undertook various programmes to develop African peacekeeping capacities.[7] The centrepiece of the French policy is the Reinforcement of African Peacekeeping Capacities programme (RECAMP for *Renforcement des capacités Africaines de maintien de la paix*). The initial UK policy, the African Peacekeeping Training Support Programme, has been subsumed within a large programme known as the Conflict Prevention Pool, which combines resources from the Ministry of Defence, the Foreign and Commonwealth Office, and the Department for International Development. The central US policy in this regard, the African Crisis Response Initiative (ACRI),[8] has been replaced by the African Contingency Operations Training and Assistance (ACOTA) programme.[9] Washington also established Operation Focus Relief (OFR), which provided peacekeeping training and equipment to African countries during 2000 and 2001.[10] OFR is viewed as a one-off initiative.

This article addresses two basic questions. First, what have African regional organisations done in the realm of peacekeeping, and what can they do better? Second, what have Western capacity-building programmes done and what can they do better? The first section provides an overview of African regional organisations, with a focus on those that have fielded peace operations. The second provides an overview of Western capacity-building programmes, with a focus on those of France, the UK and the US. The third section raises specific concerns and recommends actions to help meet today's challenges. The paper concludes with a short analysis of African organisations' capacities and proclivities to provide a peacekeeping force for Sudan in light of recent progress in ending that country's civil war.

African regional organisations in peacekeeping

Six African organisations have fielded peace operations. The first to have done so was the former Organisation of African Unity (OAU). Since its initiatives in Chad in the early 1980s, the OAU deployed a total of 11 distinct operations.[11] The Treaty on Non-Aggression, Assistance and Mutual Defence (ANAD) was the second organisation to have deployed a peacekeeping operation. The ANAD framework agreement was signed by Burkino Faso, Côte d'Ivoire, Mali, Mauritania, Niger, Senegal and Togo in 1977. In 1986, a small group of ANAD military observers were instrumental in resolving a border dispute between Burkina Faso and Mali. The larger Economic Community of West African States (ECOWAS) became the third organisation to authorise a mission. In 1990, troops from

the ECOWAS Cease-fire Monitoring Group (ECOMOG) were sent to Liberia. That organisation has subsequently authorised missions in four additional conflicts.[12] The Southern African Development Community (SADC) became the fourth African intergovernmental organisation to participate in peacekeeping. In 1998, SADC member states sent troops to the DRC and later to Lesotho. The Community of Saharan and Sahelian States (CEN-SAD) became the fifth African organisation to undertake a peacekeeping operation, with a small force in Central African Republic (CAR).[13] CAR was also the destination for the sixth regional organisation to send a mission: the first troops from the Economic and Monetary Community of Central African States (CEMAC) arrived in Bangui, the capital of CAR, in November 2002.

These six institutions, and several other African organisations, have developed or are developing new structures to address shortcomings or to prepare for future missions. This paper focuses on the OAU/African Union (AU),[14] ECOWAS, and SADC as those three have been the most active. Indeed, ANAD no longer exists,[15] and it is difficult to evaluate the peacekeeping activities and potential of CEN-SAD and CEMAC given that their cumulative peace support operations experience is less than a year. It is appropriate to at least mention here that the Arab Maghreb Union (AMU), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Intergovernmental Authority on Development (IGAD), and the Manu River Union (MRU) have all created structures designed to prevent, manage or resolve conflicts.[16]

Decision making

In the 1990s, the then OAU, SADC and ECOWAS all created new conflict resolution mechanisms. In 1993, the OAU adopted its Mechanism for Conflict Prevention, Management and Resolution. In 1996, SADC established its Organ on Politics, Defence and Security although the protocol was only finalised several years later. And in 1999, ECOWAS passed its Mechanism for Conflict Prevention, Management, Resolution, Peace and Security.

Not all of these mechanisms have been used as intended or strictly adhered to by their member states. President Robert Mugabe of Zimbabwe, as Chairman of the SADC Organ, quickly convened a meeting in response to the war in the DRC and essentially transformed a 'coalition of the willing' (i.e. his country and two other SADC members: Angola and Namibia) into a 'SADC' force. The Botswana and South African 'SADC' intervention in Lesotho apparently received the backing of many SADC members during a series of late-night phone calls.[17]

An important trend is emerging that regional organisations will no longer require consensus to create a peacekeeping force. The ECOWAS Mechanism requires that a two-thirds majority of the nine-member Mediation and Security Council authorise any deployment.[18] Whereas the Central Organ of the OAU required consensus, the Peace and Security Council of the AU is to require only a two-thirds majority for substantive decisions and a simple majority for procedural matters.[19] The SADC Organ, however, is still to operate on a basis of consensus, although a quorum requires only two-thirds of the membership.[20]

Staffing and mission planning

Substantial progress has been made in the area of staffing and mission planning. For example, during the height of ECOMOG operations in Liberia, the ECOWAS Legal Advisor and his Deputy used to be responsible for all legal and many political and security matters at headquarters. There is now a deputy executive secretary for Political Affairs, Peace and Security, and where his staff used to be limited to a military adviser, it now has several people and continues to grow.

Despite notable improvements, staffing remains wholly inadequate to undertake the

responsibilities these organisations have assumed for themselves. The OAU Early Warning Unit within the Conflict Management Centre was supposed to be operational 24 hours a day, seven days a week. Six years after its establishment in 1993, insufficient staffing permitted the office to be up and running only 12 hours a day, Monday through Friday, and four hours a day on weekends.[21] SADC, which is in the midst of restructuring its secretariat, has agreed that as a temporary measure the country chairing the Organ would support its operations. Mozambique, which assumed the Chair, has tasked its foreign ministry to take on these responsibilities. Rarely are additional personnel recruited to handle the new tasks. Rather, it is customary for existing staff to become 'dual-hatted': continuing in their original job while working on their new portfolios. As for ECOWAS, despite the progress noted above, the Office of the Deputy Executive Secretary for Political Affairs, Peace and Security remains understaffed.

Peacekeeping training

African countries have taken part in numerous peacekeeping training exercises, but the regional organisations' secretariats have not been particularly involved. A command post exercise was held at the OAU Conflict Management Centre in 1996 with the support of the US. A map exercise, known as Blue Pelican, was held at the ECOWAS Executive Secretariat in November 2000 with the support of France and the UK. Staff members of African regional organisations have also attended planning sessions for and participated in some Western-led command post exercises, computer-assisted exercises and field training. For the most part, however, African countries undertake training on a bilateral basis with the donor country.

Financing

Financing for peacekeeping-related activities of African regional organisations is similarly better than it was, but it still falls well below what is needed. The OAU Peace Fund created as part of the 1993 Mechanism provided for five per cent of the OAU's annual regular budget to be earmarked for peace and security initiatives, which netted about $2 million a year as the money was to be taken regardless of the state of arrears.[22] The Peace Fund, which also comprised a pool of money generated from voluntary contributions, totalled around $47 million by the end of 2001.[23] This is enough to field only a small force for a limited time. (To give some sense of peacekeeping's costs, operations such as the current UN missions in the DRC and Sierra Leone are each budgeted at more than $600 million a year. Even a much smaller operation such as the UN mission in Western Sahara, with a uniformed force numbering fewer than 250, costs more than $40 million per annum.) It has also made the OAU very reliant on voluntary contributions, the majority of which came from Western countries. ECOWAS is trying something novel, by requiring member states to earmark 0.5% of expenditures on imports from outside the regional bloc. This mechanism is just beginning to be instituted after many years of discussion, but has yet to be adopted by all 15 ECOWAS member states.[24] As for SADC, it is still evaluating how to address this issue.

Western capacity-building programmes

Nature of assistance

Broadly speaking, Western capacity programmes offer three types of assistance: classroom education; field training; and equipment. Initially, such efforts were largely designed to support classical, or consensual, peacekeeping. For example, only France's programme provided lethal equipment—and then on a very modest scale. A notable trend is developing whereby donors are increasingly providing training and equipment for a more hostile environment. This was most pronounced in Operation Focus Relief, which included significant *matériel*. In comparison, the only

lethal equipment provided under ACRI was ammunition to be solely used for marksmanship training. The new programme ACOTA is still being developed, but is expected to include a more robust equipment package for some recipients along the lines of Operation Focus Relief.

Recipients

Nine countries have concluded agreements to receive ACRI training. Of these, five had completed the entire three-year programme at the battalion-level when ACRI concluded in November 2002: Benin, Kenya, Malawi, Mali and Senegal. Three others had received part of the envisaged training modules: Ghana, Côte d'Ivoire and Uganda.[25] The ninth country, Ethiopia, was suspended from the programme before the initial training module was offered.[26] Kenya and Senegal also received brigade-level training under ACRI. During ACRI's six-year run, some 9,000 African troops had participated in the programme.[27]

Under Operation Focus Relief, the US trained seven battalions from three West African countries. Nigeria provided five battalions, while Ghana and Senegal each contributed a single battalion. The training was offered in three phases from October 2000 through December 2001.

At least 32 African countries have received training under RECAMP. Eight West African countries contributed military personnel to the first RECAMP multinational exercise, which was held in Senegal and Mauritania in February 1998.[28] Another eight countries participated in the second exercise held in Gabon in January 2000.[29] The most recent exercise of this kind was held in Tanzania in February this year. Sixteen African countries took part.[30]

About 20 African countries have benefited directly from UK capacity-building training. British Military Advisory and Training Teams (BMATTs) operated with regional remits in Ghana and Zimbabwe. The BMATT in Ghana principally offered classroom training, with recipients going to its base in Accra. The instructors from the BMATT in Zimbabwe, on the other hand, would travel to the recipient country.[31] A BMATT-type operation in Kenya, known as the British Peace Support Team (BPST),[32] was established in 2000. It offers training in Kenya as well as abroad.

Use of donated equipment

It is difficult to document how many recipients have used the skills imparted and equipment provided for peacekeeping purposes. Partly in response to criticism that many individual recipients were not making full use of their training, and partly in response to financial pressures, there has been a greater emphasis on 'training the trainer'. This has the added benefit of creating a sustainable platform for the training to continue after the Western-sponsored programme has ended. Checks and balances have been established to help ensure that the equipment provided is used as intended. France retains control of the three RECAMP depots it has established,[33] and its equipment is well accounted for. The US-provided *matériel* remains with the recipients. Although agreements have been concluded that prohibit the recipients to use the equipment in ways other than as intended, or to transfer any of it without authorisation from Washington, it is believed that not every recipient has adhered to these precepts.[34]

In the case of Operation Focus Relief (OFR), however, it is quite clear how the training and *matériel* were used. Six of the seven battalions trained under this programme did deploy as part of UN peacekeeping operation in Sierra Leone. The only OFR-trained battalion that did not deploy to Sierra Leone was the one from Senegal.[35] The Senegalese contingent earmarked for the ECOMOG force in Côte d'Ivoire is believed to have received ACRI and ACOTA training and is to deploy with equipment provided under the two programmes.

Relevance

A question that cuts to the core of the capacity-building programmes of France, the UK and the US is does the training or

equipment offered make African recipients any more willing or able to undertake peacekeeping on their continent? The links between participation in these programmes and either an increased willingness to participate in peacekeeping, or an enhanced effectiveness, are not clear.

Regarding ACRI, Senegal, for example, sent a company to the UN mission in the CAR, but had already joined the Inter-African Force to Monitor the Implementation of the Bangui Agreements. Similarly, Kenya served in the UN mission in East Timor, but had already been in the Australian-led MNF there. Both initial commitments were made prior to these countries' joining ACRI. Moreover, not all recipients have performed ably in peacekeeping. Mali, for example, experienced great problems in Sierra Leone. These may not have been ACRI-trained troops. Many troops from ACRI recipient countries who were sent abroad to participate in peacekeeping operations did not receive any ACRI training. This is not meant to impugn the entire ACRI programme or somehow tarnish other countries' programmes. Rather, it is meant to suggest that a cause and effect relationship is difficult to establish.

Concerns

ECOMOG's future: With or wither Nigeria?
ECOMOG presents a conundrum: previous Nigerian military regimes undermined its effectiveness, yet ECOMOG cannot be effective without Nigeria. When Nigeria does not participate in an operation—as was the case in Guinea-Bissau—ECOMOG cannot field a meaningful force.[36] Financial and political considerations suggest that Abuja will be much less likely to offer a large number of troops for future ECOMOG operations.[37] Indeed, for the proposed ECOMOG mission along the border of Guinea and Liberia, Nigeria pledged a single battalion. While it is true that this offer represented half the envisaged force, the planners restricted their assessment of what was needed based on their understanding of what could be provided.[38] For the most recent ECOMOG operation in Côte d'Ivoire, Nigeria formally pledged only 250 troops,[39] but ultimately was not among the troop contributors.

An emboldened or embittered South Africa?
Prior to 1997, South Africa's participation in peace operations was largely limited to sending troops to Korea in the 1950s and assisting UN peacekeeping and humanitarian operations in Rwanda and Mozambique.[40] The international community's growing condemnation and isolation of South Africa under apartheid, and post-apartheid South Africa's need to focus on internal matters such as the transformation of its armed forces, largely explain why this is so. Since 1998, however, South Africa has led the SADC force in Lesotho, provided key logistic and air units to the UN mission in the DRC, and spearheaded the ambitious and sensitive mission in Burundi.[41] It will be interesting to see what happens in Burundi, where South Africa has received significant financial and logistical support from Belgium and the European Union. As of July, those commitments were sufficient only to sustain the South African force until the end of this October.[42] Pretoria, which continues to be the only African country with troops deployed in Burundi despite pledges from three other countries,[43] will be put in a difficult position should the international community and African countries not be generous with its assistance. This is especially so given that the most challenging part of Burundi's peace process still lies ahead.[44] It will be similarly interesting to follow the activities of South Africa in the DRC where Pretoria has committed itself to taking a leading role in disarmament in the Kivus through the commitment of a reinforced battalion group. Will South Africa emerge from these ambitious forays more committed to peacekeeping, or feel dejected and under-appreciated?

African Union: Old wine in a new bottle?
Will the AU represent a bold new initiative

that markedly changes the way African countries work toward the promotion of peace and security on their continent, or is this initiative unlikely to much change the status quo? Sufficient evidence exists to call the grandiose plans of the AU into question. Since the Extraordinary OAU Summit convened in Sirte, Libya, back in March 2001 to declare the establishment of the AU,[45] protocols for only four of the 17 Organs have been adopted. The more ambitious AU is likely to face severe financial challenges. Its predecessor is reported to have been more than $50 million in arrears.[46] Libya may have supported a peacekeeping operation in the CAR, but it also actively destabilised numerous other countries on the continent in the past. It is not at all clear that Libya's agenda would include robust conflict resolution and management policies, especially where they involve intervening in intra-state conflicts. This is a significant concern given Libya's potential influence on the agendas of other African states. Libya has bankrolled many African countries to enable them to pay some of their dues to restore their voting privileges within the OAU/AU.[47] Africa's peacekeeping operations will still be forced to operate on a shoestring budget.

Lessons learned in Sierra Leone: Lost cause or cause for optimism?

What will happen in Sierra Leone and the region in the coming months and years? The UN peacekeeping operation in Sierra Leone quickly grew from a modest observer mission to its largest operation at the time—by far.[48] In line with the Brahimi Report, the mission has remained near its maximum authorised strength for several months after the election held in May 2002. This has significantly added to the mission's cost. Assuming that Sierra Leone remains stable and sets forth on recovery, the Security Council and broader international community may see this as having been a worthwhile investment. What happens, however, if Sierra Leone should descend anew into civil war, or be thrown into a regional conflict given the instability and tensions in Guinea, Côte d'Ivoire, and Liberia? How will that affect the Security Council's predisposition toward supporting robust peacekeeping elsewhere in Africa? Moreover, what effect would such a scenario have on UK policy? London, which has provided a separate mission to assist the government of Sierra Leone and the UN peacekeeping operation, also trained and equipped the Republic of Sierra Leone Armed Forces. Should things turn sour, will the UK's enthusiasm wane toward security sector reform in Sierra Leone, in Africa and elsewhere in the world?

Effects of September 11

The US, in response to events of 11 September 2001, is likely to become increasingly involved in Africa—a continent that has traditionally generated relatively little interest in Washington. US interest in exploring and exploiting Africa's natural resources (particularly oil) will intensify as it seeks to lessen its dependence on Middle Eastern suppliers. Attempts to deny terrorist cells sanctuary and support will also make Washington pay closer attention to activities in several African countries, and seek support from governments throughout the region with which it historically has not enjoyed particularly close ties. Will this renewed interest be a net positive? Will it result in greater resources for African efforts to counter terrorism and resolve conflicts? Or will it support corrupt regimes at the expense of much needed democratic reforms and development initiatives that promise to benefit the average citizen and not the country's elite?

Recommendations

Greater self-sufficiency

Africans must create a healthy financial basis for their mechanisms and undertakings. They continue to rely too heavily on outside sources for financial and material support. The problems inherent in such a *modus operandi* were clear back in the early 1980s when the OAU undertook its peacekeeping

missions in Chad. When France and the US withdrew its support, the mission came to an abrupt end. Moreover, their limited support paved the way for Hissène Habré's forces to overthrow the government of Goukouni Weddeye. The situation has not appreciably changed over the past 20 years. For example, the ECOMOG mission in Guinea-Bissau was dependent on France to deploy. This force similarly suffered operational deficiencies and succeeded in monitoring another coup.[49] This is not to say that Africans should not seek foreign support for their peacekeeping initiatives, or that their undertakings are not worthy of support. Rather, when Africans rely excessively on foreign aid, their chances for success become more complicated. This is true not just for missions, but also regarding training. The activities of the SADC Regional Peacekeeping Training Centre have been suspended and its future is now very much in doubt after its major backer, Denmark, withdrew its support in March 2002.

Focus on realistic goals

Given the limited resources of African countries and their regional organisations, it is incumbent on them to utilise their assets intelligently. This is not to suggest that resources have been wasted on procurements. Though this may indeed be the case, it would not be so unusual, and is not likely to have been undertaken on a scale to cause unnecessary worry. Rather, the greater concern rests on the questionable allocation of human resources. As already noted, secretariat staffs are much too small to handle the demands placed on them. Their productivity is further diminished when they are tasked with projects that are unrealistic or will likely yield few benefits. There is, perhaps, no better example of this than attempts to field stand-by forces for peacekeeping duties, let alone a standing army. While there is nothing inherently wrong with 'thinking big', and while the maxim that 'Rome wasn't built in a day', may sometimes hold, neither of these constructs is applicable here. Money and effort devoted to such projects can be better used on shorter-term goals that promise to yield immediate results. Examples would include hiring additional capable and motivated staff to form a nucleus of in-house expertise to plan and run missions.

Harmonisation of donor agendas and African needs

For some time it has been clear what African countries lack when undertaking peacekeeping operations, but donors have been slow to accommodate them—although there are indications that this is changing. At the risk of minimising some important shortcomings, there are three principal areas that need to be addressed as a matter of priority.

- First, Africans need help to field a peacekeeping mission. While some neighbouring countries may be able to deploy economically and in short order, their participation may not foster peace. To democratise the force and introduce much-needed checks and balances, it is important to introduce contingents from countries believed to be neutral—or at least less obviously biased—in the conflict, which often means those from states that are not neighbours.
- Second, more must be done to help *sustain* the force. When troops (eventually) arrive to undertake their sensitive tasks without sufficient stores, and when resupply proves slow and sporadic, the troops are left to fend for themselves and often live off the land. The peacekeepers too often compete for scarce resources with, or, worse, prey on those whom they are supposed to be helping.
- And third, command and control needs to be substantially strengthened—both between headquarters and the operation's headquarters, as well as throughout the mission area itself.

Each of the P-3 countries has made progress in providing services and equipment to develop African peacekeeping capacities, but much more can be done. Too often, the assistance has been of an ad hoc nature and too little too late. Although France, the UK,

and the US tried to initiate an exchange of information with other donors and with African recipients in May 1997, the resultant meeting convened at the UN in New York in December 1997 was fraught with reservations and recriminations. A new dialogue is urgently needed among donors, among recipients as well as within regional organisations, and between both donors and recipients.

Support and develop regional organisations
Despite much rhetoric from both African recipients and Western donor countries about the crucial role regional organisations are to assume, for the most part aid continues to be channelled bilaterally. Both sides share responsibility for this state of affairs, and both sides need to change the status quo. Regional organisations provide the best possible check and balance against abuse. It is necessary to stop paying lip service to these organisations' importance and to support them energetically: that means giving them appropriate staff in qualifications and numbers, as well as a secure financial base.

A peacekeeping force for Sudan

It is unlikely that any African regional organisation can assume the responsibility to field a peacekeeping force in Sudan. Sudan is a member of the AU, CEN-SAD, COMESA and IGAD. Of these four, only two—the AU and CEN-SAD—have fielded peacekeeping operations in the past.

For the reasons noted above, the AU is unlikely to be able to assume robust or large peace operations for financial reasons even if the political will should exist. Because of the wealth of Libya, the driving force behind CEN-SAD, and that country's willingness to stake other countries' military interventions elsewhere in the continent (and it is assumed in the CEN-SAD mission in the CAR), that organisation could conceivably be unconstrained by financial concerns. However, the long-standing tensions between Libya and Chad make such a venture improbable. As for COMESA and IGAD, while both organisations seek to promote peace and security as a central component of their charters, neither has in place mechanisms that make explicit reference to peace operations. Moreover, most of IGAD's members have not been neutral in the Sudanese civil war and would likely have their potential presence challenged by one of the protagonists.

While an ad hoc coalition of the willing cannot be ruled out, the UN Security Council might decide to authorise a UN peacekeeping operation in Sudan should sufficient progress be made on a cease-fire and a political settlement. Although Africa does not normally rank high on the US political agenda, Sudan is in somewhat of a unique position. For those policymakers in the administration and Congress motivated by strategic concerns, the prospect of exploiting Sudan's oil deposits is attractive and worth pursuing—perhaps more so in light of the events of September 11. There is also a vocal and energised minority in the Congress among Republican conservatives who might be willing to support a UN peacekeeping operation in Sudan. While these legislators are not predisposed to supporting either the UN or increasing US dues to the World Body, they have exhibited great concern over the plight of Sudanese slaves in the south of that country, and the perceived religious intolerance by the government of the minority Christians.

These two factors suggest that the US might be willing to fund a lengthy and sizable UN peacekeeping force for Sudan, or perhaps generously assist an African organisation or ad hoc coalition to field such a mission. This second option is not as attractive as the first. The US is unlikely to support CEN-SAD given that organisation's pro-Libyan bias. And Washington remains sceptical of the AU and is still smarting from the millions of dollars it feels it wasted on previous support of OAU peace and security initiatives. As the US is forbidden by law to pay foreign troops, financial constraints will make all troop contributors wary of making any meaningful commitment to any ad hoc force. The result is that the UN emerges by

default and merit as the frontrunner for a future peacekeeping mission in Sudan.

Notes

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2 There were fewer than 1,600 UN peacekeepers in Africa as of June 1999. In December 1993 their numbers were greater than 34,300. In September 2002, there were roughly 26,100 Blue Helmets serving in Africa.

3 The eight UN-authorised MNFs include the US-led missions in the Persian Gulf (1990-91), Somalia (1992-93) and Haiti (1994-95), the French-led mission in Rwanda (1994), the North Atlantic Treaty Organisation (NATO)-led missions in Bosnia and Herzegovina (1995-96, and 1996 to date) and Kosovo (1999 to date), and the Australian-led mission in East Timor (1999-2000). African countries also participated in two UN military observer/liaison missions in Zaire (1995-96) and East Timor (1999) that were neither official 'UN peacekeeping operations' nor authorised by the Council, but nevertheless deserve mention.

4 In June 2002, a Turkish general was given command of the 18-nation International Security Assistance Force. Germany and the Netherlands are to assume command for the force in early 2003.

5 In addition to the 36 African countries that have contributed military or police personnel to UN peacekeeping operations, five others have contributed in such a manner to Western- or African-led MNFs. The 12 African countries that are members of the UN and have yet to participate in a peacekeeping operation are Cape Verde, Comoros, Equatorial Guinea, Eritrea, Lesotho, Madagascar, Mauritius, Rwanda, São Tomé and Principe, Seychelles, Somalia and Swaziland. Equatorial Guinea has pledged to contribute troops to the new Economic and Monetary Community of Central African States (CEMAC) peacekeeping mission in the Central African Republic (CAR).

6 The proposed Senegalese-led ad hoc mission for Congo (Brazzaville) that never deployed is not considered in these numbers. The six ad hoc missions that are included, and which did deploy, include the two African MNFs in Zaire (1977 and 1978-79), the Nigerian peacekeeping force in Chad (1979), the presence of foreign military troops in Mozambique (1986-92), the MNF in the CAR (1997-98), and the South African-led mission in Burundi (2001 to date). All but one of the 21 missions undertaken by or with the support of African regional organisations was fielded. The one that has not is included in this number as it has received authorisation and could, in theory, still become operational.

7 For information on the various non-P-3 capacity-building programmes, see E G Berman and K E Sams, *Peacekeeping in Africa: Capabilities and culpabilities*, Geneva, United Nations Institute for Disarmament Research, 2000, pp 333-58.

8 ACRI's long-term objective was to build a peacekeeping and humanitarian assistance capacity in Africa of about 12,000 trained military personnel. Decisions on actual deployment of ACRI-trained troops were to be made by the ACRI partner nations, in response to requests from international organisations, such as the UN or the OAU, or a sub-regional organisation, such as ECOWAS. It was envisaged that ACRI-trained troops could also participate in a multinational peacekeeping coalition, in Africa or elsewhere. For more information on ACRI, see E G Berman, French, UK, and US policies to support peacekeeping in Africa: Current status and future prospects, *NUPI Working Paper 622*, Oslo, Norwegian Institute of International Affairs, pp 25-27. Available at <www.nupi.no,> (3 September 2002).

9 The follow-on programme to ACRI was announced by the State Department in July 2002. It has been dubbed ACOTA, or Africa Contingency Operations Training Assistance. The new programme will include training, technical and maintenance assistance and the provision of some field equipment. Pentagon officials say it is designed to be flexible and sustainable, but always based on the partner country's interests and capacities.

10 Three years after the launch of ACRI training, the near collapse of the UN peacekeeping operation in Sierra Leone prompted US policymakers to develop an additional training initiative in parallel to ACRI – Operation Focus Relief. The US committed some $90 million to train and equip seven battalions from ECOWAS member states, on the understanding that these battalions would join UNAMSIL upon completion of the programme.

11 The OAU has authorised missions in Chad (2), Rwanda (3), Burundi (1), Comoros (3), DRC (1) and Eritrea/Ethiopia (1).

12 After Liberia, ECOMOG troops served in Sierra Leone (1997-2000) and Guinea-Bissau (1998-99). A fourth mission was authorised in December 2000 for the border between Guinea and Liberia, but it has yet to materialise. The initial troops of a fifth operation for Côte d'Ivoire arrived in the mission area in November 2002.

13 The mission, authorised in December 2001,

became operational in January 2002. Three CEN-SAD member states—Djibouti, Libya and Sudan—contributed troops to the force. With CEMAC deciding in early October 2002 to send a mission to the CAR, CEN-SAD agreed to withdraw its troops from that country once the CEMAC force had deployed. The planned-for arrival of a Burkinabe company to join the CEN-SAD operation later in October was therefore called off. Interview with UN official, 25 November 2002, by telephone.

14 The AU replaced the OAU in July 2002, although some structures of the OAU continue to be operational.

15 The organisation closed its doors in September 2001.

16 This is a representative and not a comprehensive list. Some of their structures are undeveloped or dormant. For additional information on AMU, EAC, ECCAS, and IGAD, see Berman and Sams, *Peacekeeping in Africa: Capabilities and culpabilities*, pp 193-209.

17 Interviews with diplomatic officials from SADC countries, September and October 1998, Southern Africa.

18 ECOWAS permitted Liberia to join the Council as the tenth member in response to that country's sensitivities about the appointment of Guinea and Sierra Leone to the Council. Interview with Col. Dixon Dikio, Military Adviser, Office of the Deputy Executive Secretary for Political Affairs, Defence and Security, ECOWAS Executive Secretariat, 17 April 2002, Abuja.

19 J Cilliers, "Peace, security and democracy in Africa?: A summary of outcomes from the 2002 OAU/AU summits in Durban, *Occasional Paper* No. 60, Pretoria, Institute for Security Studies, August 2002. Available at <www.iss.co.za,> (9 September 2002).

20 Written correspondence with J Cilliers, Executive Director, Institute for Security Studies, 9 May 2001.

21 Written correspondence with S Ibok, Director, Political Affairs Department, OAU Secretariat, 14 June 2001. The situation has not demonstrably improved since then.

22 This figure was subsequently changed to six per cent. The annual OAU budget in recent years was roughly $30 million. See Berman and Sams, *Peacekeeping in Africa: Capabilities and culpabilities*, pp 65-66, and E G Berman and K E Sams, The peacekeeping capacities of African regional organisations, J*ournal of Conflict, Security & Development* 2(1), 2002, p 36.

23 Interview with Col. Festus Aboagye, Senior Military Expert, OAU Secretariat, 21 February 2002, Dar es Salaam.

24 Interview with Adrienne Diop, Director, Department of Communications, ECOWAS Executive Secretariat, 16 April 2002, Abuja.

25 Ghana essentially chose not to pursue the programme, but remained eligible. For Côte d'Ivoire and Uganda, the decision was made for them because of political considerations.

26 Ethiopia may receive training under the new ACOTA programme, now that the war between Ethiopia and Eritrea has concluded.

27 Based on written correspondence with S Fisher, Political-Military Adviser, African Crisis Response Initiative Interagency Working Group, US Department of State, 10 July 2002.

28 Known as *Exercise Guidimakha*, African countries that contributed troops included Cape Verde, Gambia, Ghana, Guinea, Guinea-Bissau, Mali, Mauritania and Senegal.

29 Burundi, Cameroon, the CAR, Chad, Congo (Brazzaville), Equatorial Guinea, Gabon, as well as São Tomé and Principe took part in Gabon 2000.

30 The 16 were all 14 SADC countries, plus Kenya and Madagascar. The operation's name was *Exercise Tanzanite*.

31 The BMATT in Zimbabwe ceased operations in March 2001. London has expressed its intent to establish a similar BMATT elsewhere in Southern Africa.

32 BPST received its current designation in July 2001. It had previously been called the British Advisory and Training Team Kenya (or BATT (Ken)), and was originally planned to be the BMATT for East Africa based in Uganda.

33 The depots have been established in Dakar, Libreville and Djibouti.

34 Uganda, for example, is believed to have used some of its ACRI equipment in the DRC.

35 Dakar was willing to contribute the contingent as intended, but the UN did not require additional troops as the mission's maximum authorised strength had been met. Unlike Senegal, both Ghana and Nigeria were already troop contributors to the mission and therefore were able to rotate their OFR-trained battalions into the operation in the normal course of events.

36 Out of the 5,000 troops ECOWAS believed were needed for that operation, fewer than 800 were deployed. Moreover, this small force was dependent on France. See Berman and Sams, *Peacekeeping in Africa: Capabilities and culpabilities*, pp 128-38.

37 See Col. K Faith and E G Berman, " Synopsis of a study on strengthening the Kofi Annan International Peacekeeping Training Centre, An independent report prepared for the UK Department for International Development, 21 May 2002, paras. 11-12.

38 Interview with West African military official, June 2001.

39 Written correspondence with Western military official, 13 November 2002.

40 For example, see E Groenewald, National interests, regional and international obligations, in M Shaw and J Cilliers (eds), *South Africa and peacekeeping in Africa* I, Halfway House, Institute for Defence Policy, 1995, pp 47-48.

41 South Africa has also provided a small number of staff officers and military observers to both the UN and OAU/AU missions in Ethiopia and Eritrea.
42 Interview with South African military official, June 2002.
43 The three others mentioned were Ghana, Nigeria and Senegal.
44 Under the terms of the peace accords, President Pierre Buyoya is to step down next year, a move that many in the Tutsi-led armed forces do not support.
45 The Constitutive Act of the AU entered into force on 26 May 2001 with the ratification by the 36th state, representing two-thirds of the OAU membership.
46 D Davies, Preparing for the Union, *West Africa Magazine*, 3-9 June 2002, p 9.
47 Cilliers, Peace, security and democracy in Africa?: A summary of outcomes from the 2002 OAU/AU summits in Durban.
48 The UN Observer Mission in Sierra Leone (UNOMSIL) had a maximum authorised strength of 210 observers. The UN Mission in Sierra Leone (UNAMSIL), which replaced UNOMSIL in October 1999, had an initial authorised strength of 6,000 military personnel. This number grew to 11,100, 13,000, and ultimately 17,500 within a year. The second largest UN mission at UNAMSIL's height was in East Timor, with roughly half the number of Blue Helmets.
49 The ECOMOG troops deployed between December 1998 and February 1999. Their small numbers and few resources largely limited their area of operation to Bangui, the capital of the CAR. Former army chief Ansumane Mane overthrew President João Bernardo Vieira that May.

SECURITY BRIEF

EDITED BY GLADWELL OTIENO

KENYA'S CROSSROADS

Kenya is fast approaching a crossroads as the presidential and legislative elections, scheduled for 27 December, draw near. After much speculation to the contrary, it appears that Daniel arap Moi will step down as president of the country. He leaves a shabby legacy: an economy devastated by decades of corruption and mismanagement by a rapacious elite, and an infrastructure in decay. Besides this, the use of violence as a means to obtain political goals has been legitimised, and the manipulation of ethnic rifts and the centralisation of power in his person have left the country polarised.

As in many other African countries, control of the 'political kingdom', of the state and its resources, is central to accumulation of wealth and patronage. This means that introducing real reform would be tantamount to political suicide.

President Moi's surprise choice of a political newcomer, Uhuru Kenyatta, as his anointed successor led to the desertion of key personalities to the opposition. The defecting MPs, dubbed the 'Rainbow Alliance' joined the main opposition National Alliance Party of Kenya, to form a new entity: the National Alliance Rainbow Coalition (NARC). For a while it appeared to have achieved the elusive dream of opposition unity and still stands a strong chance of winning if it can unite opposition forces.

The early dissolution of parliament was seen as an attempt to pre-empt a vote of no confidence in President Moi. The dissolution of parliament, coming when it did, also effectively scuppered progress on constitutional reforms. Under Prof. Yash Pal Ghai, radical changes had been proposed to the constitution. It was suggested that Kenya have a president with greatly reduced powers, an executive prime minister, a two-chamber parliament, and an increased number of MPs.

Although the Kenya constitution has been amended frequently over the years, this is the first time that Kenyans are being called upon to have a national discussion about a constitution that is in keeping with their values. Opposition parties have pledged to introduce the new constitution if they take power.

Kenya's electoral process is characterised by abuse, corruption, intimidation and violence. The executive has wide discretion to issue ID cards and passports, possession of which determines the right to register to vote. Slow issuance of ID cards has tended to deprive the youth, who are perceived as leaning towards the opposition, of their right to vote. This year, the registration period was limited to one month, then extended by two weeks. Registration proceeded smoothly in KANU-dominated areas but was dogged with problems in opposition areas.

The executive also controls the registration of political parties, which can

either be withheld or forced through at speed if it promises to undermine opposition unity. Constituency boundaries have been extensively gerrymandered. One calculation alleged that the average size of a secure KANU constituency was 28,350 voters, while the average size in opposition areas was 52,169, a discrepancy of 80%. The president appoints and fires the chairman of and commissioners to the Electoral Commission of Kenya (ECK). Most of the staff at the ECK are on secondment from the government.

The ECK's past performance, particularly during the 1997 elections, casts doubts on its capacity to effectively manage elections. There is no equal access to the media: the public media have been extensively recruited in the promotion of Project Uhuru. The president determines the election date at his own discretion. The holding of elections during the Christmas period since 1991 has had the effect of disenfranchising the many urban dwellers who travel home to the rural areas and may not cast a vote there.

Where these and other methods fail, the instigation of 'spontaneous' ethnic cleansing or ethnically motivated violence has systematically been used since 1991 to intimidate potential or real opposition and determine results.

Most of Kenya's 31 million people belong to 13 ethnic groups; about 22% are Kikuyu, 14% are Luhya, 13% are Luo, 12% are Kalenjin, a conglomerate of smaller ethnic groups to which Moi's minority Tugen belong. In a move designed to undercut the traditional winner-takes-all system, a provision was introduced that the winning presidential candidate must bring in 25% of the vote in five out of eight provinces. Together with the obvious manipulation of electoral districts, the misuse of the police and administration in the service of the ruling party and the plundering of the national coffers to finance the ruling party campaign and elections, this move serves to facilitate the victory of the incumbent.

There is a real case to be made for a federal system that is more responsive to the diverse needs of the electorate and could possibly overcome entrenched ethnic rivalries. However, Moi's version of federalism, or 'majimbo' as it is called in Kenya, is manifestly aimed at maintaining the power of a narrow, kleptocratic clique.

In response to the movement for democratisation, Moi claimed in the early 1990s that multiparty politics would lead to ethnic violence. Some commentators saw the subsequent violence as vindicating his stance. However, reports by human rights organisations and commissions of inquiry implicate leading KANU figures in the very violence they had predicted. The report of the Akiwumi Commission, which has been complete since 1999, was finally released in October this year.

The report documents that violence was systematically deployed against those who were perceived *a priori* as belonging to the opposition on the basis of their ethnic group.

President Moi's hold on the ostensibly malleable Uhuru Kenyatta may prove tenuous, once the latter gets into power. Even now, Uhuru's campaign speeches, promising as they do to end corruption and revive the economy, must be read as an implicit criticism of the Moi regime. There is also a generation gap, with the younger politicians rejecting some of the practices of the old. Uhuru Kenyatta is a son of the Kikuyu political elite whose economic base Moi made a concerted attempt to destroy. It is ironic that in the end he could conceive of no other recourse to protect himself from future persecution than to choose allies whose loyalty may waver.

The ruling party is riven by internal squabbling as Moi's lame-duck status becomes ever more apparent. While the situation sometimes brings to mind the rapidity with which apparently solid dictatorships crumble, as in the last days of Mobutu's Zaire, the resourcefulness and ruthlessness of Moi and his inner circle should not be underestimated. The perceptions of this group as to the risks to themselves, their families and their wealth if the opposition wins will be a decisive factor in the peacefulness of the transition.

Kenya's pre-election landscape is dominated by the undignified 'defecting' of politicians from one party to another, according not to ideology or programmes but to who seems the most likely to win. Opposition unity is tenuous and subject to determined assault by KANU. Within Kenya, the opposition is seen as having an advantage over the incumbent regime. However, the Moi regime has never yet fought a clean election and intensive electoral manipulation by KANU is probable. There is also the possibility of neither side gaining a clear victory, opening the door to a government of national unity. In reality, there is little to choose between the various protagonists, most of them having at one time or another participated in the government they now criticise. Equivocal noises now emerging from the opposition camp about the rapid adoption of the new constitution are cause for concern. However, the electorate has repeatedly demonstrated its strong wish for a clean break with the corrupt past. An opposition victory would be a necessary first step towards real change. Concerted efforts by internal and external actors to assure as free and fair an election as possible are essential to the realisation of this goal. – *GO*

MULUZI'S BID FOR A THIRD TERM

Malawi's young democracy is at a crossroads, as the ruling United Democratic Front (UDF) government and its leader, Bakili Muluzi, attempt to prolong their grasp on the reins of power. Malawi was ruled for 30 years by President Hastings Kamuzu Banda, who changed the country's constitution after independence to make himself life president, and Malawi a one-party state under the Malawi Congress Party (MCP). International pressure in the early 1990s led to a referendum on democracy that the government lost by a large margin. A constitutional conference was convened at which participants from opposition parties, the church and civil society drew up a truly progressive constitution that enshrined individual rights. Multiparty elections followed in 1994, which the UDF under President Muluzi won.

Currently Malawi's constitution allows for only two consecutive presidential terms, an arrangement that excludes Muluzi from attempting to stand for re-election in 2004. However, reports earlier this year indicated the beginning of an active campaign emanating from influential quarters within the UDF and led by Presidential Affairs Minister Dumbo Lemani, to seek approval from Parliament for a constitutional amendment to Section 83(3), that would allow an open term presidency.

These efforts were preceded by a constitutional amendment passed in November 2001 that effectively reduced the majority required to amend the constitution from two-thirds to '50 and one per cent', to ensure that the UDF would have sufficient representation in Parliament to approve constitutional changes. This prior constitutional amendment was masterly crafted by the UDF in anticipation of the all important and decisive future debate in Parliament concerning the third presidential term. The attack on the constitution was timed in such a way that it coincided with parliamentary attempts to impeach judges who were perceived to be in league with the opposition, replacing these appointees with others who would be more supportive of the proposed constitutional amendments. The judge who bore the brunt of this attack on the judiciary was Judge Dunstain Mwaungulu—one of three senior high court judges who were eventually impeached by Parliament, a development that has allowed the UDF to replace them with more amenable judges.

The actions taken by the UDF did not go unchallenged as church groups and civil society organisations in Malawi openly declared their opposition to a third term for Muluzi.

A previously unknown organisation, calling itself *Kachitatatu ayi takana* ('We reject a third term'), together with the Blantyre synod of the Church of Central African Presbyterians (CCAP) and the

Catholic Church especially came out in strong opposition to the proposal to amend. These groups have expressed their opposition by, among other things, distributing pamphlets in the local language and urging people to wear purple ribbons as a symbol of their opposition.

Muluzi responded in the tradition of Banda by banning all public demonstrations in Malawi. Influential religious groups, including the Roman Catholic Church and the Law Society of Malawi, applied for an injunction against Muluzi's threat to stop demonstrations against a third term. Judge Dunstain Mwaungulu subsequently ruled that Muluzi's ban "violated the constitutional rights of freedom of expression and assembly". In a bizarre twist, a new judge of the high court assigned to preside over this case overturned the previous court ruling, after an application was filed by Justice Minister and Attorney-General Henry Phoya, who accused lawyers representing groups opposing Muluzi's controversial third-term, of shopping for sympathetic judges. Most analysts saw the latest decision by the high court as a boost for Muluzi, who had previously gone on record saying that he would ignore the previous court ruling, as it was "irresponsible and insensitive". The standoff between the executive and the judiciary reflects the strained relationship that has developed in recent years.

Eventually on 4 July 2002 Parliament met to debate the proposed amendment to the constitution. The bill to change the constitution was introduced by an MP for the opposition Alliance for Democracy. The introduction of this bill by AFORD came as no surprise as this was perceived as more evidence of this party's attempt to forge stronger links with the UDF. Controlling 95 of Parliament's 192 seats, the UDF needed the support of an additional 33 opposition MPs to obtain a two-thirds majority of 128 votes. The ruling UDF was confident that with support from the opposition, the constitutional change would be passed without problems and that Muluzi could stand again in the 2004 elections. However, both opposition parties—AFORD and the MCP—were split on the issue. The vote count revealed that 29 opposition MPs and one independent voted for the amendment, but a total of 59 opposition votes against was enough to block it. The amendment to the constitution, allowing President Muluzi a third term in office, fell only three votes short of obtaining a two-thirds majority. With the amendment defeated, signs were positive for the strengthening of democracy in Malawi. Muluzi cynically commented that democracy called for "tolerance of different views", while he pursued his quest for a third term along other channels.

Two weeks later, on 20 July, at a special UDF meeting in Blantyre, it was agreed that the party should field no other candidate in 2004 other than Muluzi and that the UDF should resubmit the original private member's bill as a government bill. This essentially meant that instead of an Open Term Bill, it would propose that President Muluzi in his personal capacity be allowed to serve for a third term, on the basis that this amendment would not apply to any future presidents.

It is now clear that Muluzi and his close allies have no intention of backing down until Muluzi has secured his third term in office. The weaknesses of institutions safeguarding the democratic freedoms that have been enshrined in Malawi's constitution contribute immensely to an environment enabling further manipulation of the constitution to go largely unchallenged. It would be in the interests of Malawians at large to address these underlying structural problems to ensure that future attempts to change the constitution are legal and represent the will of the majority of the voters. Public condemnation of events in Malawi by leaders in the Southern African region and Africa at large have not been forthcoming, establishing a further precedent (with those of Zimbabwe and Zambia) for the tolerance of the subversion of democracy in the interest of ruling elites, prepared to cling to power by all means. The leaders of the African continent especially need to make it

clear that such undemocratic practices find no support in the new African era of the African Union (AU) and the New Partnership for Africa's Development; whose founding charters espouse the principle of good governance and democracy. Failure by the Chair of the AU, South African President Thabo Mbeki, to rally international support against such undemocratic practices questions the commitment to democracy which is at the heart of recent pan-African initiatives. Should the AU fail to meet the demands required by this challenge, Malawi will inevitably slide back down the slippery slopes towards renewed autocracy. – *CM*

CÔTE D'IVOIRE: THE POLITICS OF IDENTITY

Since the end of 1999 the politics of Côte d'Ivoire has been characterised by a number of military convulsions, the latest of which is a mutiny or an attempted coup or a rebellion, according to one's subjective preference. In 1999, elements of the army began by expressing their displeasure at not being paid for peacekeeping duties in the Central African Republic, grievances that quickly spread to other issues and eventually to the removal of President Bedié in a coup. His replacement, General Gueï, also experienced a number of alleged coup plots and mutinies before he, too, was toppled with the assistance of the gendarmerie, which refused to endorse his rigged election to the presidency in October 2000. Now President Gbagbo faces the wrath of elements of the security forces reluctant to be dismissed and demanding his resignation and the holding of all-inclusive elections. By the time this piece appears in print the situation will have moved on, though whether this will involve addressing a root cause of many of Côte d'Ivoire's domestic and regional difficulties must be in doubt.

What is noticeable about all the military upheavals remarked upon above is that all of them came at some stage to address the problem of citizenship as central to their demands. In some cases this reflected unhappiness at the exclusion from electoral competition of Alassane Outtara leader of the *Rassemblement des Republicains* (RDR), on the grounds that he did not fulfil the citizenship requirements demanded of presidential candidates. Even his erstwhile allies, Gueï and Gbagbo, found it expedient to disqualify him from opposing them at the polls on these dubious grounds, rather than face his formidable challenge.

But the question of national identity concerns more than the political career of one individual—it casts a shadow over the lives of between 30 and 40% of the country's population.

The reasons for this are to be found in the history of what was once touted as one of Africa's most stable countries. President Houphouët-Boigny was perhaps the ablest politician of all the founding fathers of independent Africa. He dominated the political scene in Francophone West Africa for almost five decades, including his presidency of Côte d'Ivoire, from independence in 1960 until his death at the age of 88 in 1993.

Houphouët's individual political style has been described as a benevolent, paternalistic, authoritarianism, derived from a chiefly tradition and emphasising accommodation and co-option rather than repression. He advocated the primacy of economic growth and development over liberal political freedoms, and while resources lasted, this approach was reasonably successful in terms of its own objectives.

In the decade preceding independence, the colonial administration of Côte d'Ivoire developed a system of agriculture based upon indigenous plantations. An extensive transport infrastructure was created and between 1950 and 1965 annual economic growth averaged nine per cent, and exports increased fourfold. Nevertheless, this 'economic miracle' of state capitalism came at a price, albeit one to be paid by future generations:

- The plantation economy was based on the availability of a low-paid immigrant workforce, numbering as many as a million, most of whom had entered the

country from Upper Volta (Burkina Faso) when both territories were part of French West Africa.
- The excessive emphasis on export crops threatened domestic food production and led to the importation of non-traditional food imports, and the rapid exploitation of timber resources also threatened the ecological balance of whole districts.
- Industrialisation and mining were neglected in the pre-independence years leaving the country dangerously exposed to fluctuations in commodity prices and deteriorating terms of trade.
- There was an excessive dependence on foreign capital which, thanks to the open exchange market of the CFA franc, could be withdrawn in times of recession.

All of this was yet to become obvious in the 1960s and 1970s, when there were abundant economic resources to fuel the political machine and to keep the patronage system thriving.

By the late 1970s, however, the flaws in the plan were beginning to become apparent. A boom in commodity prices yielded unprecedented revenue to the state, which embarked on a programme of infrastructural expansion supported by massive foreign borrowing. But in 1978 cocoa and coffee prices began a steep and protracted decline, leaving the government deeply in debt and struggling to make ends meet. Between 1979 and 1984 employment in the modern sector contracted by 30%.

Houphouët's reaction to the crisis and the discontent it generated was characteristically shrewd: he permitted a constitutional revision allowing for popular participation in politics for the first time since independence, through competitive elections to the national assembly, albeit within the context of the single-party system.

The introduction of intra-party competition raised the issue of home-based politics for the first time, including feelings between 'locals' and 'strangers' reflecting the latent tensions created by the government's encouragement of internal migration to develop the plantation economy. This was aggravated by the migration back to the land of thousands of urbanites, trying to alleviate the effects of the economic downturn; back in their 'home areas' many of these people found that the best agricultural land was already overcrowded.

After Houphouët's death in 1993, his successor, Konan Bedié, deliberately narrowed the conception of Ivorian citizenship, seeking to exclude his principal rival and his putative supporters. The concept of Ivorité was constructed to separate 'genuine' Ivorians from those originally of 'foreign' origin: the workers largely responsible for the country's economic 'miracle', some of whom had moved on to become successful businesspeople. The relative material success of these people made them easy targets for the jealousy of the unemployed and, many of them also being Muslim, a religious dimension was added for good measure.

The issue of nationality really came to a head at the end of 1998, with the promulgation of a law reserving rural landownership to Ivorian citizens. In terms of this legislation, the best that people identified as non-Ivorians could hope for was to secure a long-term leasehold either from the state or from indigenous title-holders—an arrangement that was unlikely to work to the benefit of the so-called 'foreigners'. Ironically, this development met with the approval of the donor community, as for them it represented a move towards the privatisation of tenure. To the political and social consequences in terms of displacement and conflicts over individual and customary tenure, these external actors remained oblivious.

So deep rooted has the idea of Ivorité become over the last decade, and so important are its consequences for socio-economic status and, by extension, political patronage, that it is difficult to see how this dangerous process can be reversed. Unfortunately, this has major implications for the internal cohesion of the country, and for its relations with other, poorer states in the region, who now see their kin being abused or expelled in times of conflict. This

also has implications for their own stability, as workers' remittances play such a large part in balancing their budgets.

The politics of identity have become fraught in a number of African countries, but particularly so in Côte d'Ivoire over the past decade. It is important not to allow the 'fog of war' to blind us to this kind of structural problem, which does not allow a military solution. – *RC*

MAKING PEACE WHILE WAGING WAR: THE PEACE PROCESS IN SUDAN

Delegations of the government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) have been taking part in peace negotiations under the auspices of the Inter-Governmental Authority on Development (IGAD) in Machakos, Kenya, since June of this year. Despite setbacks and a less than total commitment to peace by both parties, these talks are seen as representing the best chance there has been to end one of the world's most intractable and brutal conflicts. They began at a time when the war had entered its most destructive phase hitherto, fuelled by oil revenues to the Sudanese government and the increased military capacity of the SPLA.

The IGAD Sub-Committee on Sudan, consisting of Ethiopia, Djibouti, Eritrea, Uganda and Kenya, has been presiding over the Sudanese peace process since 1993. The IGAD Declaration of Principles of 1997, which prioritises the unity of Sudan while envisaging self-determination for southerners, formed the basis of the negotiations. The active encouragement and pressure offered by international observers from the US, the UK, Norway, Italy and the UN has been, and will continue to be, essential to the progress made. The efforts of the US government, in particular, such as the Danforth Initiative begun in late 2001, have been instrumental in restarting and maintaining the peace process. The Sudan Peace Act recently signed by President Bush condemns Sudan's human rights violations and allows the US to impose sanctions if it is not satisfied that the government of Sudan is negotiating for peace in earnest. Sanctions provided for include an international arms embargo and the denial of oil revenues. However, the act drops an originally foreseen clause on capital markets sanctions against international oil companies investing in Sudan. The US president must evaluate progress on the peace process every six months. President al Bashir has condemned the act as the 'Sudan War Act'. The rapprochement in the wake of September 11 with a supposedly reformed government of Sudan has been uneasy, with suspicion of continuing Sudanese support for terrorism. At the end of October President Bush extended existing economic sanctions against Sudan, which had first been imposed under Clinton.

The talks were scheduled to take place in two parts. The first round successfully ended with the signing of a framework document, the Machakos Protocol, on 20 July. In a surprising development, the warring parties reached agreement at the eleventh hour on two of the most contentious issues—the right to self-determination of the people of southern Sudan and the issue of state and religion. The Machakos Protocol is a broad framework for agreement that "sets forth the principles of governance, the general procedures to be followed during the transitional process and the structures of government to be created under legal and constitutional arrangements to be established". The agreement provides for a transitional period of six years to be preceded by a six-month pre-interim period during which the institutions and mechanisms provided for in the agreement shall be established, and a comprehensive ceasefire agreement with appropriate monitoring mechanisms installed. At the end of the six-year transitional period "there shall be an internationally monitored referendum, organised jointly by the government of Sudan and the SPLM/A, for all the people of southern Sudan," who will either vote to adopt the system of government established under the Peace Agreement, or may choose to secede. The

south will be exempted from Sharia laws, although the source of national law and the status of non-Muslims in the north are still unclear.

The interval between the talks marked the first personal meeting between the SPLA's John Garang and President Omar Hassan al-Bashir of Sudan. It was also used by both parties for a national, regional and international diplomatic offensive to promote the agreement to their respective constituencies. The protocol has not met with unqualified enthusiasm; Egypt is particularly opposed to Sudan's perceived backtracking on the principle of unity, partly fearing increased competition for the Nile waters by a separate southern entity. However, Egypt has concentrated on blocking southern Sudanese self-determination and possible secession, for example through the Joint Egyptian-Libyan Initiative (JELI) of 1999, rather than evolving constructive proposals for a lasting peace. The JELI ignores the issues of self-determination and religion and is seen as largely being designed to undercut support for the IGAD Declaration of Principles. Southern Sudanese reacted sceptically; other agreements containing some similar provisions had been broken in the past. The transitional period was also seen as dangerously long and susceptible to manipulation by the Sudanese government, particularly given that possible future changes in governments in the West could lead to changes in focus and policy. Further concerns raised were the exclusion of all other parties and organisations from the talks; the confirmation of two essentially undemocratic and unaccountable groupings as the sole representatives of the Sudanese people; the reduction of what had become a national conflict to a purely north–south affair; and the implicit acceptance of the legitimacy of Sharia in the north.

The second session of talks that began on 12 August took on the task of working out in greater detail the thorny issues of the precise shape of power sharing between central and regional entities and wealth sharing. The ownership and distribution of the proceeds of oil resources, which are largely located in the south, are the major bone of contention under the latter topic. Further remaining agenda items are internal security arrangements between the two armies, human rights and a comprehensive ceasefire.

On 2 September, the Sudanese government withdrew from the second session of the negotiations, citing the SPLA takeover of the strategically important southern garrison town of Torit. It rejected the SPLA's call for a re-examination of the status of the rebellious regions adjacent to southern Sudan, but outside the borders of southern Sudan proper as defined at independence in 1956—that is, Abyei, Southern Blue Nile and the Nuba mountains. The SPLA call for a secular status for the national capital, Khartoum, was summarily dismissed. Given the military activity by the government of Sudan since the signing of Machakos I, the pretext given for withdrawal from the talks was described as "somewhat disingenuous". Observers speculate that the Sudanese President had succumbed to pressure from hardliners in his coterie intent on preventing progress in the Machakos peace talks. This withdrawal followed rumours of a coup, reported on by Sadiq al Mahdi of the opposition Umma Party, for example. The Sudanese government seems to have had difficulty in winning over the radical Islamists and hawkish army officers in the north. First Vice President Ali Osman Taha is also seen as an opponent of the peace talks as his position would be jeopardised by a possible Sudanese government–SPLM/A power sharing arrangement.

For its part, the SPLA is facing a civil society wary of the government's perceived duplicity; those elements in its ranks who would profit from a continuation of hostilities and are reluctant to democratise, and young hawks convinced of the need to keep pressing the armed struggle. However, in various fora, southern civil society organisations gave the SPLM/A the mandate to continue with the talks. The government had demanded a comprehensive ceasefire as

a precondition for the resumption of talks and imposed a ban from late September until early October on all humanitarian flights and activities on the ground in eastern and western Equatoria, giving a free hand to the military to act "with no restraint, no restriction whatsoever", in the words of President al Bashir.

On Tuesday 15 October, after weeks of military escalation by both sides and the recapture of Torit by the government, the two parties signed a Memorandum of Understanding (MoU) renewing their commitment to the Machakos Protocol and agreeing on a cessation of hostilities after intense international pressure. The memorandum covers the whole area of Sudan, but the clause allowing "either Party to take any legitimate measures in self-defence against any hostile act from a Party or force other than those referred above", may weaken this. Neither does the MoU provide for monitoring; though a "channel of communications (...) to assist with the verification of complaints" is established through the mediator. The truce is set to continue for the duration of the talks or until the end of the year and took effect at noon on 17 October. Despite this, the Sudanese government had attacked SPLM/A positions in the east, within ten minutes, as confirmed by IGAD's Chief Mediator Kenyan Lt. Gen. Lazaro Sumbeiywo. The Sudanese government charged that Eritrean forces had directly participated in an attack in the eastern front during which forces of the opposition National Democratic Alliance, which includes the SPLA, captured some eastern towns. The Eritrean government has denied these allegations.

The subsequent period has been marred by mutual accusations of ceasefire violations, but the talks continue. Encouragingly, on 26 October the two sides and the UN Operation Lifeline Sudan signed a landmark agreement allowing unimpeded humanitarian access across Sudan until the end of the year.

Progress in the continuing discussions remains uneven with the Sudanese government, in particular, making contradictory public statements. The recapture of Torit appears to have strengthened a perception by military hardliners in Khartoum that a military victory and hence peace dictated on its terms is indeed attainable.

The Sudanese government also seems unready to accept the extent and detail of SPLM/A's proposals aimed at a comprehensive settlement and appears desirous of limiting the agreement to a simple accommodation of southern demands within existing structures. There are incentives for the two sides to sign an agreement: the government hopes to reactivate aid flows and qualify for the World Bank's HIPC scheme. Economic growth is already strong, and would be boosted by post-conflict reconstruction aid and rising oil export revenues. Politically, the exclusion of other parties from the talks would allow the main protagonists to consolidate their positions in power for at least the duration of the transition period, barring the holding of elections during this time.

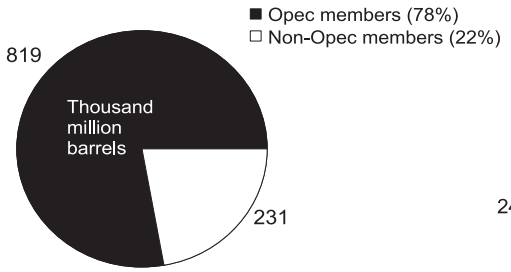
It is questionable whether such a narrow power-sharing agreement that excludes important stakeholders can constitute a sustainable basis for peace. In addition it is essential that the apprehensions of external parties such as Egypt be addressed constructively if they are not to undermine the present process and any future arrangement. Concerted pressure must continue to be exercised by international and regional partners to guide the protagonists through the complex agenda still outstanding and bind them into serious dedication to peace. The lack of a strong political commitment to peace is a great weakness of the Machakos Process. However, despite its flaws and the risks involved, it is the only chance that Sudan's long-suffering people have. – *GO*

TRENDS AND MARKERS

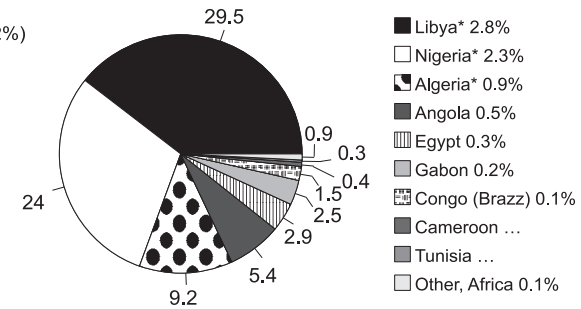
Recent data, statistics and indicators

Proven oil reserves, end 2001

Proven world oil reserves = 1050 thousand million barrels
(or 100% of total world reserves) of which:

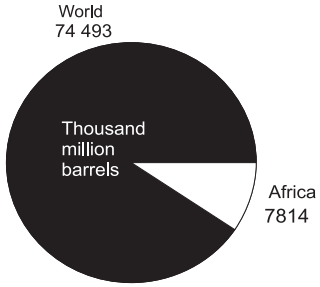


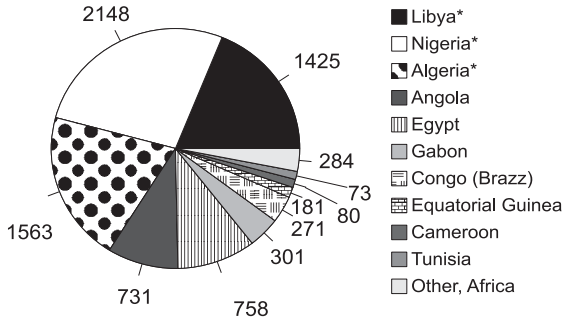
Africa (* = Opec member) 76.7 thousand million barrels
(or 7.3% of total world reserves) of which:



Source: BP Global, Statistical Review of World Energy, June 2002

Oil production, end 2001

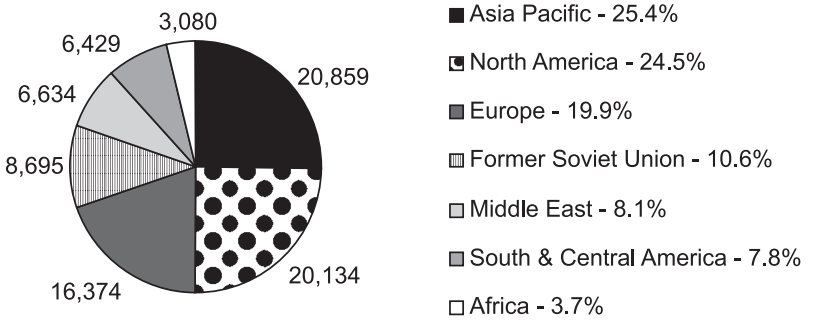




Source: BP Global, Statistical Review of World Energy, June 2002

Oil refinery capacities

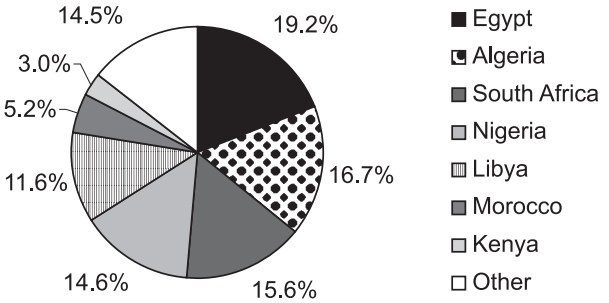
Measured in 1,000 barrels per day



Source: BP Global, Statistical Review of World Energy, June 2002

Major refining centres

Downstream oil industry in Africa: 44 refineries in 25 countries with a total distillation capacity of three million barrels per day which represents 4% of the world total.



Source: MBENDI Profile: AFRICA - Overview

Countries in which oil exploration is taking place

Chad
Sudan
Namibia
South Africa
Madagascar

Source: MBENDI Profile: AFRICA - Overview

Value of petroleum exports (US$m)

Nigeria	12,453
Libya	7,734
Algeria	7,556

Source: OPEC annual statistical bulletin, 1999

Members of African Petroleum Producers Association (APPA)

Algeria
Benin
Cameroon
Congo-Brazzaville
Cote d'Ivoire
DRC
Egypt
Equatorial Guinea
Gabon
Nigeria

Source: MBENDI Profile: AFRICA - Overview

ESSAY

PEACEFUL CHANGE AND THE RISE OF SUDAN'S DEMOCRACY MOVEMENT

DAVE PETERSON

Negotiations to end Sudan's devastating civil war have repeatedly faltered, but among other developments, the re-emergence of civil society in both the north and south provides greater impetus for peace, as well as greater prospects for democracy and respect for human rights. Particularly important, but thus far relatively unnoticed, is the rise of a southern-led civil society movement in the north. Although Sudan's complex history and demographics provide an explanation for much of the conflict, in fact the conflict is essentially political, while it is this very complexity that could provide a basis for the resolution of the conflict. Some intriguing parallels with South Africa's recent experience underscore the role of civil society, and point to some options for the future.

Introduction

It is Easter Sunday in Jabarone, a desolate settlement plopped in the middle of the desert some 20 miles from Khartoum, the capital of Sudan. Three thousand worshippers have filled the Catholic church of Saint Josephine Bakhita with singing, drumming and dancing by children in colourful tie-dye dresses and grass skirts. As the sweet scent of incense mingles with the heat, a barefoot nun warms up the crowd with a litany of *Salamu Alaki Ya Mariams*. Then, Father Daniel Deng preaches his sermon in a lively Arabic, throwing in a little human rights message, exhorting husbands to treat their wives fairly, and for wives to treat their husbands likewise. After communion, the congregation streams out into the bright sun and back to the mud brick shelters of their impoverished community of 150,000 internally displaced persons (IDPs). Although Sudan is a predominantly Muslim country, these people have fled the war and famine in the mostly non-Muslim south to seek refuge in the relative calm of the north. They certainly did not choose to live here. 'Jabarone' means 'we are compelled', because ten years ago they were compelled by the government to leave their original and more convenient refuge in camps on the outskirts of Khartoum, and were dumped here with virtually no shelter and no services. Families

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dug holes in the ground to shield themselves from the wind and slept in the open. "Despite the hardship", Father Deng notes, "the people are happy today." They have persevered, struggling to get education and find jobs in this alien environment. Father Deng estimates that 95% are still unemployed, nor does the community have any real schools, so social problems are enormous. Yet even though they have come from every part of southern Sudan, the people of Jabarone live together in reasonable harmony. There are five other major settlements like Jabarone around Khartoum with a total population of some two million; altogether four million southerners are estimated to be living as IDPs in the north. This is a significant part of the total population of Sudan, which may be 30 million. The people of Jabarone and other southerners living in the north have attracted little attention, but they are becoming an increasingly powerful factor in the destiny of this troubled nation.

Sudan's civil war has lasted nearly half a century. In the past 20 years, two million people have been killed, in addition to the four million who have fled their homes. But things are changing. The North–South, African–Arab, Christian–Muslim divisions generally attributed to Sudan obscure the host of contradictions that present genuine opportunities for peaceful negotiations and political accommodation. Geopolitical realities, including America's campaign against terrorism and the lucrative potential of oil, seem to have persuaded the Sudanese government—which still espouses a fundamentalist Islamic ideology—to moderate its policies. The armed southern opposition to the government has recently united, after ten years of bloody internecine conflict. A mission by former US Senator John Danforth has proposed a four point peace plan that still seems to be moving forward, despite some setbacks. And a series of negotiations based in Machakos, Kenya, after a period of suspension, have tentatively resumed, and a cessation of hostilities has been declared.

Sudanese sometimes compare their situation to that of South Africa ten to fifteen years ago. The parallels are striking even if there are risks in drawing too many similarities between two dramatically different societies at opposite ends of the African continent. The racial divide is obvious. Both Sudan and South Africa are extremely complex societies, with heterogeneous populations deeply divided along racial and ethnic lines. Both countries have long histories that weigh heavily on the present, and both have strong modern as well as traditional institutions. In South Africa, apartheid ideology contended with the African National Congress's (ANC's) non-racialism and in Sudan, Islamic fundamentalism opposes moderate religious and secular perspectives. Social engineering and repression, human rights abuse and terrorism, have characterised the behaviour of both governments. Both nations have faced international condemnation and sanctions, both have experienced high levels of violence, both have expanded their conflict to neighbouring countries, and both have great economic resources as well as social inequality. South Africa benefited not only from the statesmanship of Nelson Mandela and Frederick de Klerk, but from a dynamic civil society and the mass movement of the United Democratic Front, as well as a culture of negotiation that reached every level of society. Sudan's leadership, both pro- and anti-government, remains doubtful; however, its civil society is beginning to re-emerge. Just as the role civil society played in South Africa has often been underestimated, so also the role Sudanese civil society could play has not been widely appreciated. But, just like South Africa, the church (and mosques), trade unions, human rights groups, women's movement, peace movement, media, cultural groups, youth and community-based organisations are slowly, peacefully, transforming the society.

Sudan's complexity

The failure of the state, especially in Africa, has become commonplace in the aftermath

of the Cold War, but Sudan is a country that some might argue was doomed to fail from the beginning. United by the British in a landmass half the size of the continental US with a population of barely 10 million at independence in 1956 (growing to 30 million today despite war and famine), Sudan contains 19 major ethnic groups, including 597 subgroups and more than 100 languages. According to the 1956 census—the only one to examine ethnicity—39% of Sudanese consider themselves Arab, 12% Dinka and 7% Beja. The Arabs may be divided between the sedentary Julayin and the nomadic Juhaynah, which are in turn divided among several subtribes. In addition, there are the Muslim, but non-Arab Nubians, Beja, Fur and Zaghawa. More than half the population is Sunni Muslim, belonging to various brotherhoods, including the Qadiriyah, Khatmiyah and Mahdiyah. The largely non-Muslim Dinka, Nuer and Shilluk comprise perhaps another 20% of the total population; and to these may be added the non-Muslim Bari, Azande and Nuba. More than 30% of Sudanese are estimated to follow traditional religions, and 5–10% are Christian. Added to this mélange is a growing population of Muslims of Nigerian origin, the Fellata, who now make up as much as 10% of the population.[1]

After the complex demographics, there is the challenging physical environment. With the exception of the lands fertilised and watered along the Nile, the northern half of the country is mostly uninhabited desert. The southern third consists of undeveloped savannah and swamp, and the rather arid area in between is steadily being lost to the encroaching desert. This hostile environment has exacerbated conflict, as nomadic peoples have moved south for grazing areas, competing with farmers for land, and sometimes raiding for cattle and slaves. But this traditional dynamic has been turned upside down as war and hunger forced four million southerners to the north. Famine, exacerbated by the war, and sometimes even manipulated as a weapon of war, has been the main killer in Sudan. American and international humanitarian relief has gone to victims on both sides of the fighting through Operation Lifeline Sudan (OLS), the largest relief operation under way anywhere in the world, at a cost of some $1 million a day—about the same amount the government is estimated to be spending on the war.

Sudan has been described as a bridge between the Arab world and sub-Saharan Africa, suggesting peaceful trade and cultural melding. Others have described Sudan as the advance guard for the Islamic conquest of Africa. Sudan's geographic context has made it critical to its neighbours. Egypt is obsessed with control over the Nile, among other concerns. Proxy wars have been fought by rebel groups along the borders of Ethiopia, Eritrea, Libya, Chad, Congo and Uganda, and refugees from each country flow back and forth across the borders. For many years, Sudan's neighbours to the south have attempted to mediate between the government and the southern rebels through the Intergovernmental Authority on Development (IGAD), but the negotiations have repeatedly broken down. More recently, Sudan's two neighbours to the north, Libya and Egypt, have attempted to contribute to a peace settlement by bringing the northern opposition parties into the negotiations. And on the other side of the continent, the Nigerians have offered their good offices, including a series of conferences in Abuja in 1992–993, and some more recent diplomatic interventions.[2] Although these international peacemaking efforts at the elite level merit continued support, their futility thus far suggests not simply an intransigence on the part of the antagonists, but the absence of any effective popular constituency or support for a peace process.

Sudan is the political expression of one of the most ancient cultures in Africa, its rulers conquering Egypt in the 9th century BC. The Sudanese kingdom of Merowe left traces as far as Mali and Zimbabwe before its conquest by Christians in the 4th century AD. The successor state of Nubia lasted until the Mameluke conquest in 1250, and Sudan was reconquered by Muhammed Ali, the Ottoman ruler of Egypt in 1821. Penetration

of the south, including the slave trade, intensified at this time. British control over Egypt and Sudan culminated in the defeat of the British General 'Chinese' Gordon at Khartoum in 1886 by Muhammed Ahmed, the Mahdi, whose great grandson is today the leader of the Umma Party, Sadiq al Mahdi. The Khatmia were opposed to the Mahdists, remaining aligned with the Egyptians, and their descendants today largely comprise the Democratic Unionist Party (DUP), led by Mohamed Osman al Mirghani. Although the British at first favoured the Khatmia, they switched favour to the Madhists when the Khatmia began supporting Egyptian nationalism.

After World War II, the Sudanese Communist Party, one of the strongest in Africa and the Middle East at the time, became an important political force with its core of support among the railroad workers and nearly half a million members at its height. As Sudan neared independence, however, southern concerns were ignored, and as a result the Anya-Nya rebellion began in 1955. Shortly after independence on 1 January 1956, Gen. Ibrahim Abdoud took power in a coup, but his regime collapsed in 1964 following a general strike led by the Communists. Sadiq al Mahdi then led a coalition government with the Umma and NUP (later DUP), but failed to end the war and lost his majority in parliament. The government of Mohamed Ahmed Mahjoub was subsequently overthrown in May 1969 by Colonel Jaafer el-Nimeiry with the support of the Communists. A year later, 11,000 armed supporters of Sadiq al Mahdi were killed by the military and al Mahdi was exiled. In 1971, Nimeiri crushed a coup led by Communist army officers. Although it was effectively abolished by Nimeiri, the Communist party remains an important secular influence even today, analogous perhaps to the role played by the South African Communist Party.

Nimeiri ended the civil war in 1972, however, granting the south autonomy in the Addis Ababa Peace Agreement. The following eleven years would be the only time of peace modern Sudan has known. In 1975 and 1976, with Egyptian help, Nimeiri crushed another uprising by the National Front, which consisted of the Umma, NUP, and Moslem Brotherhood. But he soon allowed al-Mahdi to return and released the leader of the Moslem Brotherhood, Hassan al Turabi, from prison, making him attorney general in 1979. In 1983, Nimeiri redivided the south, reducing its independence. He also promulgated the September Laws, which imposed Islamic punishments (*huddud*), including amputations for theft, floggings for drinking beer, stoning for adultery, and execution for apostasy—the fate of the great reformist Muslim theologian Mohamed Taha in 1984. Nimeiri's abandonment of the Addis Ababa Agreement and other policies triggered the outbreak of war in the south led by the Sudan Peoples Liberation Army (SPLA). In 1985 a popular uprising in Khartoum led to the overthrow of Nimeiri and the installation of an interim government, which nevertheless failed to abrogate the September Laws. The war continued.

In April 1986 Sadiq al-Mahdi was elected prime minister of a coalition government. The Koka Dam Declaration of 1986, which was signed by the Umma Party and the SPLA, was unfortunately ignored by Sadiq after he came to power, and instead Turabi's NIF joined the government in May 1988. The DUP, which had rejected the Koka Dam Declaration, then reached an agreement with the SPLM on 16 November 1988, and although al Mahdi forced the DUP to resign from the government on 27 December, considerable military and popular pressure nevertheless compelled al Mahdi to initial a draft bill suspending Islamic law on 29 June 1989. The next day the military, led by General Omar Hassan Ahmad al Bashir, seized power in a coup backed by the NIF.[3]

The new government banned political parties, trade unions, various student and professional associations, and the independent press. The army was purged, and a parallel militia, the Popular Defence Force, was established. Although initially imprisoned in the first days after the coup, Hassan al Turabi was soon released and

became the acknowledged power behind the throne. The Islamicist agenda was pursed with greater fervour than ever, severe restrictions on clothing and behaviour were enforced, and the war was declared to be a jihad against infidels. Human rights abuses escalated as political prisoners filled the jails and 'ghost houses' (clandestine prisons), dissent was repressed, torture became routine, and the independence of the courts was emasculated.

But what was happening in the south made the north seem tame by comparison. As the war continued and various peace initiatives failed, the SPLM became increasingly brutal in its own tactics and ethnic rivalries became apparent. In 1991, a split occurred between the SPLA-Torit, led by John Garang and comprised mainly of Dinka, and the SPLA-Nasir, led by Riek Machar and comprised mainly of Nuer. The past decade has seen the splintering of South Sudan's rebel movements, brought about by the Khartoum government's divide-and-rule policies as well as by traditional rivalries between the Dinka and Nuer ethnic groups. Fighting between such factions as the SPLM/A, SSIM/A, SSUM, USDF, SSDF and SAF has caused hundreds of thousands of deaths, created humanitarian emergencies, led to severe human rights abuses, destroyed vital institutions such as schools and courts, and forced civilians into a state of constant insecurity. The destruction and loss of life resulting from these factional disputes is generally considered to be greater than that directly perpetrated by the government. Although the main Nuer leader, Riek Machar, had signed a peace agreement with the government in 1997, the agreement lacked credibility and he eventually resumed his armed opposition to the government, rejoining his former arch-rivals in the SPLA. The SPLA has made various efforts at reform recently, such as ending the executions of prisoners of war, releasing of child soldiers, and establishing civilian administrative structures in the areas it controls.[4] Even more importantly, the reunification of the forces of Garang and Machar on 12 February 2002, has eliminated the most egregious source of conflict. Although the SPLA and the other armed opposition groups are roughly analogous to South Africa's ANC and PAC, the scale of violence the Sudanese have waged against each other, the degree of conventional military activity, and the resulting level of destruction are far more severe than anything South Africa experienced.

The international dimension: Slavery, bombs, politics, religion and oil

Also on nowhere near the same scale as the old anti-apartheid movement, Sudan has nevertheless become an important international cause among various human rights and church activists, particularly regarding the issue of slavery. Slavery has persisted in Sudan for centuries, despite attempts since the British came to stamp it out, but the war has inflamed it. Southerners may still be mocked as 'slaves' by northerners. Yet the encouragement of slave raids as a government policy to terrorise the population of the south is another question. Militia groups, the *murahaleen*, periodically raid southern villages on horseback, usually killing the men and capturing the women and children whom they then sell in slave markets. There are many reliable accounts about how these innocent people are horribly abused and often killed.

After denying that the problem even existed for many years, the government finally conceded that 'abductions' were occurring, and announced that it was working to end the practice. A Commission for the Eradication of Abductions was established and received considerable donor support, and at first seemed to be making progress. The effort lost steam, but may be revived. Meanwhile, Western groups such as Christian Solidarity International (CSI) have gained attention by travelling to southern Sudan and apparently redeeming thousands of slaves for perhaps $40 each. Critics of CSI charge that these redemptions only encourage the taking of slaves, but those who are being redeemed are undoubtedly grateful for the help.[5]

The bombing of civilian targets in the

south has also become a major human rights concern. Usually, Russian-made Antonov bombers, flying at a high altitude, will drop bombs on villages thought to be sympathetic to the rebels. Inevitably, the only persons hurt are innocent civilians, and larger structures such as churches, schools and hospitals seem to be the easiest targets for the often inaccurate, but still deadly, bombs. More recently, however, the flow of oil from parts of the south has both increased the incentive for the government to clear these areas of potentially hostile local communities, and has provided the financial means to increase the level of fire power targeted against them, including the purchase of helicopter gunships. In the last year, tens of thousands of civilians have reportedly fled from areas around the oil fields in Unity (or Western Upper Nile) State.

Another parallel with the anti-apartheid movement is thus the debate over sanctions. Oil is exacerbating the Sudanese conflict by providing something more to fight over and providing the means to pay for it; but just as occurred in South Africa, some argue that 'constructive engagement' could also inject some pragmatism into the government's behaviour as it seeks to attract foreign investors, and the foreign presence in the country serves as leverage by international human rights advocates to end the conflict. The NDA remains firmly opposed to international investment in the oil industry; the US Congress has unsuccessfully proposed capital sanctions against companies investing in Sudan; and Senator Danforth has suggested some kind of revenue sharing between the government and SPLA for an interim period. Yet Sudan may soon be able to pump 200,000 barrels of oil a day, making it one of the largest producers in Africa. Some American companies have expressed interest in doing business in Sudan, but commercial interests from Europe, Canada, China, Malaysia and Russia have demonstrated fewer scruples than the US. Clearly, sanctions may have symbolic significance, but given the nature of the oil market, it is unlikely that sanctions alone can generate sufficient pressure on the Sudanese government to end the war or improve its human rights record.

Like oil, religion exacerbates the Sudanese conflict, but it is not the cause, and need not prevent a solution. The government's religious agenda still seems to have some resonance among the devout Muslim population, at least as a justification for the war and for the government to maintain power. However, Sudan's traditional and popular Muslim sufi sects do not adhere to the same brand of Islamic fundamentalism the NIF has tried to import from Saudi Arabia, and there are some indications that some of the old ideological fervour may be dissipating. Osama bin Laden once found shelter in Sudan, and a Sudanese pharmaceutical factory was apparently bombed by mistake by American cruise missiles in retaliation for bin Laden's destruction of the American embassies in Kenya and Tanzania. But bin Laden has since been expelled, and more recently, although Sudan is still on the official list of countries sponsoring terrorism, the government has made concerted efforts to co-operate with American authorities in handing over intelligence and even terrorist suspects.[6] The government's protestations of sympathy for the victims of the September 11 attacks was matched by an apparent popular condemnation of the attacks as well. Turabi's political and ideological control of the country has given way to that of the security forces, who are no less dictatorial or zealous in their application of Islamic law, but who, in their competition for power, may be more ready to accommodate other political forces in Sudan. On the domestic front, however, some discrimination against Christians has continued. Even this seems to be backfiring, however, since it has apparently only galvanised the faith and multiplied the numbers of Christians—such as those of Jabarone—changing them from a minority concentrated in the south, to a restless and growing presence surrounding the capital. Were it not for the oil, many northerners might be relieved to see the south granted independence, the

southerners return to their homelands, and the Islamic culture of the north restored undiluted.

Religious conflict and human rights abuses might seem to be endemic, but Sudan has known periods of both peace and democracy. Sudanese are famous for their hospitality and tolerance; Christians and Muslims often express their friendship with one another; northern and southern children go to school together; there is a lively intellectual tradition, debate and political pluralism.

In the past year, several internal political developments have added to the confusion, as well as the potential political space. First, the ruling National Islamic Front (NIF) has recently split into two parties, Bashir's National Congress Party (NCP) and the Popular National Congress (PNC) led by Hassan al Turabi. Turabi and much of the PNC leadership have recently been imprisoned by the government after Turabi signed an agreement with John Garang of the SPLA. Adding to this political turmoil has been the return to Khartoum of Sadiq al Madhi, leader of the powerful Umma Party. Some rumour of the imminent return of Al Mirghani, leader of the equally powerful Democratic Unionist Party. These two parties and the SPLM/A were the most important members of the opposition National Democratic Alliance (NDA). But the Umma left the NDA after al Madhi returned to Khartoum, and a faction of the Umma has recently even broken away to join the government. Multiparty elections held in Sudan in December 2000 were won by the government, but were boycotted by both the NDA and the Umma Party, which declared them to be unfair. The fact that Garang and Turabi can ally themselves, and that Machar was a member of the Sudanese government for many years, and that the various political parties have at one time or another been allied, makes one wonder why the antagonists are so ready to kill each other. It might also be grounds for hope that they are not so irreconcilable. In fact, the history of Sudan since independence, culminating in the current set of alliances and positions, demonstrates with remarkable clarity that it is politics—not religion, not ethnicity, not oil, not slavery—that is driving the Sudanese conflict. All this turmoil may produce some opportunities, and although these long-time leaders retain great influence and would likely be the ones to contest and win free and fair elections, they have yet to lead the Sudanese people out of their predicament.

Civil society to the rescue?

In the aftermath of September 11, one Sudanese human rights activist, Ghazi Suleiman, suggested in the *Washington Post* that undemocratic and unaccountable governments are the breeding ground for the kind of social unrest that gives rise to terrorism.[7] Although the implication was that his own government constituted such a breeding ground, his ability even to make such a remark suggests that there is more political space in Sudan today than there was just a few years ago. Although the government has conceded this ground grudgingly and may still reverse what modest progress has been made, and although repression is still very present, the SPLM's contention that reform is impossible may be too harsh, just as the ANC's opposition to the Nationalist government of South Africa once seemed equally uncompromising. South Africa had many similar contradictions to those of Sudan as it struggled to achieve a just and democratic dispensation, largely through peaceful means. The key was the emergence of a culture of negotiation that eventually pervaded every level of society from the ruling elites to the grassroots. In fact, it was the grassroots, including the press, the church, the trade unions, students and civic organisations of every description that ultimately coalesced into an irresistible force for change. Little noticed in the West, such institutions have re-emerged in Sudan, and have begun the incremental, non-violent, but profound transformation of Sudanese society. Their struggle will be gradual, usually undramatic, and will mostly be carried out by individuals whose names will

never make the newspapers. But their solution to the long crisis of Sudan will be indigenously Sudanese, not imposed from outside or on high. For this reason, it is also more likely to be sustainable. Their first objective is to end the war, and this cause will continue to gain momentum and support from a growing spectrum of society, including leadership of the government and rebels, just as the struggle against apartheid in South Africa did. With the experience and space provided by an end to the fighting, they will be able to move on to address the political causes of the conflict and repair and improve the democracy Sudan has known in the past. Finally, they will have to rebuild the country, harness the natural and human resources, and make of Sudan the great 'rainbow nation' it should be.

In particular, it is the enormous population of disenfranchised southerners struggling to survive in the alien environment of the north who may hold the key to the future. Like the people of Jabarone, the majority of these southerners would prefer to return to their homes in the south if peace were to be achieved, and if a referendum on self-determination for the south were to be held, as has been promised in the Sudanese constitution and the Machakos agreement. Most would undoubtedly vote in favour of it, and by implication, complete independence for the south as well. In the meanwhile, whether or not a referendum and independence ever occur, their presence is increasingly felt in the daily economy and social life of the north. Despite discrimination and repression, after living in the north for more than ten years, they are beginning to coalesce and organise, becoming more aware of their identity and rights, and taking action to assert their place as full citizens of Sudan. It is not inconsequential that, unlike apartheid South Africa, southerners and northerners constitutionally have equal rights, go to school together, can live together, and in many other respects are less divided than blacks and whites once were in South Africa.

Galvanising this movement has been the church, which has sheltered and spawned a variety of initiatives. Students, as well, have begun organising, and the trade unions may also reassert their traditional progressive role, just as they did in South Africa. Another remarkable recent development, however, has been the success of groups such as the Kwoto Cultural Centre. Founded in 1994 as a popular theatre group, and bringing together youth from 20 southern Sudanese language groups, Kwoto (the word is from the Toposa language and refers to a sacred stone uniting the Ateker ethnic group living throughout Sudan, Kenya, Uganda and Ethiopia) has steadily expanded its outreach and impact. By promoting the richness of Sudanese culture through dance, music, poetry and theatre, Kwoto is reaching hundreds of thousands of Sudanese in the north and south, in displaced persons camps and universities, prisons and even the national theatre, with a subtle but powerful message of pride and dignity in diversity; an appeal for peace, democracy and human rights; and a vision of hope for a united and free nation. Kwoto's cultural and intellectual appeal is reminiscent of the Black Consciousness Movement of South Africa during the 1970s, but its emphasis on non-violence and tolerance is inspired by many others such as Mahatma Gandhi, Martin Luther King and certain Sudanese philosophers and artists. By nurturing a democratic culture, Kwoto is strengthening the grassroots foundations for the political and institutional changes that must follow.

Another promising development has been the independent press. Some journalists who have been critical of the government have been jailed as a result of their boldness, but they continue to publish. One of the most noteworthy of these is Alfred Taban, publisher of the *Khartoum Monitor*, an English-language daily newspaper. There are two million English-speaking southerners living around Khartoum, and many Arabic speakers also speak English. When the *Monitor* began publishing on 23 September 2000, it was the first northern outlet and forum for English-speakers. This was critical since it is unlikely that the war can be ended

until the grievances of southerners are heard and their perspectives are understood. Although the government has harassed the *Monitor*, the newspaper has managed to overcome this with persistence and determination. Every issue must now be cleared by the government censor. Censorship was first imposed on 12 December 2000, and has since been repeatedly lifted and reimposed. Taban was harassed and his house searched in December 2000. He was briefly detained along with the paper's editor, Albino Okeny, in February 2001, and detained again for six days in April 2001 and four days in October 2001, along with the managing editor, Nhial Bol. The paper was closed down on two occasions in September 2001 for a total of five days, and the staff is currently facing three court cases. Yet the *Khartoum Monitor* still publishes, not only serving as a voice for the southerners, but also airing the views of northerners, and has encouraged the dozen or so Arabic-language papers to become more independent and to recognise the concerns of southerners, whom they had previously ignored. Now even the government orders a bulk subscription.

Despite the high risks, human rights activism in Sudan is also growing stronger. Sudan's human rights record remains grim, but the pressure for reform not only from international groups such as CSI, Human Rights Watch and the exile-based Sudan Human Rights Organisation, but increasingly from domestic groups, is beginning to bear fruit. The government has expressed its intention to improve respect for human rights, but its political will to do so remains in doubt. Most political prisoners have been released from jail, although changes made this year in the Criminal Code Procedures and the National Security Act—which increased police powers and the length of detention time without charges—have opened the way for more abuse. Students at Sudan's universities have suffered increased persecution, including harassment and torture; newspapers continue to be censored and fined, and journalists arrested; and the resumption of amputations as a punishment under shari'a law, particularly in Darfur, has been an especially disturbing development. Human rights violations associated with the civil war in Southern Sudan include 568 bombs dropped on non-military targets and the killing of more than 100 civilians in the past year. Meanwhile, fighting over land rights in Darfur last year led to the death of 1,376 from the Fur tribe and 271 from Arab tribes.

But the Khartoum Centre for Human Rights and Environmental Development opened in May 2001. The Centre works closely with the Amal Centre for the Rehabilitation of Victims of Physical and Mental Trauma, also in Khartoum, as well as several other organisations that have brought a new professionalism and openness to the human rights movement within Sudan by monitoring, documenting and disseminating information about the human rights situation in the country, as well as providing training, advocacy and assistance to victims of human rights abuse. Such boldness has come at a price, however. The director of the Amal Centre, Dr Nageeb el Toum, was arrested for two weeks last year, as was briefly his staff. Faisal el Bagir Mohamed, a journalist and human rights activist with the Khartoum Centre, was also briefly arrested and continues to be harassed. Tahani Ibrahim Ahmed, a student monitor, was suspended from college for 12 months for her human rights activities. Amir Mohamed Suliman, the director of the Khartoum Centre, has been harassed for his legal defence efforts; one of his witnesses was seized for five days and tortured by police. In January 2001, human rights lawyers Ghazi Suliman and Ali Mahmoud Hassanain were detained for more than 70 days, and Suliman was arrested again earlier this year. Mustafa Abdel Gadir was also arrested on 5 June 2001, for his legal defence of political activists. The Khartoum Centre and Amal Centre, as well as several other groups, all had their activities suspended for two weeks on 9 October 2001. Yet such repression seems only to have fuelled Sudan's human rights movement.

Although Sudan's new constitution gives women equal rights, in reality they still

suffer from a broad range of discriminatory laws. Sudanese women suffer not only from the violence, rape, torture, abduction and displacement of the war, but also from restrictions on freedom imposed under the Personal Laws of 1991. These include restrictions on dress, prohibitions on socialising with men, subordination to a male guardian, marriage as young as 10 years old, prohibition of marriage to a non-Muslim, inability to initiate a divorce even if the husband marries another wife, inability to move outside the household or to travel abroad without permission of a guardian, and the ability to inherit only half as much as a male. Non-Muslim women, many of whom are vulnerable refugees, are especially disadvantaged and treated harshly for violating prohibitions against offences such as adultery and the traditional brewing of beer. Security of the Community Police (formerly known as Public Order Police) have intensified their harassment of female students for dressing 'improperly', and the young women are subjected to summary trials before special tribunals which may then sentence them to jail, fines or flogging.

In a particularly notorious case last year in the province of Southern Darfur, an 18-year-old Christian Dinka woman, Abok Alfa Akok, was sentenced on 8 December 2001 to death by stoning for committing adultery. She was tried without a lawyer and the proceedings were in Arabic, a language she did not speak. Fortunately her case came to the attention of two lawyers who lodged an appeal which, after an international outcry, proved to be a limited success in that the sentence was at least reduced to 100 lashes. As the case of Abok illustrates, the struggle for human rights in Sudan's courts, although extremely difficult, is by no means hopeless. Sudan's Ministry of Justice is co-operating with some women's NGOs to review all of Sudan's laws to identify those that discriminate against women, and has allowed human rights training for its judicial officers and police and prison officers. By most accounts, the government has become less harsh in its application of laws, releasing hundreds of women who had been held for brewing alcohol, for example, and easing up on enforcement of some of the other personal laws. Nevertheless, progress has been fragile and may be easily reversed. Another example of the growing power of Sudan's women's movement was when the Khartoum state government issued a unilateral decree which would have forbidden women from working in any job in the service sector that would bring them into contact with men. This included jobs at service stations, stores and restaurants. Women's organisations were quick and effective in articulating their opposition to this arbitrary law, alerting international partners through the internet, and ultimately forcing the government to withdraw the decree. In this case and others, women's networks have been able to generate greater political space by advocating for human rights and women's rights. It is noteworthy that many of Sudan's human rights activists are Arab Muslims who are finding common cause and endangering their own safety to help their Christian Sudanese brothers and sisters. A nice analogy might be South Africa's predominantly white Legal Resources Centre or Black Sash and the important role they played in fighting apartheid.[8]

The insecurity that pervades much of the south, and the essentially military-style government under which the SPLA has operated in the territories it controls have not been conducive to a flourishing civil society. Nevertheless, several new NGOs have also begun operating in the south on programmes such as economic self-help, women's rights, youth empowerment and education, a phenomenon virtually unknown until very recently. These groups are beginning to expand and deepen activities on the ground designed to achieve greater human rights protection and decrease the level of violence in the region.

The most positive recent developments in the south are a series of grassroots peace agreements that were bringing an end to much of the violence between the Dinka and Nuer even before the Garang-Machar agreement. This so-called 'People to People

Peace Process' has been spearheaded by the New Sudan Council of Churches (NSCC). After several preliminary meetings between Dinka and Nuer leaders, the NSCC organised the West Bank Peace and Reconciliation Conference, held in Wunlit, Bahr el Ghazal, in southern Sudan 27 February–8 March 1999. An airlift brought 150 Nuer delegates to Wunlit, which is in Dinka territory, and a total of 1,500 people participated in the conference, the housing and facilities for which were provided with volunteer labour. The conference began with the sacrifice of a Great White Bull, and concluded with the signing of the Wunlit Dinka-Nuer Covenant. Since Wunlit several similar conferences have been held, including one in Akobo on 18 August 2001, that brought together the Lou Nuer, the Gawaar Nuer and the Jikany; and one between the Dinka and Didinga in Kikilai near Chukudum on 20 August. In March 2002, warring factions of the Dinka/Padang, Nuer and Shilluk signed a peace covenant at the end of a three-day conference in Magang, northern Upper Nile. Some of these gains have been jeopardised by recent fighting, but they still represent a process that can be strengthened and pursued. Although the SPLA had at times demonstrated ambivalence about this peace process, since it did not directly control it, the popular groundswell for peace was apparently a major incentive for Garang and Machar to settle their differences.

These are only a few examples of Sudanese efforts to restore peace and democracy to their country in the absence of the political will from their leadership. There is a lot more going on. A new Sudan Civil Society Forum convened in Uganda in October 2002 by the NSCC and its northern counterpart, the Sudan Council of Churches (SCC), is a recent example of civil society's effort to press not only for peace, but for democracy and respect for human rights. Will it be enough? In South Africa, the movement for democracy began in a similar way: a few enterprising journalists, a church meeting, a women's society protest, a trade union strike, a student demonstration, an election boycott. Ordinary people started talking to each other, began to understand one another, and then to work together. Young new leaders gained experience, old leaders abandoned the past, and the masses mobilised to demand change. Sudan is not South Africa. Yet considerable inspiration can be drawn from the fact that sometimes a little courage can go a long way.

Just as the international community rallied to the aid of the non-violent democratic movement that led to South Africa's rescue from apartheid and the threat of full-scale civil war, so also does the potential for a resolution of the Sudanese conflict deserve the world's assistance. The triumph of civil society in Sudan would mean an end to one of the oldest and bloodiest wars of the past century. It could also mark the beginning of the nation's healing and the elimination of a potential breeding ground for terrorism in the new century that has suddenly come to seem much more dangerous than anyone ever thought it would be.

Notes

1 Sudan, *Encyclopaedia Brittanica,* 28, 15th edition, 1993, pp 255-6.
2 For a review of these negotiations, see S Wondu and A Lesch, *Battle for peace in Sudan*, University Press of America, 2000.
3 *Encyclopaedia Brittanica*, op cit, pp 262-270.
4 Human Rights Watch, *Abuses by all parties in the war in southern Sudan*, 1994.
5 For a balanced recent review of the issue, see Slavery, abduction and forced servitude in sudan, Report of the International Eminent Persons Group, 22 May 2002.
6 K Vick, Sudan, newly helpful, remains wary of US, *Washington Post*, 10 December 2001, p A15.
7 K Richburg, Worldwide sympathy mixed with caution, *Washington Post*, 16 September 2001, p A18.
8 An excellent review is the Annual report on the human rights situation in Sudan, March 2001–March 2002, Sudan Organisation Against Torture, London.

ESSAY

URBAN FORTRESSES
Gated communities as a reaction to crime

KARINA LANDMAN & MARTIN SCHÖNTEICH

One of the consequences of the state's inability to protect the life and property of all its citizens—especially in developing countries—is the formation of private alternatives to crime prevention and control. Gated communities, or enclosed neighbourhoods, are one such popular alternative. This article compares the phenomenon of gated communities in two developing countries: South Africa and Brazil. Both countries are plagued by violent crime and share key human development indicators. The article also explores key issues that have been raised around gated communities in both countries. Gated communities can contribute to spatial fragmentation in urban areas, and reflect increased polarisation, fragmentation and diminished solidarity within society. By excluding other urban residents and people from surrounding neighbourhoods, gated communities can contribute to social exclusion, inhibiting the construction of social networks that form the basis of social and economic activities.

Introduction

Gated and walled cities are almost as old as human urban settlement. With the development of nation states, public police forces and air power, walled cities became redundant as fortresses to keep foreign invaders and marauding criminal gangs out.

A relatively new trend as an architectural concept is that of the gated community. Gated communities are a generic term that includes enclosed neighbourhoods that have controlled access through gates or booms across existing roads, and security villages and complexes, including lifestyle communities which provide their enclosed residents with a range of non-residential amenities such as schools, offices, shops and golf courses.

Since the early 1990s gated communities have experienced phenomenal growth in South Africa, especially in the metropolitan areas of Gauteng. In South Africa gated communities have become popular primarily as a response to high levels of crime and the fear of crime.

Gated communities raise interesting questions and have resulted in widespread debate around their likely future impact on urban life in South Africa. Do gated communities reduce crime? If so, should they be promoted as a legal mechanism to

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Table 1: Selected human development indicators for South Africa and Brazil

	South Africa	*Brazil*
GDP per capita (US$ 2000)	9,401	7,625
Income of poorest 10% as proportion of total income	1.1%	0.7%
Income of richest 10% as a proportion of total income	46%	48%
Gini index	59.3	60.7
Adult literacy rate	85%	85%
Proportion of population under 15 years	32%	29%
Total fertility rate per woman	3.1	2.3
Proportion of population urbanised	57%	81%

Source: UN Human Development Report, 2002

combat crime, and regardless of their potential long-term impact on urban development?

This article compares the phenomenon of gated communities in two developing countries: South Africa and Brazil. Both countries are plagued by high crime levels and share key human development indicators (Table 1).

Significantly both countries have a high Gini index indicating high levels of inequality.[i] In fact, of the 173 countries listed in the 2002 United Nations Human Development Report only four countries have higher levels of inequality than South Africa or Brazil.

Brazil has a more urbanised population than South Africa. This is partly the result of the latter's rigid influx control policies until the mid 1980s, which prohibited the free movement of black people into the cities. Between 2000 and 2015 the proportion of urbanised people is expected to grow at a greater rate in South Africa (18%) than Brazil (8%).

Both countries have experienced similar urban development patterns with the formation of large informal settlements or slums on the periphery of most urban centres. Both countries also have a history of authoritarian rule and political repression. The transition from authoritarian rule to democracy came almost a decade earlier in Brazil (1985) than in South Africa (1994).

i The Gini index measures inequality over the entire distribution of income or consumption. A value of 0 represents perfect equality, and a value of 100 perfect inequality.

Defining gated communities

Gated communities are a global phenomenon. They occur in various forms in many countries including Argentina, Brazil, India, Malaysia, Saudi Arabia, Spain, the United Kingdom and the United States. While there are many similarities between gated communities throughout the world, there are a number of important differences between gated communities in developed countries and those in developing countries.

There is no common agreement on a definition or meaning of gated communities. It is accepted that there are different types of gated communities in different countries, resulting in a multitude of interpretations regarding types and meta-types.

These differences are also apparent in South Africa and Brazil. In Brazil, enclosed developments are often referred to as 'gated communities'.[1] Others refer to 'closed condominiums', 'fortified enclaves' or simply to 'fenced-up areas'.[2] Some authors talk of gated communities as only one part of a larger phenomenon of enclosed areas including shopping malls and fenced-in housing estates.[3] Yet others interpret the term gated community or fortified enclave to refer to all fenced-in areas or controlled access spaces or, in other words, as the collective name for such urban developments.[4]

Teresa Caldeira, who has done extensive research on gated communities in Brazil, refers to enclosed areas as 'fortified enclaves'.[5] They include office complexes, shopping centres and increasingly other

amenities that have been adopted to this model: schools, hospitals and entertainment centres. The residential component of fortified enclaves is the closed condominium. These can be vertical (luxury apartments) or horizontal (enclosed security suburbs).[6]

In South Africa some writers use the term 'gated community'.[7] A number of other terms are also used, such as 'suburban enclave', 'urban fortress',[8] 'security-park',[9] 'security village'[10] and 'enclosed neighbourhood'.[11] The policies of some local authorities refer simply to 'road closures', which is only a component of an enclosed neighbourhood or gated community. There is not always a consensus on the hierarchical structure or interpretation of these terms.

In South Africa it is possible to broadly distinguish between security villages and enclosed neighbourhoods. Security villages include different types of private developments with various uses, ranging from small enclosed apartment buildings and townhouse complexes to large office parks, shopping malls and luxury estates. Security villages are physically walled or fenced off and usually have a controlled access point with a security guard. Roads in security villages are privately owned, and the management and maintenance of such roads is usually carried out by a private management body.

Enclosed neighbourhoods are existing neighbourhoods that are closed off through road closures, and the erection of fences or walls around the entire neighbourhood. The roads within enclosed neighbourhoods generally remain public property. The local council usually remains responsible for the provision of public services, such as electricity, water and garbage collection, to communities living within enclosed neighbourhoods.[12]

Crime in South Africa and Brazil

Crime and transition

In South Africa and Brazil gated communities are often a response to high crime rates and the fear of crime. Crime tends to increase during periods of political transition coupled with instability and violence. This occurred in many Latin American countries, including Brazil, and Eastern Europe states during their transition to democracy. A significant increase in crime was also experienced in Namibia just before and after independence and South Africa from the mid 1980s onwards.

During these periods of instability, routine policing activities are diverted towards controlling violence, and crime consequently increases. The social bonds holding society together are loosened, making crime more likely. In South Africa anti-crime campaigns in the townships in the 1980s were often launched by local street committees and civic organisations as their influence grew. The post-1990 negotiation period broke these linkages: not only did state repression weaken, but transition brought intra-community conflict.[13] Violence also weakened social control, producing marginalised groups reliant on the conflict for a livelihood. This also increased levels of crime as disaffected individuals—primarily township youth—became engaged in it.

In an overview of the crime situation in a number of transitional societies, Shaw argues:

> Dramatic, political, economic and social transition may be much more disruptive of the internal social organisation, including that of crime prevention and control, of communities than has often been assumed … Changes brought about by the dramatic impact of the political transition are exacerbated by longer term processes of industrialisation and urbanisation which have themselves have had a considerable impact on the changing nature of community and social controls.[14]

Crime in South Africa

Crime remained more or less constant around 4,000 incidents of recorded crime per 100,000 of the population between 1975 and 1982, but increased from the mid

Table 2: Percentage change in the number of crimes recorded, over four 4-year periods between 1981/82 and 1993[16]

	1981/82–1984/85	*1984/85–1987*	*1987–1990*	*1990–1993*
Murder	11%	9%	54%	30%
Rape	4%	13%	12%	33%
All robbery	2%	18%	32%	43%
Assault GBH	3%	–2%	3%	17%
Burglary	20%	41%	–5%	15%

1980s, rising dramatically in the early 1990s (Table 2).[15]

During the first four years after South Africa's political transition in 1994, overall crime levels almost stabilised, albeit at very high levels of especially violent crime. Between 1994 and 1997, recorded crime increased at an average of only one per cent per year. Thereafter levels of recorded crime, measured from one year to the next, increased at an escalating rate (Table 3). Overall crime levels increased by almost 5% between 1997–98, 7% in 1998–99, and 7.6% in 1999–2000.[17]

The latest available crime statistics at the time of writing are those for the period April 2001–March 2002. During this 12-month period, 5,571 crimes were recorded per 100,000 of the population.[18] At this level the total risk of being a victim of crime per person per year is 5.6%, even before unrecorded crimes are considered.

While murder levels declined after 1994, overall levels of violent crime experienced the greatest increase compared to all other crime categories. Between 1994 and 2000, violent crime increased by 34%, property crime by 23%, violent crime against property (i.e., arson and malicious injury to property) by 10%, commercial crime by 9%, and drug- and drunk driving-related offences by 1% (Figure 1).

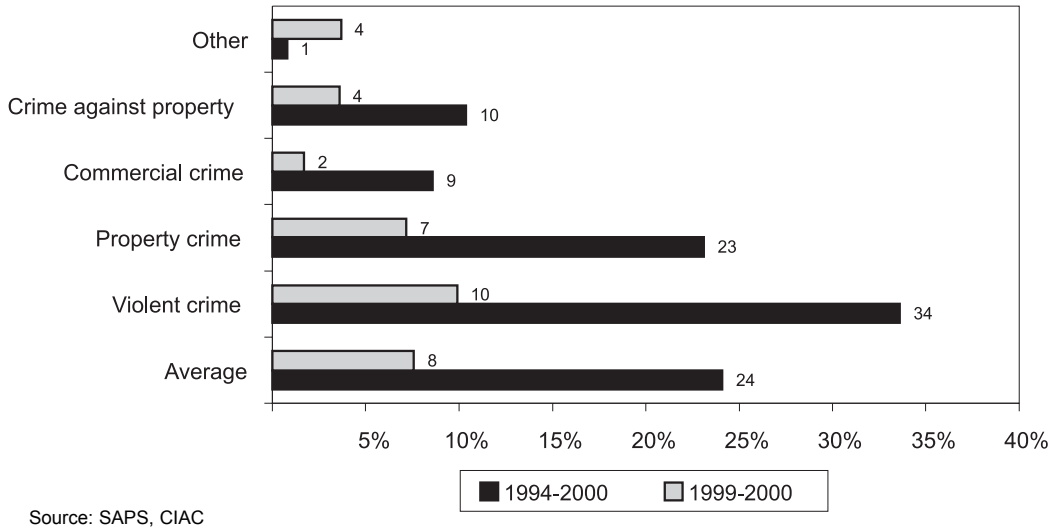
Crime levels in the country's metropolitan areas tend to be higher than in the country as a whole. Most factors associated with high crime rates characterise cities to a greater extent than small towns. Population density, for example, is thought to be associated with crime, in that greater concentrations of people lead to competition for limited resources, greater stress and increased conflict. Other factors which characterise urbanisation, such as overcrowding and high levels of gang activity, are mainly evident in urban areas and are known to be related to criminal activity.[19]

On the basis of 2000 recorded crime figures, levels of crime in large urban centres were considerably higher than the national average (Figure 2). In the Johannesburg police area, for example, the crime rate was over three times the national average. That is, in 2000 the average resident of the Johannesburg police area was over three times more likely of becoming a victim of a recorded crime than the average South African.

Table 3: Percentage change in the number of crimes recorded, for two 4-year periods between 1994 and 2000

	1994–1997	*1997–2000*
Murder	–8%	–12%
Rape	23%	1%
Aggravated robbery	–18%	59%
Robbery (common)	63%	66%
Assault GBH	12%	17%
Burglary	7%	17%
20 most serious and prevalent crimes	3%	21%

Figure 1: Percentage change in the number of crimes recorded, 1994–2000 and 1999–2000



Source: SAPS, CIAC

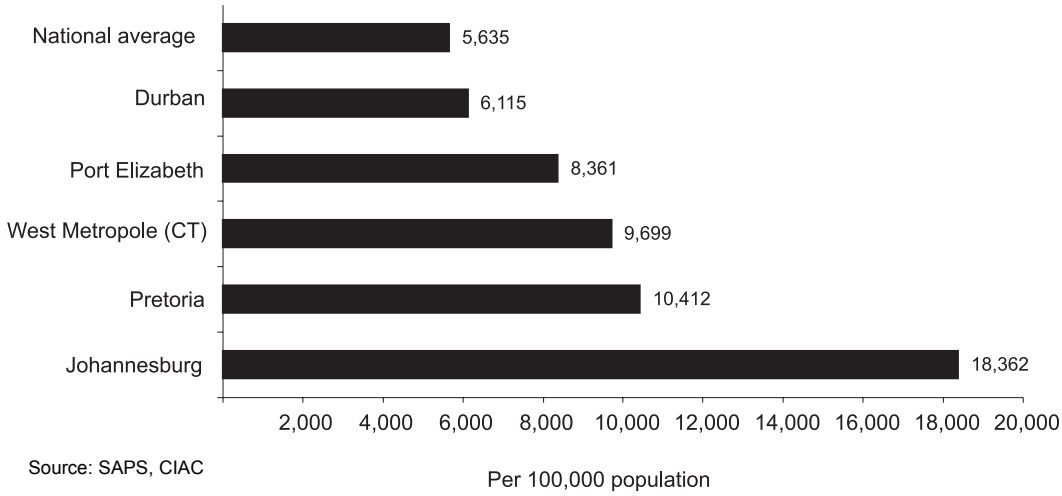
Recorded crime levels vary between cities.[20] Johannesburg has significantly higher levels of crime than other large South African cities. For example, in 2000 just over 18,300 crimes were recorded per 100,000 residents of the Johannesburg police area, compared to 8,361 for Port Elizabeth.

Consistently high levels of violent crime—and the extensive media coverage of it—result in significant increase in public feelings of insecurity. For example, annual Human Sciences Research Council (HSRC) public opinion surveys in South Africa ask a nationally representative sample of respondents about their feelings of personal safety. In 1994, almost three-quarters of respondents said they felt safe. At the end of 2000, respondents were almost equally divided with 44% feeling safe and 45% feeling unsafe.[21] (The HSRC's 2001 survey did not include a question on feelings of personal safety.)

Crime in Brazil

In Brazil crime and violence, particularly

Figure 2: Recorded crime rates in selected South African urban police areas, 2000



Source: SAPS, CIAC

murder, increased after the country's transition to democracy in the mid 1980s. The number of violent deaths or deaths resulting from external causes increased from 70,212 in 1980 to 117,603 in 1998 (an increase of 68%). Over the same period the number of deaths resulting from murder or aggression increased from 13,910 to 41,916 (201%). The number of deaths resulting from aggression as a proportion of the total number of violent deaths increased from 20% to 36%.[22]

From the available evidence it appears that in Brazil the risk of violent crime is unequally distributed in different geographical areas and social groups. The growth of violent crime is, to a significant extent, concentrated in urban and metropolitan regions. Murder rates are highest at the periphery of large urban areas. It is in these regions that the problems of poverty, unemployment and the lack of adequate housing and basic services, including health, education, transport, security and judicial services, are most acute.[23]

Explanations for the growth of crime and violence in Brazil emphasise the contribution of factors undermining society's capability to ensure the rule of law and basic civil, political and social rights for the majority of the population. Such explanations also focus attention on the long history of authoritarianism, racial discrimination and social inequality in Brazil. Attention is also focused on the limited capacity of democratic governments and civil society organisations to strengthen the rule of law and the institutions and practices necessary for securing citizenship and human rights.[24]

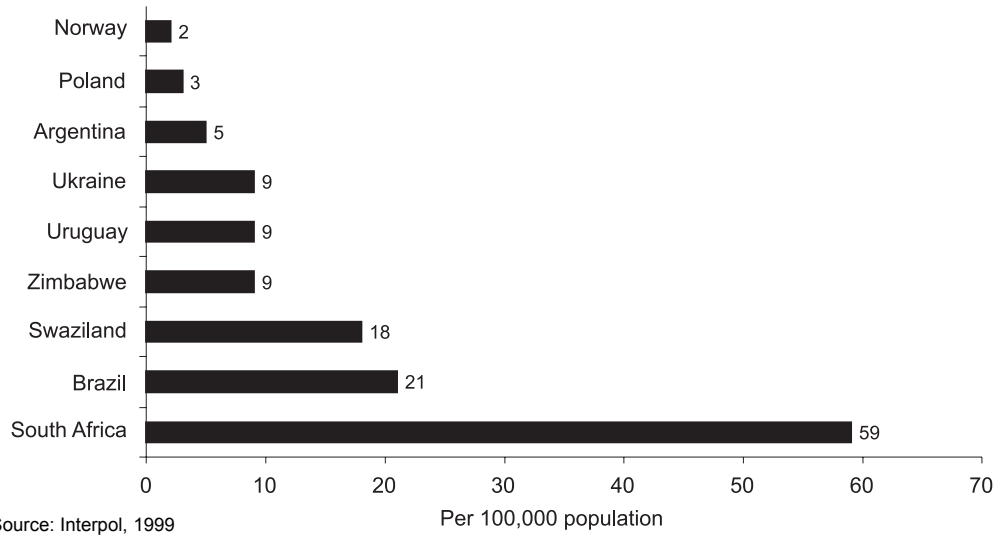
Violent crime

By global standards both South Africa and Brazil have high levels of violent crime.[25] Every third crime recorded in South Africa is violent in nature (i.e., involving violence or the threat of violence). In the US, considered to be a relatively violent society, violent crime makes up 15% of all recorded crime. During 1998, 59 murders were recorded in South Africa per 100,000 of the population. In Brazil the rate was 21 per 100,000.[26] Other countries in Southern Africa and many parts of Latin America, for which figures are available, have significantly lower murder rates (Figure 3).

Comparing gated communities in South Africa and Brazil

Security in Brazil means fences and walls,

Figure 3: Number of recorded murders per 100,000 population, 1998



Source: Interpol, 1999

24-hour guards, as well as a wide array of technologies such as video monitoring and sensor activated alarms. Security has become a way of life in Brazil or, as Caldeira explains, only with 'total security' is the new concept of housing complete.

Similar sentiments are evident in South Africa. For many urban South Africans security measures in and around their homes is not enough. They want to live in a more secure environment in terms of the larger area surrounding their homes. In this way the idea of 'total security' is becoming increasingly popular. This has led to the increase of security villages and enclosed neighbourhoods in urban areas.

In Brazil fortified enclaves include office complexes, shopping centres and other spaces adapted to conform to this model. The main characteristics of fortified enclaves are that they are:

- private property for collective use;
- physically isolated, either by walls, empty spaces or other design devices;
- turned inwards and not to the street; and
- controlled by armed guards and security systems.[27]

It is unclear whether Caldeira sees enclosed neighbourhoods (existing neighbourhoods closed off by street closures) as fortified enclaves, although they do occur in Brazil. In South Africa enclosed neighbourhoods are a form of a gated community. The broad characteristics of gated communities in South Africa are therefore similar with the aforementioned ones for Brazil, except that they are not completely privately owned. In most cases the roads within enclosed neighbourhoods remain public property. However, a small number of local authorities permit residents' associations to purchase roads within an enclosed neighbourhood. In such cases the area is considered as private property for the collective use of the residents of the enclosed neighbourhood who are responsible for its maintenance.

As already alluded to, the residential component of fortified enclaves in Brazil are closed condominiums. In Brazil, vertical closed condominiums (usually luxury apartments) are concentrated in inner city areas, but are also increasingly being built in outlying areas. They are enclosed by walls and tend to have large areas and facilities for common use.

A good example of a closed condominium is *lha do Sul* (Island of the South). This is a middle-class high-rise complex of six high-rises, each with 80 three-bedroom apartments, located in the western zone of São Paulo.[28] Many older apartment blocks in central city areas are also converted to closed condominiums, with a wide array of security features.

Similarly, in South Africa many inner-city apartment buildings are increasingly using similar measures to improve the security of their occupants. Examples include the high-density flatland areas of Hillbrow (Johannesburg), Sunnyside (Pretoria), Green Point (Cape Town), and Albert Park (Durban).

Since the late 1970s horizontal closed condominiums are being built in Brazil, mostly in the outer regions of metropolitan areas. In São Paulo, developers began building living places similar to US 'new towns' or 'edge cities'. These are suburban areas that combine residential developments with office and commercial centres. Some of the most famous of these types of developments in Brazil are Alphaville and Tambore, which are located on the outer periphery of the larger São Paulo metropolitan area.

Alphaville is divided into many walled residential areas (*residencias*), each enclosed by three-and-a-half metre high walls and accessible only by one controlled access point—the main entrance gate. Between the various residential areas there are commercial nodes with smaller neighbourhood shops and restaurants. To the one side of the larger Alphaville there is an office-building complex and a larger commercial hub containing a shopping centre. The Alphaville concept is increasingly spreading to other cities in Brazil, where similar developments have either been built or are in the process of being built. Plans are also on the table to

build Alphavilles in Brasilia, Rio de Janeiro and Porto Alegro.

In South Africa security villages have a variety of uses, ranging from smaller townhouse complexes to larger office parks and luxury estates. The distinguishing factor of security villages is that they are purpose-built by private developers, with security being the crucial design requirement, although lifestyle requirements are also important.

Secure townhouse complexes mainly for residential purposes, and office parks, are located throughout the cities, from central neighbourhoods to higher income neighbourhoods on the urban periphery. Larger security estates (similar to the horizontal condominiums of Alphaville) are mostly located on the urban periphery where bigger portions of land are available, as well as natural elements such as rivers, dams, and patches of trees which can enhance the layout of such estates. These estates offer an entire lifestyle package in a secure environment. Security estates include a range of services (garden services, refuse removal), and a variety of facilities and amenities (golf courses, squash courts, cycle routes, hiking routes, equestrian routes, water activities).

While large South African security estates contain similarities with the character, services and facilities of the horizontal closed condominiums in Brazil, they differ in size. Most of the luxury security estates in South Africa occupy only between ten and 50 hectares. While two ambitious estates occupy larger areas, namely Heritage Park in the Cape Town metropolitan area (200 hectares) and Dainfern in Johannesburg (350 hectares), they are much smaller than those in Brazil. For example, Alphaville occupies 19,000 hectares and houses 35,000 residents. Alphaville alone has more residents than the entire population of many smaller towns in South Africa, such as Port Shepstone (KwaZulu-Natal) and Bloemhof (North-West) which both have a population of 30,000 people.

A 2002 survey conducted by the Centre for Scientific and Industrial Research (CSIR) Building and Construction Technology revealed that large security villages/estates in South Africa tend to be located in either metropolitan areas (around large cities such as Johannesburg, Pretoria or Cape Town) or in coastal towns (such as Plettenberg Bay, Mossel Bay, Port Elizabeth or Richards Bay). Other areas with a larger conglomeration of security villages include recreational sites or areas close to natural amenities such as Hartebeespoort Dam near Pretoria.

Another type of gated community—a type of fortified enclave—are enclosed neighbourhoods. These are existing neighbourhoods to which access is controlled through road closures or the monitoring of access points into and out of the neighbourhood, thereby allowing access to be controlled. A number of Brazilian cities have responded to high crime levels through enclosed neighbourhoods—especially neighbourhoods in high-income areas. In São Paulo, for example, the city government is increasingly granting permission to neighbourhoods who want to control access into their areas. In Rio de Janeiro enclosed neighbourhoods tend to occur in areas that are located next to lower-income areas (*favelas*[ii]).

It is interesting to note that enclosed neighbourhoods are concentrated in the larger cities in Brazil, which also have the highest crime rates. However, as crime and violence spreads to medium sized and smaller cities, fortification, both of buildings and neighbourhoods, is becoming increasingly widespread. This can be seen in the burgeoning of Alphavilles across Brazil, as well as the enclosure of neighbourhoods in smaller cities such as Curitiba.

Neighbourhoods in South Africa are

ii A *favela* generally refers to a set of shacks built on seized land. Although people own their shacks, they do not in most cases own the land but occupy it illegally. The Brazilian government is, however, beginning to allow people to acquire land in *favelas* legally. *Favelas* usually have limited or no access to infrastructure such as sewage facilities and piped water. Generally *favela* residents obtain electricity by illegally tapping into existing electricity lines.

closed off through road closures, usually in combination with the construction of fences or walls around such neighbourhoods. Roads are closed either temporarily by gates or booms spanning the road, or permanently by fences. Access into these neighbourhoods is restricted and controlled by a few access control points, either in the form of remote controlled gates or security manned gates or booms. The size of enclosed neighbourhoods varies from small cul-de-sacs with fewer than ten houses to large neighbourhoods with up to 4,000 houses. Residents must apply for the right to restrict access to their local municipality and can only do so for security reasons.

Not all local municipalities in South Africa allow road closures. A CSIR survey conducted in early 2002 of 117 municipalities that responded in South Africa established that more municipalities (37) had received applications for road closures than those who had given their approval (23). Thus, despite the demand not all applications are approved. Some local authorities refuse permission for road closures because of anticipated problems related to traffic control, urban management, accessibility and discrimination. Despite this, and given the growing demand, it is likely that enclosed neighbourhoods will continue to grow, both in number and in size.

While the number of applications for neighbourhood enclosures and the development security estates continue to grow, local authorities are often unprepared. The CSIR survey indicated that while 37 of the 117 municipalities that responded to the survey had received applications for road closures, only 12 had an actual policy on road closures. Moreover, only one province (Gauteng) makes legal provision for road closures for security purposes at a provincial level. There is no national policy to guide decision making on gated communities in the country.

The CSIR survey has shown that most road closures occur in metropolitan areas, such as Johannesburg, Pretoria and Cape Town. At the time of writing there were an estimated 300 legal road closures in the city of Johannesburg. Only 79 neighbourhoods had gone through the formal application process and only 23 had been officially approved by the new City of Johannesburg Municipality (established in December 2001). It is estimated that there are currently more than 500 illegal road closures. Although Pretoria has fewer road closures, the demand has increased dramatically over the past two years. The metropolitan area of Tshwane (which officially came into existence in December 2001, and which includes Pretoria) has received 81 applications for neighbourhood enclosures, of which 47 had been approved at the time of writing.

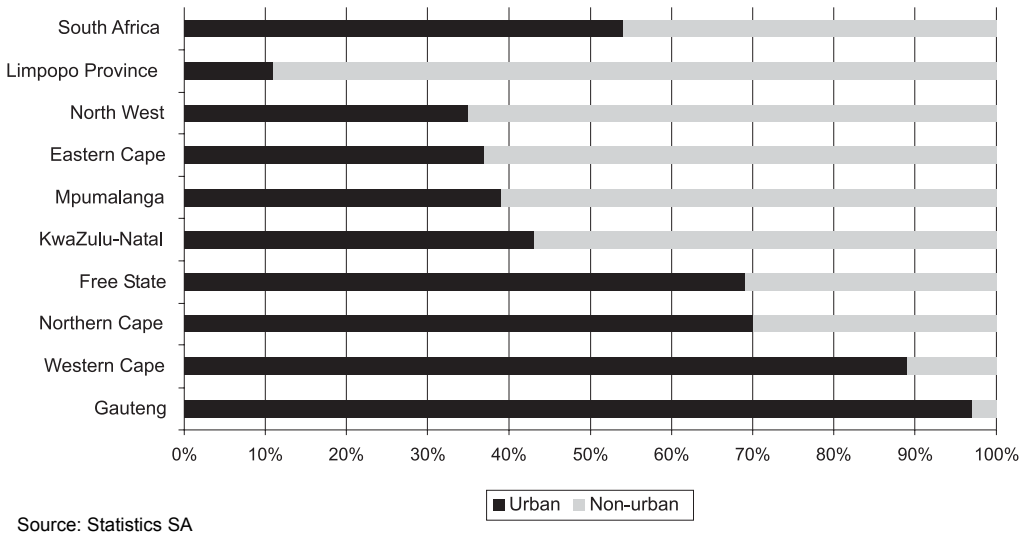
Gauteng is the province with the highest number of municipalities that have received applications for neighbourhood enclosures. This can be partly explained by the fact that Gauteng is the most urbanised province (97%) in South Africa, and that neighbourhood enclosures are an urban phenomenon (Figure 4, over page).

A more appropriate explanation for the high number of gated communities in Gauteng, is the high level of crime and the fear of crime in the province. In 2000, Gauteng was the province with the highest rates of robbery, theft of motor vehicle and commercial crime. By contrast Limpopo Province had the lowest rates in 13 out of the 15 serious and prevalent crimes recorded by the police.[29] A national HSRC survey conducted in late 2000 found that almost two-thirds (62%) of Limpopo Province residents felt safe, compared to only 34% in Gauteng. According to the survey, residents in Gauteng were the least likely to feel safe compared to residents of the other provinces.[30]

Spatial fragmentation and separation

A number of leading authors on gated communities highlight the potential gated communities have to contribute to spatial fragmentation in urban areas. It is argued that gated communities reflect an increasing polarisation, fragmentation and diminished

Figure 4: Proportion of people living in urban and non-urban areas in South Africa, 1996



Source: Statistics SA

solidarity within urban society.[31] In Istanbul, fortressed spaces successfully serve to segregate the growing middle class from the surrounding landscapes of self-constructed squatter settlements.[32] Manila is being reconstructed as a "decentralised spatial system resembling an archipelago whose islands are interconnected by bridges".[33] The 'islands' are "the exclusive, walled-in neighbourhoods where the upper strata are ensconced".[34] The result is summarised by Allen:

> When differences are negotiated negatively in the city in this manner [through a hard spatial boundary], the outcome is a form of segregation and exclusion which reinforce existing social and economic inequalities.[35]

Many writers argue that gated communities in Brazil are exacerbating an existing pattern of urban segregation.[36] Spatially, gated communities are exacerbating urban sprawl and segregation by creating physical boundaries and barriers all over the city. Gated communities can also lead to the privatisation of public space or the reservation of certain spaces for exclusive use by certain homogeneous social groups. In addition, it is changing the nature of the existing public spaces. Most people living in enclosed areas no longer make use of the streets, and public spaces are no longer used and shared by all urban residents. These spaces are now abandoned to the poor, the homeless and street children, who are left vulnerable to violence and abuse by various control groups, including criminals and the security forces.

There are some indications that South Africa is heading in a similar direction as Brazil. Certain types of gated communities in South Africa, due to their nature, size and location, are starting to contribute to urban sprawl, fragmentation and separation. They are creating physical barriers in many South African cities. As gated communities increase (both in numbers and size), so is their impact. The consequences for cities and large metropolitan areas in South Africa could be divisive. As Bremner points out:

> Those dynamics are producing an increasingly disparate, separate city. The gaps between the townships, the inner city and the suburb are widening. The chances that people of this city will develop a sense of shared space, of shared destiny, grow slimmer by the day.[37]

Spatial separation caused by gated communities in South Africa often give rise

to practical problems regarding efficient urban management and functioning. By its nature a gated community physically separates a specific area from its environment and creates zones or pockets of restricted access within the urban fabric. This forces motorists and pedestrians to take alternative routes, which are often longer. Enclosed neighbourhoods therefore impact on the daily activity patterns of people, as well as the urban form and its functioning. They also have the potential to influence residents' lifestyles and use-patterns. There have been cases in Johannesburg and Pretoria where public facilities such as schools, libraries, parks and postal facilities have been enclosed, forcing non-residents to negotiate controlled access points when they wish to make use of these facilities as part of their daily activities.

Social exclusion and polarisation

By contributing to spatial segregation gated communities also result in social and economic segregation. Enclosed neighbourhoods exclude other urban residents, casual passers-by and people from surrounding neighbourhoods. This can lead to social exclusion, creating a barrier to interaction among people of different races, cultures and classes, thereby inhibiting the construction of social networks that form the basis of social and economic activities.

> Although law-enforcement experts debate the efficiency of such systems in foiling professional criminals, there is no doubt that they are brilliantly successful in deterring unintentional trespassers. Anyone who has tried to take a stroll at dusk through a neighbourhood patrolled by armed security guards and signposted with death threats quickly realises how merely notional, if not utterly obsolete, is the old idea of freedom of the city.[38]

This is also the case in Brazil where gated communities have created a greater distance between different social groups. Already high levels of inequality are exacerbated by spatially enforcing certain restrictions in terms of the use of urban space. Consequently residents' daily interactions with people from other social groups diminish substantially, and for many people public encounters occur only within protected and homogeneous groups. The impact is substantial, as Caldeira explains:

> In the materiality of segregated spaces, in people's everyday trajectories … in their appropriations of streets and parks, and in their constructions of walls and defensive facades, social boundaries are rigidly constructed. Their crossing is under surveillance. When boundaries are crossed in this type of city, there is aggression, fear and a feeling of unprotectedness, in a word; there is suspicion and danger. Residents of all social groups have a sense of exclusion and restriction. For some, the feeling of exclusion is obvious, as they are denied access to various areas and are restricted to others. Affluent people who inhabit exclusive enclaves also feel restricted; their feelings of fear keep them away from regions and people that their mental maps of the city identify as dangerous.[39]

Apart from increasing social exclusion and distance between various groups this form of spatial segregation can complement urban violence. On the one hand, the fear of crime is used to justify almost any form of security and violence. On the other hand, the proliferation of reports of crime in everyday conversation becomes the context in which residents create stereotypes, as they automatically label different social groups as dangerous, to be avoided and to be targeted by the police and private security officers.[40]

Spatial separation could therefore have important social repercussions in South Africa. Certainly in Brazil fortified enclaves contribute to higher levels of inequality, fear, suspicion and feelings of vulnerability in those 'outside' the boundaries. Fortified enclaves in Brazil also contribute to the transformation of urban spaces. Some public spaces are privatised (and so prohibit access), while others are neglected,

abandoned and relinquished to violence and illegal forms of control.

Legal implications

At the time of writing there was no national policy to guide decision makers on gated communities in the country. As has been alluded to above, presently only one South African province makes provision for road closures for security purposes at a provincial level.[41]

The Gauteng Provincial Legislature passed the Rationalisation of Local Government Affairs Act in 1998.[42] The Act permits municipal councils in Gauteng to impose a restriction on access to any public place, under certain conditions, "for the purposes of enhancing safety and security".[43] This can be done at the initiative of a municipal council, or at the request of individuals or private organisations.

Individuals or private organisations that apply to a municipal council for authorisation to restrict access to a public place must:

- submit in writing a description of the circumstances giving rise to the application, and the estimated number of people—and the category of people—that may be affected by a restriction of access;
- furnish proof that at least two-thirds of the persons affected by the circumstances giving rise to the application approve of the proposed restriction; and
- pay a non-refundable administration fee as determined by the municipal council.[44]

After receiving an application a municipal council must meet with the applicants and the South African Police Service to enable the municipal council to determine the merits of the application and the terms and conditions for granting the authorisation. Before imposing a restriction a municipal council must announce its intention to do so in the Provincial Gazette and a local newspaper circulating in the area concerned. Members of the public must be invited to comment on a proposed restriction, and their comments must be considered by a municipal council before imposing a restriction.[45]

Once a municipal council consents to a restriction, it is valid for two years only. This period may, however, be extended provided certain administrative procedures are met.[46]

Anyone who restricts access to a public place without having obtained authorisation in terms of the Act is guilty of an offence and is liable, on conviction, to a fine or imprisonment for a period not exceeding five years, or both a fine and imprisonment.[47]

It can be argued that restricting access to public places in South Africa may be in conflict with the general tenor of the Development Facilitation Act of 1995. The Act promotes efficient and integrated land development through a set of general principles as the basis for future land development.[48] These principles include the rejection of low density, segregated, fragmented and mono-functional development in favour of integrated and mixed-use settlements. In terms of the Act, 'planning' should meet the objectives of equity, efficiency, protecting the public good and the environment, and ensuring the good use of scarce resources.

According to an official resource document on the Act, all parts and elements of a settlement should reinforce and complement each other, and integration is understood as being:

- between rural and urban landscapes;
- between different elements of spatial structure and land uses; and
- different classes.[49]

In South Africa restricting access to public spaces may also be vulnerable to constitutional challenge. According to the constitutionally entrenched South African Bill of Rights, "everyone has the right to freedom of movement".[50] This right—as all other rights contained in the Bill of Rights—applies to all law and binds all organs of state.[51]

Rights in the Bill of Rights may be limited "only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom", taking into account such

factors as the nature of the right, the importance of the purpose, nature and extent of the limitation, and less restrictive means to achieve the purpose of the limitation.[52]

Conclusion

Evidence in South Africa and other countries show that the increase in urban crime, which has taken place for the past 30 to 40 years, cannot be reversed by more or better policing. In fact, over the past few decades high urban crime rates have become a normal social fact in many societies.

This perceived normality of high crime rates, together with the widely acknowledged limitations of the criminal justice system, have begun to "erode one of the foundational myths of modern societies: namely, the myth that the sovereign state is capable of providing security, law and order, and crime control".[53] One of the consequences of the recognition that the state cannot protect the life and property of all citizens—especially in developing high-crime societies—has been the development of private alternatives to crime prevention and control. Gated communities are one such popular alternative.

Yet, despite the limitations on what the state can do in terms of crime prevention, it still has a responsibility towards collective action where applicable. Dealing with urban spaces is one such affair in need of collective action, rather than allowing a laissez-faire approach where all (including the private sector) are left alone to do what they please. Many social problems, such as social exclusion and spatial segregation, which will not be solved on their own can be exploited by societies' powerful. Experience from Brazil suggests that a lack of intervention from local governments, and the uncontrolled growth of gated communities, can exacerbate existing patterns of spatial segregation and social exclusion. This, in turn, undermines democratic consolidation in a country that is still recovering from years of authoritarian rule.

Gated communities are generally favoured by those who can afford them. The fact that property values usually increase after an area is enclosed, and becomes a gated community, shows that home owners allocate a positive economic value to the perceived protection such enclosures afford. So far no comprehensive empirical data exists to show conclusively whether gated communities experience a sustained reduction in crime, or whether such communities contribute to the overall reduction in crime in a city. This is an important area for future research, especially in a country such as South Africa where the critical voices opposed to the poorly regulated growth in gated communities appears to be on the increase. It may ultimately come down to balancing the need for efficiency (in terms of crime reduction) with that of equity (in terms of a more democratic society).

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ESSAY

DEMOCRACY IN THE SADC REGION
A comparative overview

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The purpose of this overview is to compare the state of democracy among SADC states. This is a region where electoral democracies increased significantly since 1989, but regular elections are necessary, not sufficient, to consolidate democracies. Socio-economic conditions as well as levels of freedom may be the missing links in this regard. Per capita incomes and human development indexes are combined to constitute an appropriate socio-economic development axis (quantified, then ranked) which is then juxtaposed with institutional criteria (autocracy, electoral democracy and consolidation zone), and then ranked according to surveys on political rights and civil liberties, constituting the liberty index (these measurements are ranked relatively). Factors such as electoral systems and deeply divided versus homogeneous societies are also taken account of. This makes for a model of development and democracy in the region with Mauritius at the most consolidated end, and the DRC the furthest away. This methodology can be repeated regularly, indicating comparative trends within the region, over periods of time.

Introduction

This paper focuses on democracy in the Southern African Development Community (SADC) region, which comprises 14 states including the island states of Mauritius and the Seychelles. The paper looks at ways of measuring democracy trends using neither a minimalist nor a maximalist approach; but rather an eclectic combination of quantitative and qualitative methodologies. It juxtaposes institutional and developmental indicators as two axes of the often dichotomous debate about the definition of democracy.

The paper therefore does not deal with the issues of regional co-operation or integration, except to speculate whether the deepening of co-operation and integration could have a beneficial impact on the development of democracy in the region.

For the definition of democracy, three assumptions were made. First, that without appropriate state institutions (and freedoms) democracy is not possible ("no state, no democracy");[2] second, without favourable socio-economic conditions, democratic institutions are unlikely to endure and consolidate ("once a country has a democratic regime, its level of economic development has a very strong effect on the probability that democracy will survive");[3] and third, that there are degrees of democracy ("Therefore it might be sensible

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to establish a category of semi-democracies to separate democracies from non-democracies').[4]

This raises the issues of which came first: development or democracy; what kind of institutions are democracies made of; how should development be measured; what about the issue of deeply divided societies and democracy; and finally, does SADC have the kind of co-operation and integration rules that would be conducive to the strengthening of democracy in the region?

As explained above, it is the intention to design a methodology that could integrate these questions into a single matrix that would reflect comparable trends within the region.

Methodology and concepts

The minimalists use a minimum of independent variables in explaining democracies and their endurance. This has always to do with institutions,[5] and sometimes only with regular elections. To be sure, for institutionalists, the starting point is the state. One is reminded of Linz and Stepan's minimal conditions: "no state, no democracy".[6] For Robert Dahl, democratic states ought to have the following institutions: elected representation, free and fair elections, political parties, inclusive suffrage, the right to run for office, freedom of expression (i.e. a free press), associational autonomy, the rule of law, an efficient bureaucracy and development based on a market economy.[7] More specifically, the state must be "subject to law", according to Linz and Stepan.[8]

The institutional bottom line is probably to be found in Sartori's definition:[9]

> In a democracy no one can choose himself, no one can invest himself with power to rule, and therefore no one can abrogate himself unconditional and unlimited power.

This raises the issue of elections. Michael Bratton[10] postulates that while you can have elections without democracy, you cannot have democracy without elections. Bratton says elections are necessary but not sufficient. What is sufficient, is not the quantity but the quality and meaning of elections. And this is essentially about free and fair elections. Freedoms are therefore part of the equation. On this point, an important insight is offered by Schedler[11] who points out that regular elections may indeed be insufficient to establish liberal or advanced democracies. For him, political and civil freedoms must also be in place, must widen and must deepen. The point is as Crawford Young[12] says: periodic elections are no guarantee against authoritarian manipulation.

Then there are those who believe that elections may, under certain conditions, indeed be sufficient to indicate that democracies have consolidated. Samuel P Huntington[13] proposes the 'two-turnover test', that is, whenever the winners in a founding election are defeated in a subsequent election, and the new winners are also defeated later. In the 2000 study, Przeworski (et al)[14] restates this position:

> They established empirically that democracies consolidate where incumbent political parties actually lose elections. In this comparative overview, this conclusion cannot be verified, except to state that by those yardsticks mentioned above, only Mauritius would qualify as consolidated in the SADC region.

As the SADC region comprises a diverse collection of states, an attempt will be made to measure degrees of democracy. Based on institutional qualities, Schedler[15] classifies these degrees. His classification is four-fold: authoritarian, electoral, liberal and advanced. The last three indicate degrees of democracy. For him, democracy and authoritarian systems are not an either/or dichotomy, as he distinguishes between at least three types of democracies as well as non-democracies. This is similar to the approaches of Bollen and Jackman[16] and Vanhanen[17] where distinctions are made between democracies, semi-democracies and non-democracies. Ours is also three-

dimensional: autocracy, electoral and the consolidation zone. This allows one to register negative or positive trends, which is exactly what Schedler did. For Schedler, the crucial issue is whether human rights and liberties improve, or not. His electoral category can perhaps be subdivided further, providing for *dictadura* (elected dictatorship) as the most authoritarian form of an electoral democracy; and *democradura* ('hard' democracy) which is less authoritarian, but still lacking in full political and civil liberties.

Civil and political liberties as measured in the Annual Surveys of Freedom House are added to Dahl's, Bratton's and Schedler's views. They are incorporated into our methodology. As Peter Meyns[18] argued, this methodology can be adopted for pragmatic reasons: firstly, Freedom House covers all the states in the SADC region, and secondly its reports are published annually so that comparisons may be made that indicate advances or setbacks on the liberty scale. It rates countries as 'free' (1 to 2.5), 'partly free' (3 to 5) and 'unfree' (5.5 to 7).

The institutional index in this paper is therefore also a freedom index that takes account of political rights (the right to form political parties, voter choice, and free and fair elections) and civil liberties (religious and language rights, gender and family rights, and freedom of the press), according to the judgement of its Advisory Board panellists.

The institutional and liberty index used in this paper will therefore contain three categories as mentioned above: autocracy; electoral democracy (subdivided between *dictadura* and *democradura*); and then the consolidation zone, which can also include delegative democracies—i.e. where the executive branch of government is dominant and despite voting regularly the electorate does not really make an impact on policies, and 'two-turnover test' states that may be regarded not only as within this zone, but actually consolidated.

An autocracy is usually unfree; an electoral democracy (could be) partly free; and the consolidation zone (should be) free. Freedom House's trends will be factored into the outcome, as the ratings for 1996 and 2000 are compared.

An important institutional feature in this paper relates to a point made by Przeworski et al quoting Linz,[19] namely that the stakes are higher under presidential than under parliamentary executive institutions. In a presidential executive there is a single winner (the president) while in parliamentary systems the defeated candidate for the presidency (or usually the premiership) will become leader of the opposition. For example, in South Africa and Botswana, the heads of state are presidents, but their source of authority is parliamentary as in the English or Westminster system. They are leaders of the strongest parties in parliament as constituted by elections. In this way, South Africa and Botswana have presidents, but retained their English-inspired Westminster systems of parliamentary accountability for their presidents.

Another institutional feature is Arend Lijphart's[20] distinction between majoritarian and proportional or consensus democracies (1984 and 1999). For Lijphart, in deeply divided societies, the majoritarian model spells majority dictatorship and civil strife, rather than an inclusive democracy. G Bingham Powell[21] is also convinced about the virtues of the consensus model in divided societies. However, Linz and Stepan[22] point out that deep divisions are surmountable through constitutional devices such as decentralised federalism and consociationalism that could include any combination of grand coalition and segmental autonomy and proportional representation and minority veto. In the SADC region, however, there are no consociational democracies, although some states have proportional representation-types of electoral systems, such as South Africa, Namibia, Angola, Mozambique and even Mauritius where its 'block' system resembles proportional representation more than the majority-based first-past-the-post-system.

It is significant that Mauritius, arguably

the region's most consolidated democracy, falls in this category. Three other newly democratised states, Namibia (1989), South Africa and Mozambique (both since 1994), may have learnt from the lessons in other parts of Africa and opted, not for first-past-the-post-systems, but for list proportional representation.[23] Since then, Lesotho may also have learnt this lesson, as major instability followed the election outcome in 1998 when the opposition rejected the outcome of a first-past-the-post election. In 2002, new elections were held, where electoral systems were combined: 80 seats according to the majority-based constituency system, and 40 seats allocated according to proportional principles. This system increased the participation ratio of smaller parties. Stability was restored. Under this system, opposition parties in deeply divided societies are assured of participation through contestation. In first-past-the-post systems such as in Botswana, Malawi, Tanzania, Zambia and Zimbabwe, and in Lesotho until 2002, strong (ethnic-based) parties can dominate electoral politics to the detriment of national unity, and legitimate opposition sidelined not by unfree elections, but by less representative electoral procedures.

On the relationship between development and democracy, there is a strong assumption that institutional survival depends very much on development, affluence and growth. These become powerful predictors of the likelihood of democratic success.[24] One would therefore agree with Richard Joseph,[25] who observes that the drive towards democratisation in the early 1990s in Africa seemed to override the concern for the assumed prerequisites of liberal democracy such as economic wealth, class and political history. The result of this omission according to him was the rapid emergence of democratic illiberalism soon afterwards or, put differently, the erosion of institutions.

But it would be wrong to be too dogmatic about this. René Lemarchand[26] argues that although hunger and democracy do not mix, there are major difficulties with the social preconditions of democracy approach as this tends to confuse causes and effects. Our view on this point is the same as that of Plattner[27] who observes that you cannot have liberalism or democracy or development without the other. It would therefore be difficult to have development without democracy, although there is evidence that authoritarian South Korea, Taiwan, Chile, Malaysia and Argentina opted (quite successfully) for economic development first,[28] paving the way for their subsequent democratisation. Far from saying that the authoritarian model is superior for the development and democratisation of developing countries, Armijo et al[29] point out that the Philippines under Ferdinand Marcos and Zaire (now the Democratic Republic of Congo—DRC) under Mobutu were authoritarian and made a mess of economic development. So, the lesson still remains: development under democratic conditions is more likely than under authoritarianism. Historically, however, democracies are unlikely to emerge without prior social (read classes) and political (read states) development.[30]

In 1959 Seymour Martin Lipset, following the thinking of Max Weber and Joseph Schumpeter[31] linked democracy to economic development, showing that stable democracies scored on average higher than dictatorships in terms of wealth, industrialisation, urbanisation and education.[32] This was a clear case of treating democracy as a dependent variable, therefore as an outcome of rather favourable socio-economic conditions.

In 1992, Larry Diamond[33] indicated that the linkage between development and democracy was even stronger when human development indexes (HDIs) were used as an indicator of development. Likewise, in 1995, Adam Przeworski analysed data compiled between 1950 and 1990 and also found that:

> … the secret of democratic durability seems to lie in economic development … under democracy with parliamentary institutions.[34]

Przeworski et al wrote in 1996[35] that "poverty is a trap", and that "poor

countries, those with per capita income under $1,000, do not develop", hence poor democracies are unlikely to survive. Inequality must also be reduced. But more specifically, they found in their 2000 study that wealth does not particularly lead to democracy, though it sustains democracy once achieved.[36]

Why this is so has, according to others, something to do with the class debate—that is, which class (the middle class or the working class) is the more favourable for liberalisation and eventual democratisation?

Barrington Moore published his influential work on the role of classes in the making of the modern world and was dismissive about peasants as modernisers, but was convinced that the middle class is key not only to modernisation, but to democracy as well. And this class was synonymous with a failed peasant revolution in France[37] as well as with the origins of capitalism in France, the UK and the US (1966, Part One). For him, democracy was also a dependent variable: it depended on the capitalist middle classes, hence his dictum, "No bourgeoisie, No democracy".[38]

To be sure, Raynor[39] analysed middle classes worldwide and found that the major component is the professionals (in the modern world, university-trained and propertied classes) with the business groups in second place (these groups can be assumed to be propertied as well). Then follows 'white collar groups', where again one may assume literacy and property levels lower than that of the middle classes, but higher than the proletariat and peasant classes which are often the have-nots. The super-rich upper classes as well as the underclasses and the peasants could therefore be seen as the enemies of democracy, according to this way of thinking.

This brings us back to Lipset and Przeworski who both argue that higher per capita incomes are favourable for democratic endurance and sustainability. In the 1996 study Przeworski et al[40] found that the main reasons why democracies endure are affluence (in line with Schumpeter's and Lipset's thinking), but add that continued economic growth and decreasing income inequality (as implied above) are important determinants. They also mention rival variables such as a favourable international climate, as well as "good fortune". In a continent such as Africa, where artificial boundaries are the rule rather than the exception, historical continuity and ethnic homogeneity could be regarded as "good fortune".

These issues, together with leadership and electoral systems, will be excluded from this study although some thoughts about electoral systems will be discussed hereunder. Suffice to state that electoral systems in Namibia and South Africa are predominantly based on proportional representation. In the absence of the good fortune of homogeneity, proportional representation seems the more appropriate system for heterogeneity.

The exclusion of leadership (and political culture) are unfortunate, because these are important qualitative criteria. According to Linz and Stepan[41] these are crucial for democratic consolidation, as the contrasts in leadership styles between Nelson Mandela and Robert Mugabe may suggest. But the measuring of these characteristics requires quantitative data (e.g. sampling) and supportive empirical evidence, which this study was not designed for. Bratton and Mattes[42] did precisely such a study. They reported that while support for democracy is wide in the Southern African region, commitment may be shallow, perhaps because of dissatisfaction with the performance of their elected governments. Also, Decalo[43] makes the point that there is no developed thesis on style and leadership, though there is adequate suggestive evidence of the significance of this variable.

After the role of the middle classes and affluence, the other significant variable in the endurance of democracy, is the reduction of income inequalities.

The measuring of socio-economic inequality through the Gini co-efficiency index—which measures societal inequalities within national populations—would have

been an ideal tool. But Gini figures are not generally available for all African states. However, UN HDIs based on per capita purchasing power, life expectancy and adult literacy, are meaningful substitute measurements.[44] Per capita figures are given. Although literacy figures are available for the region, there is no point in factoring them in separately as they are represented in HDI figures. Mentioning them separately would therefore be counting them twice. HDI figures are categorised into four groups: high, high medium, low medium and low.

In this way the institutional and freedom index will consist of three degrees of democracy as mentioned before: autocracy, electoral and consolidation zone; and the development index (really, the HDI and per capita rankings) will consist of four categories. This makes for three times four (or 12) juxtaposed boxes into which SADC states will be placed. Periodic analyses will highlight negative and positive trends.

Finally, in this study states will be compared relatively. But these comparisons will take place over a period of time so as to establish trends. The periods covered in this study relate to the 1990s with 1989 as the beginning of Huntington's (1991) era of (re)democratisation ('Third Wave') in Africa.[45] Depending on data, the cut-off date is 2000/2002.

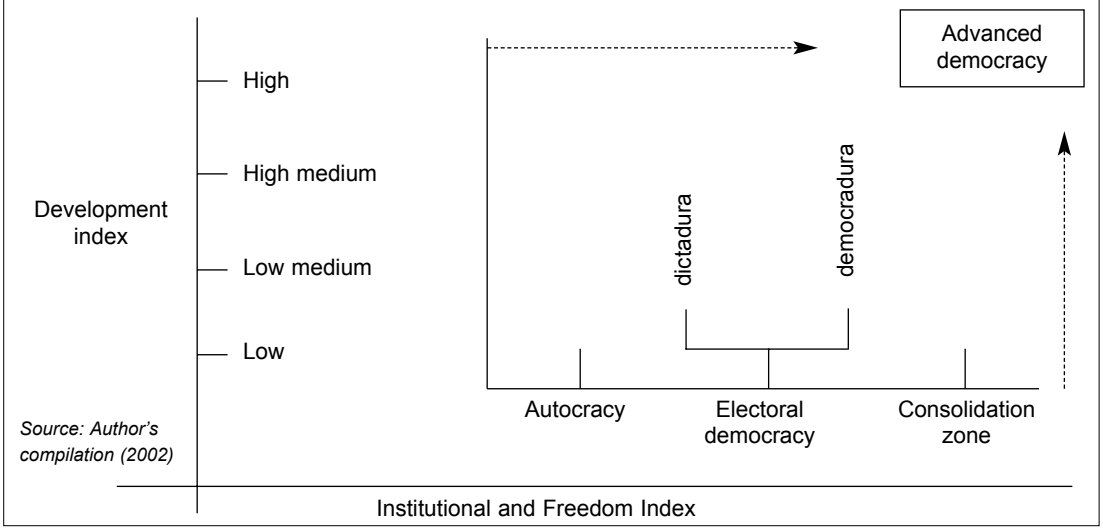
Using the same methodology over a period of time could yield interesting patterns from which further prognoses may be derived (Figure 1).

One other issue that will be dealt with in the last sections of this paper is the issue of deeply divided societies and democratic endurance. It refers to racial or religious or ethnic divisions.[46] These are often assumed to impact negatively on associational autonomy, party political support patterns (the choice of an electoral system is relevant here), or even on political stability in those cases where party political rivalry invokes identity struggles, intolerance or violence. The assumption could therefore be that the higher the heterogeneity the greater the chance for ethnic conflict, and the smaller the likelihood of stability which is generally seen as favourable for development.[47] As mentioned above, homogeneity may be seen as 'good fortune'. Freedom House[48] states this correlation quite explicitly:

> Indeed, democracy is, as a rule, significantly more successful in mono-ethnic societies (that is, societies in which there is a single dominant majority ethnic group representing more than two-thirds of the population) than in ethnically divided and multi-ethnic states.

Correlations for the SADC region will follow in the last section.

Figure 1: Measuring democracy trends



Source: Author's compilation (2002)

Institutional data for SADC member states

Comparing multiparty/single party/no-party systems during the period 1989 to 2002 makes for a positive picture of the SADC region (Table 1). On paper, parliaments have made a big comeback in Africa.[49]

In 1989 (when the redemocratisation trend emerged in Africa), the SADC region had only three multiparty states. By 2002 there were 12. In 2002, the free countries according to Freedom House were Mauritius, South Africa, Botswana and Namibia; the partly-free countries were Malawi, Mozambique, Seychelles, Lesotho, Tanzania and Zambia; and the unfree countries were the DRC and Swaziland as well as Angola and Zimbabwe, which had elections, but freedoms were eroded. The single party states declined from eight to zero during this period (excluding the DRC and Swaziland which may be regarded as no-party states). South Africa became a fully-fledged institutional democracy in 1994, whereas only the DRC and Swaziland remained non-electoral autocracies; *dictaduras*, i.e. elected governments, but with low levels of political and civil liberties included Angola, Zambia and Zimbabwe in 2002; and *democraduras*, i.e. elected governments but with middle levels of political and civil liberties included Lesotho, Malawi, Mozambique, Seychelles and Tanzania; and finally those in the higher consolidation zone (freedoms are adequately high, but HDIs fall short of high), included Mauritius, South Africa and Botswana.

In 2002 civil liberties in the region remained at a higher (that is, better) level than political rights when the DRC remained least free in terms of political rights, followed by Swaziland and Angola (an electoral democracy without a functioning multiparty parliament) in the second worst position. Angola was therefore rated at the same level as Swaziland, despite having had multiparty elections in 1992. No doubt, the civil war waged by the opposition after having lost the election explains this state of affairs.

The third worst political rights assessment obtained in Tanzania, Zambia and in Zimbabwe, despite the fact that Zimbabwe has had regular elections since 1980. According to Freedom House, political rights in Zimbabwe dropped to six in 2002, a score normally associated with autocracies. Its civil liberties are also scored at six. The electoral democracy in this country had clearly not prevented the erosion of civil and political liberties during this period, dropping to the level of *dictaduras*. As will be pointed out in the next section, Zimbabwe's economy has shrunk, per capita has declined and its HDI ranking is down, suggesting that if affluence is needed for the consolidation of democracy—as many analysts maintain—then an increase in economic hardship may be seen as a prerequisite for the erosion not only of democracy, but of an autocracy as well. The strong performance of the opposition during the elections of 2000 and 2002, despite the erosion of the rule of law, may be proof hereof.

A significant correlation in this regard is that all these states with eroded political rights correlate with countries with presidential executive systems, that is, where presidents or premiers and their executives are not primarily accountable to parliament. The correlation goes even further: all states that scored either 1 or 2 ('free') in terms of political rights and civil liberties are consistently found in parliamentary and not in presidential systems (i.e., Mauritius, South Africa and Botswana), validating Linz's views. (Lesotho has the other parliamentary system in the SADC region—it had free and fair elections in May 2002). As argued before, the positive aspects of list proportional representation electoral systems for political stability in deeply divided societies, are quite evident.

Economic and social data for member states in the SADC region

Of the 14 SADC member states only six had per capita incomes in 2000 of US$1,000, or higher. They are Seychelles, Mauritius,

Table 1: Party systems and civil and political liberties within the SADC region

State	*Independence date*	*Party System 1989*			*Party System 2002*			*Electoral system*	*Civil Liberties*[1]			*Political Rights*[1]			*Freedom rating*
		Multi	*Single*	*Other*	*Multi*	*Single*	*Other*		*1996*	*2002*	*Trend*	*1996*	*2002*	*Trend*	
1. Angola	1975	–	Yes	–	1992[2]	–	–	PR	6	6	–	6	6	–	Not free
2. Botswana	1966	1966	–	–	Yes	–	–	FPTP	2	2	–	2	2	–	Free
3. Congo (DR)	1960	–	Yes	–	–	–	Yes[3]	n.a.	6	6	–	7	7	–	Not free
4. Lesotho	1966	–	Yes	–	1998	–	–	Parallel	4	4	–	4	4	–	Partly free
5. Malawi	1964	–	Yes	–	1994	–	–	FPTP	3	3	–	2	3	worse	Partly free
6. Mauritius	1968	1968	–	–	Yes	–	–	Block	2	2	–	1	1	–	Free
7. Mozambique	1975	–	Yes	–	1994	–	–	PR	4	4	–	3	3	–	Partly free
8. Namibia	1990	–	–	Yes[5]	1990	–	–	PR	3	3	–	2	2	–	Free
9. Seychelles	1976	–	Yes	–	1993	–	–	Parallel	3	3	–	3	3	–	Partly free
10. South Africa	1910	–	–	Yes[6]	1994	–	–	PR	2	2	–	1	1	–	Free
11. Swaziland	1968	–	–	Yes	–	–	Yes[4]	n.a.	5	5	–	6	6	–	Not free
12. Tanzania	1961	–	Yes	–	1995	–	–	FPTP	5	4	better	5	4	better	Partly free
13. Zambia	1964	–	Yes	–	1991	–	–	FPTP	4	4	–	5	5	–	Partly free
14. Zimbabwe	1980	1980	–	–	Yes	–	–	FPTP	5	6	–	5	6	worse	Not free
Total	**–**	**3**	**8**	**3**	**12**	**–**	**2**	**–**	**–**	**–**	**–**	**–**	**–**	**–**	**–**
Average	**–**				**–**	**–**	**–**	**–**	**3,85**	**3,78**	**better**	**3,71**	**3,78**	**worse**	**–**

Notes

1 Based on Freedom House (New York); ranging from 1 (most free) to 7 (least free)

2 Multiparty elections were held under UN supervision in 1992. But the major opposition, Unita, rejected the outcome. The civil war continued.

3 The DRC became independent in 1960, as the former Belgian Congo, thereafter known as Zaire. Under President Mobuto, Zaire became a one-party state from 1970 to 1997 when rebels led by Laurent Kabila seized power. Civil war prevented the introduction of any form of representative government. Zaire was renamed the DRC in 1997.

4 Swaziland has an executive monarchy. Former King Sobhuza II issued a royal decree in 1973 banning political parties. This ban was partly lifted. But in 1997 the new monarch, King Mswati III, once again banned all parties, making Swaziland officially a non-party state, a typical autocracy.

5 Namibia was under South African control from 1915 until 1988. The UN established joint control between 1988 and 1990, supervising multiparty elections in 1989. Independence in 1990.

6 South Africa was independent since 1910, but a white oligarchy ruled until the National Party and the ANC negotiated a new constitution (1990–1993) under which first majoritarian elections took place in 1994.

Sources: Freedom House. 2002 and 1996. The annual survey of political and civil liberties. *New York; and Esterhuysen P (ed). 1998.* Africa A–Z Profiles. *Pretoria:* Africa Institute.

Table 2: SADC economic indicators

	State	Population 1999, million	GDP (US$ billion) 1996	1999	Trend	GDP per capita (US$) 1996	2000	Trend	Ranking
1.	Angola	12,5	6,4	2,7	down	610	240	down	10
2.	Botswana	1,5	4,9	5,1	up	3 020	3 300	up	3
3.	Congo (DR)	50,5	5,3	5,4	up	148	110	down	14
4.	Lesotho	2,1	0,9	1,2	up	770	540	down	7
5.	Malawi	10,0	2,4	2,0	down	170	170	–	13
6.	Mauritius	1,2	4,2	4,2	–	3 380	3 800	up	2
7.	Mozambique	19,1	2,1	3,9	up	80	210	up	12
8.	Namibia	1,6	4,1	3,2	down	2 000	2 050	up	5
9.	Seychelles	0,1	0,5	0,5	–	6 956	7 310	up	1
10.	South Africa	42,6	130,0	133,2	up	3 160	3 020	down	4
11.	Swaziland	1,0	2,0	1,4	down	1 566	1 290	down	6
12.	Tanzania	31,3	3,7	8,0	up	120	280	up	11
13.	Zambia	9,7	3,7	3,2	down	400	300	down	9
14.	Zimbabwe	11,2	7,4	6,1	down	540	480	down	8
	Total	**194**	**195,3**	**180,1**	**down**	**1 637**	**1 650**	**up**	**–**

Sources: Esterhuysen, P (Ed). 1998. Africa A-Z Profiles. *Pretoria, Africa Institute (Section Two). World Bank. 1999.* World Development Report 1999/2000. *New York, Oxford University Press (Table 1); Du Toit, J. 2000.* Southern African Development Community: An economic profile. *ABSA Bank, Rivonia (Table 4.1); and Esterhuysen P and E le Roux (Ed). 2002.* Africa at a Glance 2001-2002. *Pretoria, Africa Institute of SA. World Bank. 2001.* World Bank Development Indicators. *Washington.*

Botswana, South Africa, Namibia and Swaziland, and in that order. Except for South Africa and Swaziland where the trends were downwards, the trend for the remaining four were upwards. The regional average was also up slightly. Among the eight states with per capita incomes of US$1,000 or lower, only one was in the US$500–US$1,000 bracket, namely Lesotho, and here the trend was downwards. Among the seven with per capita incomes of US$500 or lower, the trend was also downwards, except for Tanzania and Mozambique where increases were quite significant, albeit from low bases. The rest drifted downwards, especially Zimbabwe, Angola and the DRC—all with serious internal conflicts (Table 2). It can therefore be concluded that conflicts are at odds with both development and democracy.

Other social indicators related to HDIs (Table 3) make up what is referred to as the development index. Not a single SADC state is in the 'high' HDI category. Seychelles and Mauritius are in the high medium category, with South Africa, Swaziland, Namibia, Botswana, Lesotho and Zimbabwe (in that order) in the low medium category; and with the rest, namely DRC, Zambia, Tanzania, Angola, Malawi and Mozambique (in that order) in the low HDI category.

The regional trend was downward. There were only two upward trends, namely Seychelles (the best trend) and Namibia. Still, relatively well-placed countries such as Mauritius, South Africa, Namibia and Botswana dropped relatively, which does not augur well for the region in terms of global standards.

In Table 4, the rankings in Tables 2 and 3 are added together making for an aggregate. This created combined regional rankings which may also serve as an aggregate development index. The weakness of this index is that it expresses a numerical index without weighting the development criteria. But the strength is that it does give a relative regional index, which is then (Figure 2) bracketed into the high, high medium, low medium and low HDI categories. Due to per capita incomes of higher than US$3,000, South Africa and Botswana join the high medium group, with Zimbabwe dropping out of low medium into the upper end of the low category.

Table 3: SADC social indicators

	State	*Population 1997, million*	*HDI ranking[1] 1992[2]*	*1995*	*2000*	*Trend[3]*	*HDI regional ranking[4]*
1.	Angola	12,2	155	164	160	down	12
2.	Botswana	1,5	87	74	122	down	5
3.	Congo (DR)	43.5	140	143	152	down	9
4.	Lesotho	2,2	120	131	127	down	7
5.	Malawi	11,1	157	157	163	down	13
6.	Mauritius	1,2	60	60	71	down	2
7.	Mozambique	18,6	159	167	168	down	14
8.	Namibia	1,6	127	108	115	up	6
9.	Seychelles	0,1	83	62	53	up	1
10.	South Africa	43,2	93	95	103	down	3
11.	Swaziland	1,0	117	124	112	down	4
12.	Tanzania	31,5	148	147	156	down	11
13.	Zambia	9,7	138	136	153	down	10
14.	Zimbabwe	12,3	121	121	130	down	8
	Total	**190,0**	**-**	**-**	**-**	**-**	**-**
	Average	**13,6**	**115**	**120**	**128**	**down**	**-**

Notes

1 Based on the United Nations Development Programme's Human Development Index (HDI) for 1992, 1995 and 2000. Nations are ranked from best (no 1) to worst (no 174). It takes life expectancy, knowledge and per capita income based on purchasing power into account.

2 HDI figures for 1989 were not ranked: 1992 was the earliest ranking.

3 The trend is for 1992–2000. Every state ranking went down, with the exception of Namibia (up by 12 rankings) and Seychelles (up by 30 rankings).

4 HDI Report 2000. High = none; high medium = Seychelles (no 53) and Mauritius (no 71); low medium = South Africa (no 103) to Zimbabwe (no 130); and low HDI = DR Congo (no 152) to Mozambique (no 168), the last in SADC.

Sources: World Bank. 1995. African Development Indicators. *Washington, World Bank (Table 13.12); World Bank. 1999.* World Development Report 1999/2000. *New York, Oxford University Press. (Table 2); UN Development Programmes. 1995 and 2000.* Human Development Index 1995 & 2000. *New York, Oxford University Press.*

Table 4: SADC economic and social Indicators combined: the development index

	State	*Per Capita Ranking[1]*	*HDI Ranking[2]*	*Total[3]*	*Combined regional rankings[4]*
1.	Angola	10	12	22	10/11
2.	Botswana	3	5	8	4
3.	Congo DR	14	9	23	12
4.	Lesotho	7	7	14	7
5.	Malawi	13	13	26	14
6.	Mauritius	2	2	4	2
7.	Mozambique	12	14	26	13/14
8.	Namibia	5	6	11	6
9.	Seychelles	1	1	2	1
10.	South Africa	4	3	7	3
11.	Swaziland	6	4	10	5
12.	Tanzania	11	11	22	10/11
13.	Zambia	9	10	19	9
14.	Zimbabwe	8	8	16	8

Notes

1 Ranges from 1 (best) to 14 (worst). See, Table 1

2 Ranges from 1 (best) to 14 (worst). See, Table 2

3 Ranges from 2 (best) to 28 (worst). Combination of Tables 2 & 3

4 This reflects relative regional levels. However, none are in the $6000 or higher and/or high HDI levels. The rest is categorised into high medium; low medium and low (see, Figure 2).

Such an index is not perfect, but useful in understanding the general trends in the region. It serves as a timely reminder that democratisation processes in the region are fraught with obstacles. If it is true that one cannot have democracy without development, then the democratic future of the SADC region is in doubt, especially for the bottom seven which are all classified as countries with low human development. In those cases where rights and liberties have also dropped—Zimbabwe and Malawi—the prognosis is even worse.

The final ranking for the development index (Table 4), that combines the per capita ranking (Table 2) and HDI indicators (Table 3), is as follows.

High: None

High medium: Seychelles, Mauritius, South Africa and Botswana

Low medium: Swaziland, Namibia and Lesotho

Low: Zimbabwe, Zambia, Angola and Tanzania, DRC, Mozambique and Malawi jointly in the last position.

This ranking is now superimposed on to the freedom index in Figure 2, making the final democracy 'mind map' for the SADC region in 2000.

Ethnic structures of member states in the SADC region

Only three states in the SADC region are ethnically homogeneous (Lesotho, Seychelles and Swaziland)—the rest are either compact, that is a multi-ethnic country, but one group constitutes a numerical majority (Botswana, Mauritius, Namibia and Zimbabwe), or all groups are minorities, making the composition heterogeneous (Angola, DRC, Malawi, Mozambique, South Africa, Tanzania and Zambia) (Table 5). They are the typically deeply divided countries.

This multi-ethnic problem goes back to colonial times when boundaries were drawn artificially and heterogeneity became the standard. The outcome of this situation is that single nation, or mono-ethnic states in Africa—such as the majority of those historical pre-colonial states that had survived with their original boundaries more or less intact—became the exception rather than the rule. If homogeneity is preferable, as argued by Crawford Young[50] and Freedom House,[51] this may indicate good fortune as argued before. Then there are states with compact majorities where the

Figure 2: Institutional and development indexes for SADC member states (2000)

Development Index (per capita; and HDI)	high	none	none	none
	high medium		1. Seychelles – –	2. Mauritius 3. South Africa 4. Botswana
	low medium	5. Swaziland – –	– 6. Namibia 7. Lesotho	– – –
	low	– – – 12. DRC – –	8. Zimbabwe 9. Zambia 10-11. Angola & Tanzania 13-14. Mozambique & Malawi	– – – – –
		Autocracy democracy	Electoral zone	Consolidation
	Institutional and Freedom Index (regular elections, political rights and civil liberties)			

Source: Author's compilation (2002)

Table 5 Ethnic structures

	State	Deeply divided	Compact	Homogeneity
1.	Angola	X		
2.	Botswana		X	
3.	Congo DR	X		
4.	Lesotho			X
5.	Malawi	X		
6.	Mauritius		X	
7.	Mozambique	X		
8.	Namibia		X	
9.	Seychelles			X
10.	South Africa	X		
11.	Swaziland			X
12.	Tanzania	X		
13.	Zambia	X		
14.	Zimbabwe		X	
	Total	**7**	**4**	**3**

Source: Author's compilation (2002)

composition is heterogeneous, but one particular ethnic group constitutes a numerical majority of 50% or more. This easily leads to dominant party rule where the ruling party has a strong ethnic basis as in Zimbabwe (Mashona) and Botswana (Tswana).

Then there is the dominant pattern in Africa, characterised by heterogeneity. It is mainly in those cases that state leaders often designed measures—commonly but misleadingly described as nation-building[52]—that aimed at the stifling of divisive elements within those states, creating the basis for authoritarian rule. As argued earlier, it would have been better for electoral democracies in deeply divided societies to have chosen list proportional representation systems, and not first-past-the-post systems. The former one-party states of the DRC, Malawi, Tanzania and Zambia are examples. In this way heterogeneity contributed towards the demise of the politics of contestation, and became the justification for non-contestational authoritarian rule.

The natural heterogeneity of typical colonies was exacerbated in settler societies such as in Algeria, Kenya, Zambia, Zimbabwe, Namibia and South Africa. This factor added race (for example Arabs, Asians and whites) to the complexities of nation-building in Africa. It also slowed down the tempo of decolonisation (Africa's first liberation) as many settlers were often reluctant to embrace majoritarian (black) rule. This is why liberation wars were fought in Algeria, Kenya and Southern Africa's settler societies where large numbers obtained. If consensus or consociational democracy were the alternative, political violence might have been reduced, even eliminated. But decolonisation as an extension of self-determination would not have been prevented. It was inevitable that all citizens would want to participate in public life and by means of free and fair elections in democracies that met the other institutional requirements as well. It is here that list proportional representation seems better than majority-based systems.

The correlations that emerged, albeit crudely, were that homogeneous societies and compact majorities (i.e. where one group is a numerical majority within a multi-ethnic state) produced greater stability and more regime continuity especially in list proportional electoral systems. However, Swaziland should serve as a reminder that homogeneity does not guarantee democracy. To the extent that elections were held, rough correlations between ethnic demography and party support patterns showed very little variation in years to come. To be sure, it is a typical feature of African politics that a 're-communalisation' of politics takes place—that is, political parties are increasingly identified with ethnic groups,[53] especially where economic opportunities become scarcer because of stagnant economies.

In African states with low levels of human development and with numerous ethnic minorities (typical heterogeneity), less stability prevailed as political contests easily turned into spoils for wealth and ethnic violence making for unstable states.[54]

Various authors began exploring these phenomena, seeking causality, going beyond theoretical propositions and empirical correlations (see, Horowitz;[55] Cohen;[56] Sklar;[57] Rabushka & Shepsle;[58] and Cross[59]). We shall not seek those types of

explanations in this study (because of limitations explained earlier), only to register and compare the correlations and see whether and what kind of patterns emerged, from which further generalisations may be generated.

Given these observations, what are the correlations between Figure 2 and Table 5? First, with the exception of South Africa, all the other states classified as deeply divided are either autocracies or at best electoral democracies—that is, where elections take place but freedoms are compromised. Second, that none of the states in the consolidation zone are classified as homogeneous. This seems to suggest that while homogeneity is not a precondition for democracy, heterogeneity is a special problem that might call for special constitutional arrangements (Linz and Stepan), such as features of consociation (Lijphart 1999, and Powell 2000) or proportional representation. Third, not a single state in the consolidation zone—irrespective of ethnic structures—has low human development rankings. This reinforces the notion that poverty and democracy do not mix. From this point of view, the only candidates for elevation (with sufficient development and homogeneity) into the consolidation zone are Seychelles, and perhaps Swaziland. They are therefore underperforming democratically, based on potential. Whether they proceed to higher levels of democracy might depend less on development and more on qualitative aspects such as leadership and commitments to freedom, referred to by Sam Decalo and Andreas Schedler.

Regional integration and democracy: what relevance?

The co-operation and integration models applied to SADC are state-based, that is, only states can become members. From this perspective, SADC is an international organisation striving for functional co-operation in many development sectors. The end result is not one of supranational integration where national sovereignties are so diminished that a United States of Southern Africa can be foreseen. The immediate scenario is therefore not of a single market, single currency and supranational parliament. States should also meet certain convergence criteria for such integration.

In Europe, convergence criteria are mainly economical. In SADC there are no such criteria. Participation remains voluntary. National sovereignty therefore remains unaffected, except to the extent that multilateralism imposes itself in terms of common standards and practices on the participating states. But political integration remains a distant vision of Pan-Africanists and the African Union alike. Much more likely is that some members of the Southern African Customs Union, for example Lesotho, could become a tenth province of a greater South Africa. But this would rather be a case of incorporation and not integration.

One of the questions raised earlier was whether functional co-operation structures such as SADC, or even neo-functional integration structures such as the envisaged SADC free trade area, could serve to promote democracy in the region.

On this point it is easy to agree with Peter Meyns[60] that there is apparently no causal link between the deepening of integration and the consolidation of democracy, unless, of course, good governance and the respect for human rights are made preconditions for participation, as is the case in the New Partnership for Africa's Development (NEPAD). But if co-operation and integration do succeed in promoting development of the kind that reduces socio-economic inequalities among and within the participating states, then on the basis of the assumptions made in this paper, democracy may in fact be advanced. Conversely, the lack of meaningful co-operation and integration could hinder (erode) the promotion of democracy, especially in those cases where nations do not meet the good governance criteria for participation in NEPAD. This could be the case if they are guilty of deviant behaviour, or are too pre-

occupied with domestic or international conflicts making for a redirection of their public resources away from warfare to welfare too problematic.

Peace and stability are therefore prerequisites for sustainable development and democracy. Conflict prevention becomes such a precondition. A functioning regional security organ that would prevent conflicts could therefore be a greater prerequisite for the deepening of democracy than some of the purely economic objectives of the older SADC, that had little, if anything, to do with successful conflict prevention, peacemaking or peacekeeping. Of late, the NEPAD initiative known as the African Peer Review Mechanism could establish convergence criteria related to the rule of law, the respect for human rights and the democratic accountability of its governments that SADC becomes not only more integrated, but also more democratic. In this way, compliance with good governance could promote development and democracy and regional co-operation, and in this sequence. But it is a long-term project.

Conclusion

The institutional environment among SADC member states is much more conducive to democratic endurance and even consolidation now, than in 1989. Parliaments have made a comeback, except in Swaziland where the monarchy resists democracy, and in the DRC where warfare until recently consumed everything. The South Africa–led peace process is, however, a step in the right direction. Although the outlook is mixed in the rest of the region, with Malawi and Zimbabwe deteriorating, the outlook improved for Tanzania and Mozambique.

But the socio-economic conditions necessary to make electoral democracies as well as those in the consolidation zone stronger, remain rather weak. The country with the best potential to improve its freedom index in order to move into the consolidation zone, is Seychelles. Namibia and Lesotho are also close to this zone. Swaziland must democratise first. Here the limitations are mainly institutional. Seychelles, Swaziland and Lesotho also have the good fortune of homogeneity.

For the DRC and Angola, the outlook is more daunting. They need peace first, then development, and maybe democracy could become possible thereafter. Although the outlook for Tanzania and Mozambique is improving, even they are as yet simply too poorly developed to make them strong candidates for the consolidation zone. In Zimbabwe, general lawlessness must come to an end. The institutions are in place. This implies a vast improvement in its performance on civil liberties and political rights.

Of the three states in the consolidation zone, Mauritius is the only one that has already achieved Huntington's two-turnover test, which is similar to Przeworski's (2000) minimalist requirement that incumbent parties actually lose elections and is, together with its high ranking on the human development index, well-placed to become SADC's first consolidated democracy. For the time being, South Africa and Botswana are best described in O'Donnell's terms[61] as 'delegated democracies'—not consolidated, but enduring.[62] What they need to do most is to uphold their liberties and reduce inequality through economic development plus the strengthening of the middle class, and job-creating growth. That is what the theories suggest, and we agree.

Notes

1 An earlier version of this article entitled Development and democracy in the SADC region, was published in D Hansohn (ed), 2002. *Monitoring regional integration yearbook*, 2, 2002. Nepru (Namibia) and Konrad Adenauer Foundation, Windhoek. This latest version benefits from the work done by Vanhanen (1997), Lijphart (1999), Powell (2000), Przeworski, et al (2000), Human Development Indexes (2000) and Freedom House (2002).

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ESSAY

THE AU PLAN ON TERRORISM
Joining the global war or leading an African battle?

KATHRYN STURMAN

At a senior officials' meeting held in Algiers from 11-14 September 2002, the African Union proved ready and able to provide the political cohesion and sense of purpose needed for Africa to combat terrorism. While member states inevitably played to a global gallery in demonstrating their commitment to the 'war on terrorism', the practical counter-terrorist proposals adopted at the meeting substantially address Africa's security challenges. The resulting Plan of Action on the Prevention and Combating of Terrorism focuses on state building and inter-governmental co-operation, to literally and figuratively close Africa's borders to terrorist activities. Implementing the plan will be a tough challenge for many African governments, especially to ensure that their counter-terrorist measures adhere to international and regional human rights accords.

Introduction

In deliberate commemoration of the events of 11 September 2001, a senior officials' meeting of the African Union (AU) met on the same date this year in Algiers.

The aim was twofold: symbolically to demonstrate Africa's commitment to the 'global war on terrorism' and practically to give effect to the AU's own regional instrument, the Algiers Convention on the Prevention and Combating of Terrorism, 1999.

The opening speeches recalled terrorist atrocities on African soil—hundreds of thousands slaughtered in Algeria, thousands dead or injured in the US Embassy bombings in Nairobi and Dar es Salaam, urban terrorism in Cape Town in the late 1990s. This was appropriate as an expression of solidarity with the victims of New York and Washington. It was also a way of saying that this was Africa acting in its own interests, and not just dancing again to donors' music.

Apart from the complex situation in Algeria, however, the suggestion that Africa's peoples are directly threatened by terrorism is a long shot. The numbers affected by terrorism are incomparable to the tally of hostages to Africa's perennial terrors of war, hunger and disease. International concern about Africa has more to do with her weak states providing safe haven for terrorists, from which to finance

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and launch terrorist attacks or hide from international retribution.

But why would countries like Rwanda, Senegal or Mozambique focus on terrorism, when they are overwhelmed with the catastrophic effects of genocide, drought or HIV/Aids? Part of the answer is because the United Nations told them to. UN Security Council Resolution 1373 is mandatory and binding on all member states, whether or not they have the resources to comply. While this is certainly a burden on many African states, it is also an opportunity to secure resources needed to fulfill their obligations.

A cynic might say that some of this gathering of more than 200 high-powered delegates, from 49 of the 53 AU member states, turned out merely to repackage their everlasting problems and never-ending appeals for aid into an issue that is the global flavour of the month. For example, during plenary debate, countries like Rwanda argued that violent militias like the Armee de Liberation du Rwanda (ALIR)—comprising the former Interahamwe fighters responsible for the 1994 genocide—should be classified 'terrorists'. Several countries were upfront in their requests for assistance.

To an extent, it is inevitable in the post-Cold War and now post-9/11 context that African countries fear their needs have been pushed even further to the margins of the global agenda. An undercurrent of this meeting was an assertion of the relevance of building stability and development in Africa to the long-term eradication of international terrorism.

However expedient the messages of condolence and rhetorical condemnations of terrorism may have been, it became apparent that the practical counter-terrorist proposals were relevant and constructive to addressing many of Africa's security challenges. This is reflected in the Plan of Action on the Prevention and Combating of Terrorism adopted at the Algiers meeting.[1]

AU Plan of Action

The Plan of Action is premised on the need to strengthen the capacity of African states through intergovernmental co-operation and co-ordination. The Preamble recognises that:

> terrorism is a violent form of transnational crime that exploits the limits of the territorial jurisdiction of States, differences in governance systems and judicial procedures, porous borders, and the existence of informal and illegal trade and financing networks.[2]

It states further that:

> Eradicating terrorism requires a firm commitment by Member States to pursue common objectives. These include: exchange of information … mutual legal assistance; exchange of research and expertise; and the mobilisation of technical assistance and co-operation, both within Africa and internationally, to upgrade the scientific, technical and operational capacity of Member States.
>
> Joint action … at intergovernmental level … includes: co-ordinating border surveillance … developing and strengthening border control-points; and combating the illicit import, export and stockpiling of arms, ammunition and explosives … Few African governments are in a position, on their own, to marshal the requisite resources to combat this threat. Pooling resources, therefore, is essential …[3]

Ratification of the Algiers Convention, 1999

Ratification and implementation of the Algiers Convention, 1999 is the first undertaking of the Plan of Action.[4] A primary objective of the AU Commission and the Institute for Security Studies (who were partners in the project) in convening the Algiers Senior Officials' Meeting was to build up momentum for the 15 ratifications required for the Convention to enter into force. This target was met and exceeded at the meeting, with member states competing to announce their recent or imminent ratifications. South Africa was the 15th member state to ratify the Convention.

Compliance with international obligations

Secondly, member states undertake to:

> sign, ratify and fully implement all relevant international instruments concerning terrorism and, where necessary, seek assistance for amendments to national legislation so as to comply with the provisions of these instruments.[5]

These instruments include UNSC Resolution 1373 and the International Convention for the Suppression of the Financing of Terrorism, 1999.

Africa's shortcomings in terms of its international obligations came under scrutiny at the meeting. Ambassador Curtis Ward, advisor to the UNSC Counter-Terrorism Committee (CTC) pointed out that while 170 countries had filed first reports in compliance with UNSC Resolution 1373 by 3 September 2002, 12 African countries had not yet done so. He acknowledged that the mandatory requirements of the resolution "placed an immense burden on all states, and that states possessed varying capacities to implement them".[6] Curtis advised states that lack capacity to compile their reports to formally request assistance through the CTC. Several AU member states indicated that they would do so.

Concrete support for implementing the international instruments relating to terrorism was offered by Alex Schmidt, officer-in-charge of the Terrorism Branch of the Center for International Crime Prevention of the UN. Schmidt informed the meeting that the UN Office for Drug Control and Crime Prevention (ODCCP) is planning to launch a new Global Programme against Terrorism, which would provide legislative guidelines and 'implementation kits' to various countries. The project is currently being piloted in an African country to establish its practicality and usefulness.[7]

Specific areas for action

Schmidt added that the ODCCP provides technical help in the areas of money laundering, corruption, human trafficking and organised crime. These are all serious challenges in Africa, and AU member states would be well served by accepting such assistance. Article 10(d) of the Plan of Action recognises "the intimate relationship between terrorism and … corruption and money laundering". Section C commits member states to 10 specific measures to suppress the financing of terrorism, including:

- national legislation to criminalise the financing of terrorism and money laundering;
- setting up 'financial intelligence units' in member states;
- training personnel to prevent and combat money laundering; and
- co-operation with international financial institutions for "the development of a global, comprehensive, anti-money laundering and combating the financing of terrorism (AML/CFT) methodology and assessment process".[8]

With regard to policing and border control, member states agreed to take a number of quite ambitious steps, which will certainly require external assistance. For example, they undertook to:

- "ensure that identity documents contain advanced security features that protect them against forgery;
- issue machine-readable travel documents that contain security features that protect them against forgery;
- keep a Passport Stoplist containing information of individuals whose applications would require special attention or who may not be issued with travel documents;
- check applications against the Passport Stoplist and the population register before the document is issued; and
- computerise all points of entry in order to monitor the arrival and departure of all individuals."[9]

While such hi-tech and tightly administered border control may be feasible in South Africa—the country that proposed several of these measures—their implementation in most African countries would be difficult, if not impossible, given the absence of population lists and rudimentary passport systems.

Measures to harmonise legal frameworks and judicial systems, and promote exchange

of information and co-ordination at regional, continental and international levels are more realistic in the short-term.

One of the measures to promote exchange of information is to:

> establish a common Terrorism Activity Reporting (TAR) schedule as a data collection instrument on names of identified organisations, persons, places and resources by Member States. The TAR should then provide the source of information … [for] an AU database that shall provide timely exchange of information, experience and lessons learnt on counter-terrorism tactics over a secured electronic network.[10]

The Nigerian delegation submitted a TAR form to the AU Commission during the meeting as an example to be used by member states. However, the experience of early warning systems established at regional and sub-regional level is that states are often unwilling to exchange sensitive information through this kind of multilateral process. The practicalities of gaining and sharing useful information on terrorist activities between states may therefore need further consideration.

Role of the AU Commission and PSC

The most glaring omission from the Algiers Convention of 1999 is any reference to monitoring or compliance mechanisms. The Constitutive Act of the African Union, 2000 Article 23(2) closes this gap, in theory, by providing for sanctions against a member states which "fails to comply with the decisions and policies of the Union". In practice, however, the AU has no precedent and little power to enforce compliance.

Although it is not mandatory, the Plan of Action specifically sets out a monitoring and enforcement role for the new Peace and Security Council (PSC) and the Commission of the AU. Under Article 7 of the Protocol relating to the Establishment of the PSC, adopted at the AU Summit in Durban, July 2002, the PSC is specifically charged to ensure the implementation of the Algiers Convention and other relevant international, regional and sub-regional instruments to combat terrorism. The PSC (or the existing Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution) shall request all member states to report annually on the steps they have taken to prevent and combat terrorism, and specifically, to implement the Algiers Convention, 1999; present an annual report on terrorism to the Assembly of the Union; and monitor and make recommendations on the implementation of the AU Plan of Action on the Prevention and Combating of Terrorism.[11]

The AU Commissioner in charge of Peace and Security will also examine and follow up on the reports submitted by member states, and "provide advice on matters pertaining to counter-terrorism action including preparation of model legislation and guidelines to assist Member States".

Additional Protocol rejected

In the weeks following the events of 9/11, Africa sought to demonstrate its common cause with the US. In October, President Wade of Senegal convened a meeting of African Heads of State in Dakar. The subsequent declaration provided for discussions and proposals on the formulation of an additional protocol to the Algiers Convention. The additional protocol was considered necessary to provide for monitoring implementation of the Algiers Convention, and to criminalise the financing of terrorism. Shortly afterwards, an extraordinary meeting of the Central Organ in New York condemned the attack on the US and welcomed the Dakar proposal to prepare an additional protocol to the Algiers Convention.

A draft Additional Protocol was presented to the Algiers meeting for adoption. An intense debate ensued. Senegal, which was instrumental in the drafting of the Additional Protocol, defended the document. The rather weak argument was that an additional protocol to the Algiers Convention was 'expected', and would demonstrate Africa's awareness of 'new realities which should be taken into account' after the September 2001 terrorist attacks.

South Africa rallied Southern African Development Community (SADC) countries in favour of a more pragmatic stance, that UNSC Resolution 1373 already places an onerous reporting burden on African states, and that an additional protocol to the Algiers Convention would duplicate and add to this burden. It was argued that most of the measures contained in the draft protocol were administrative, and could be covered in the Plan of Action. The focus should be on the operationalisation of the Algiers Convention, rather than the elaboration of a new protocol. A number of important countries, such as Kenya and Egypt, supported the South African position. Others, most prominently Senegal and Algeria, argued in favour.

Eventually, the meeting decided not to adopt an Additional Protocol to the Algiers Convention. By way of compromise, the chairperson suggested that the AU Commission collect the proposals of member states to submit a 'comprehensive draft Protocol' for consideration by the next AU Summit in Maputo.

African Research Centre on Terrorism

Already when opening the conference, Algerian President Bouteflika proposed and offered to host an African Centre for Study and Research on Terrorism. This was clearly part of the Algerian agenda to attract international attention and support for combating domestic terrorism. Meeting in Algiers, the delegates would hardly refuse such an offer. Provided the centre is clearly under the auspices of the AU, however, there is no reason why Algeria's motivation to drive this project should not be to the benefit of the entire continent.

The Plan of Action states that the purpose of the centre will be:

> to centralise information, studies and analyses on terrorism and terrorist groups and develop training programmes by organising, with the assistance of international partners, training schedules, meetings and symposia.[12]

The AU Commission was requested to look at the modalities for the establishment of the centre, including the financial aspects.

Human rights challenges

The success of the Algiers meeting lay in its practical focus, and the conscious effort to avoid opening a contentious, highly politicised debate on the definition of terrorism, in which one country's terrorist can be another's freedom fighter. An example of this was the chairman's crafty deflection of attempts to categorise Israeli activities in the West Bank as terrorism. This reflected positively on the new approach of the AU, departing from the old-style OAU tendency to be a forum for political posturing.

The danger for the AU is that many of its member states are ruled by illegitimate, undemocratic regimes. There is a need to act against terrorists as a national security risk without destroying the often tenuous rule of law that exists in many of its constituent states. As the UN Policy Working Group points out:

> The rubric of counter-terrorism can be used to justify acts in support of political agendas, such as the consolidation of political power, elimination of political opponents, inhibition of legitimate dissent … labelling opponents or adversaries as terrorists offers a time-tested technique to de-legitimise and demonise them. The United Nations should beware of offering … a blanket or automatic endorsement of all measures taken in the name of counter-terrorism.[13]

This warning is even more pertinent to the AU. While adherence to human rights standards was not made explicit in the Plan of Action, it was implicit as a principle and provision contained in the Algiers Convention, 1999. Specifically, the Preamble to the Algiers Convention asserts that: "terrorism constitutes a serious violation of human rights and … impedes socio-economic development through destabilisation of states"; and Article 22 provides that: "Nothing in this Convention shall be interpreted as derogating from the

… principles of international humanitarian law, as well as the African Charter on Human and Peoples' Rights."[14]

This will have to be carefully monitored by the AU Commissioner for Peace and Security, in carrying out his or her role in terms of the Plan of Action. Vigilance by human rights groups and civil society interaction with the AU would be invaluable to this process. For example, in South Africa draft anti-terrorism legislation was sent back to the drawing board after human rights organisations criticised it as draconian and unconstitutional. Such scrutiny is even more necessary and challenging in other African countries drafting a single omnibus anti-terrorist law, as required by UNSC Resolution 1373.

The AU has a crucial role to play in policing its own members' adherence to human rights, particularly when the US seems prepared to turn a blind eye to the dubious human rights records of certain countries it regards as strategic in the campaign against terrorism. US relations with countries like Libya and Sudan have undergone significant changes as a result.

Conclusion

Promoting stability in Africa is a long-term investment for combating terrorism. The UN Policy Working Group points out that:

> While there is not necessarily a direct cause and effect relationship between armed conflict and terrorism, containing a crisis, and showing evidence of progress towards resolving the issues underlying it, may lessen support among aggrieved communities for the terrorist groups that purport to represent them.[15]

No military operation can make failed or weak African countries safe unless it is linked to a process of reconciliation and reconstruction of a functioning and legitimate government. Recommendation 17 of the UN Policy Working Group is that:

> states should be encouraged to view the implementation of Council resolution 1373 … as an instrument of democratic governance and statecraft that would help States more effectively control their borders, regulate trade and control the activities of illicit traffickers, terrorists, organised crime and other non-State actors.[16]

There is therefore a common interest in building stability, strength and legitimacy of African states, between the international community and Africa's peoples. The chance for Africa to garner resources for these ends is not to be missed. But it must also not be misused by African governments or foreign powers in the pursuit of narrow, short-term interests.

Africa's battle against terrorism can become a wider campaign against conflict and instability on the continent, and in this way, ensure that the 'global war on terrorism' works to the advantage of a truly global community. The AU meeting in Algiers indicated that Africa's newly transformed regional body is able to provide the political cohesion and sense of purpose needed to sustain regional co-operation to combat terrorism.

Notes

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2 Plan of Action of the African Union for the Prevention and Combating of Terrorism, 14/9/2002, Preamble, article 7.
3 Ibid, Preamble, articles 3, 4 & 6.
4 Ibid, General Provisions, 10(a).
5 Ibid, General Provisions, 10(b).
6 Report of the African Union High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa, Algiers, Algeria, 11-14 September 2002, p 11.
7 Ibid, p 10.
8 Plan of Action, Article 13(c), (h), (i) & (j).
9 Ibid, Article 11(b)-(e) & (g).
10 Ibid, Article 14(e).
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MAKING THE MECHANISM WORK
A view from the African Union

JINMI ADISA

Introduction

The New Partnership for Africa's Development (NEPAD) is an African Union (AU) mandated programme. The African Peer Review Mechanism (APRM) is at the heart of the AU's drive for a broad vision of African rejuvenation and renewal that encompasses peace, security, governance issues, socio-economic development and regional co-operation and reconstruction. This mission impresses upon us the need to put our house in order as a basis for auto-centered development and as a framework for productive engagement with the rest of the international community. The two objectives are intertwined.

The APRM has a critical role to play in this context and the goal of the AU as the parent assembly is to ensure not just that we do it but that we do it properly, so that we can get things right.

The continent has embraced several programmes in the past that were stifled in the process of implementation either because the approach or planning process was ill-conceived or because we could not mobilise general support behind them. This is a mistake that must not be repeated. It is thus imperative that we learn from the experiences of the past. The key lesson of experience is that our good intentions have not always translated into results. We must therefore harness efforts to intentions and the character of such efforts must be informed by the need to work together in an atmosphere of mutual respect. We must also act with transparency in a manner that acknowledges our mutual sensitivities so that our efforts will converge. The process of peer review must begin with our own initial efforts.

It is in this broad spirit that the AU proposes to discuss the structure, concept and processes of the APRM and its strategies of implementation. The AU believes that if we adopt this approach the continent will fare better than it has done in the past and that the sum of our collective efforts will turn out to be greater than its parts. As part of this process, the AU would like to put on record certain broad considerations and concerns that should guide the development of the APRM and its process of implementation.

Salient considerations

First, the AU would like to stress the need to relate structure and processes. The determination of these elements are critical and they will play a significant role in developing the character and form of the APRM and ensuring its success. However, process has to take its cue from structure,

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which relates to the constitutive and regulative rules to allow for congruence. Structural issues would therefore impact critically on the operations and regulative rules of the APRM and vice versa.

Where is the APRM to be located and how would it function?

An important discussion in relation to this question took place at the last meeting of the NEPAD Heads of State Implementation Committee (HSIC). Unfortunately, we have scant records of the discussion and there is some confusion about how it was resolved. It is thus essential that we seek clarification from our political principals on how they would wish us to proceed on this matter. In particular, there is the need for clarification of the mandate given by the Durban meeting on:

- who should have responsibility for housing or location of the APRM Secretariat? Should it be located within or outside the AU?
- role demarcation, responsibility and the functions and relations of the different institutions involved in the process—AU, ECA, ADB, etc. Who will manage it and who should provide the professional expertise and whether or not the two should be combined.

The clarification of these issues would allow for a symbiotic relationship between structure and processes and would enable the APRM to develop on a solid foundation. Significantly also, it has crucial implications for the development of the AU's Work Programme in this crucial period of transition.

Second and related to this, is the need to align processes, where required, to avoid duplication of efforts and to promote cost effectiveness. The Abuja meeting of the HSIC on 26 March 2002 drew attention to this fact and directed that the NEPAD Secretariat and the then OAU Secretariat should discuss further the matter of how to align the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) and NEPAD. To date, not much, if anything, has been done in this regard and the AU believes that the implementation of this directive would be critical for effective implementation of the APRM.

Similarly, stage one of processes of the peer review in the APRM involves a baseline study of political, economic and corporate governance based principally on up-to-date background documentation prepared by the APRM Secretariat and material provided by the national, subnational, regional and international institutions.

How would this be related to the ongoing attempts to build an effective early warning capacity in the AU and to interlink the same with the facilities at the level of the RECs? This is one of the priority focus areas of NEPAD's peace and security programme and it might be useful to interlock efforts to promote harmony and congruence.

Third, is the need for inclusive planning procedures. The invitation extended to the AU and other bodies to attend the Experts' Workshop on Indicators, Benchmarks and Processes for the APRM held in Cape Town earlier this year has this design in view. Much more could, however, be done to promote synergy in our collective efforts. For example, discussion papers could be circulated well ahead to allow for more constructive inputs by all parties.

There is an urgent need to act fast and in a timely fashion and the NEPAD Secretariat is acting constructively to bring a sense of urgency to the realisation of our mutual objectives. The continent has for long required a sense of this time dimension and such efforts must be commended. However, we must also be guided by the requirements of broad-based consultation and planning. We lose and gain by balancing one need against another: we would gain much more, however, by inclusive planning processes and we do not necessarily have to sacrifice much in the way of speed and dispatch in this effort.

Political governance

The issue also directs attention to the distinction between economic and political governance. The perception that appears to be derived from the concept paper is that the

peer review process should be compartmentalised. This could make the process of analysis easier but it may also be prejudicial to considerations of cause and effect. The experience in Africa is often that it is the distortion in political governance processes that impacts detrimentally on economic governance and vice versa. Analytical prisms and methods should therefore be conceived with this linkage in mind.

In terms of indicators and benchmarks for political governance, it would be useful to examine the CSSDCA Memorandum of Understanding that was approved by African leaders in Durban last July. The indicators and benchmarks are based on the collective decisions of African leaders over a broad range of time and are thus endowed with legitimacy. Even so, they cover practically all areas of activity including elections and corruption. Indeed some of the decisions that have been taken in this regard are remarkable.

The area of political governance is a minefield because it is intrusive and touches on the issue of sovereignty as well as legitimacy and could ultimately pitch the managers of a peer review process against the elected authority of various countries. Where there is evidence of executive malfeasance, the manipulation of elections, unconstitutionalism or legislative misdemeanour, those who have legal authority in any state will seek to protect themselves by asking whether or not their electorate has given any mandate to an unelected body to supervise their activity. They could then whip up negative sentiment that would attract popular support, including elements from law enforcement agencies afraid of scrutiny.

In such situations, a panel of eminent persons may find itself in a situation in which its eminent bodies are bundled to airports and hustled out of the country in circumstances that are less than eminent. It is thus essential that political governance indicators also derive authority from some form of supra-national authority and the bulk of these are resolutions, decisions and declarations of the AU. This could be subsidised by internationally accepted norms relating to human rights, the treatment of refugees, etc.

Operationalisation of the process

Finally, the concept paper proposes plans for the operationalisation of the APRM with a priority to:

- take steps to encourage countries to accede to the APRM within six months after the adoption of indicators;
- operationalise the APRM through a) the appointment of eminent persons by the HSIC within three months; b) a formal mandate to the Panel of Eminent Persons and the swearing in of chairpersons and members; and c) a formal mandate to the APRM Secretariat.

In relation to this, there may or may not be a need to clarify the current status of the APRM. If there is, are member states of the AU sufficiently apprised of their responsibilities to the extent that the process can become fully operational? Is there a need to involve the Summit of the whole Union as well as the HSIC in this enterprise? This question assumes relevance because the fifth and final stage of the peer review process provides for the report to be formally and publicly tabled in key regional structures including, specifically, the Pan-African Parliament, the Peace and Security Council, and the Economic, Social and Cultural Council—all of which are organs of the AU.

Also, with regard to timelines, is the appointment of the Independent Panel of Eminent Persons, their swearing-in process and formal mandate subsequent to the accession of members to the APRM within six months as envisaged in the concept paper or prior to it? If prior, how does this relate to Section 7 of the APRM dealing with leadership and management structure, which states that:

> candidates for appointment to the Panel will be nominated by participating countries, short listed by a Committee of Ministers and

appointed by Heads of States of the participating countries.

If the panel is to be appointed within three months in this context, who does the selection and approves the appointment since no member state as of yet has acceded to the declaration? Is there a crucial quorum in view to ensure that those who sign up can have a sense of inclusiveness?

Conclusion

The responsibility for addressing these technical and political questions devolves on not just the NEPAD Secretariat or Steering Committee but also on the AU Commission and all Africans in general. It also calls for broad based consultation since the wider audience is the AU as a whole, including its leaders and people.

THE UNIVERSAL ASPIRATIONS OF THE INTERNATIONAL CRIMINAL COURT

A short comment on the American position

MAX DU PLESSIS

Introduction

The Statute of the International Criminal Court (ICC) was adopted on 17 July 1998 by an overwhelming majority of the states attending the Rome Conference. Included in that body of like-minded nations was a large number of African delegations, and of 54 African states, 44 have signed and 15—South Africa amongst them—have ratified the statute. At a global level, the Rome Statute has currently been signed by 139 states and 76 have ratified it, with the US its most significant absentee. It has been remarkable that within four years the treaty achieved the 60 required ratifications. The statute entered into force on 1 July 2002, at which time the Court's jurisdiction over genocide, war crimes and crimes against humanity took effect (the statute does not have retrospective effect).

This short note will focus on the international aspirations of the ICC when it comes to criminal justice at the global level. The fact that African, American, Asian and European nations were able to come together and finalise the Rome Statute suggests the existence of a social system built on universal respect for the idea of human rights. This system recognises that to allow the most serious war crimes and crimes against humanity to go unpunished diminishes and threatens all those who live under it.

What makes the ICC so significant is that it will be the first permanent international criminal court the world has seen. Africans are, of course, no strangers to the idea of international criminal justice, having witnessed in recent years the creation of the International Criminal Tribunal for Rwanda. But that tribunal had to be created as an ad hoc response by the Security Council to the genocide in Rwanda, because none existed at the time. Now, with the ICC in position, and states universally signing up to its statute, if events such as those in Rwanda (or Yugoslavia) take place again there will be a dedicated and permanent tribunal ready to deal with the perpetrators of genocide, crimes against humanity, and war crimes. In addition, the tribunal, staffed by international officers and backed by international money, will be on call to step in where national judicial systems have collapsed, as was the case in Rwanda.

The prospects for the ICC as a universal protector of humanity become difficult to imagine, however, when not all states buy in to that vision. For the African region it is therefore disheartening that Ethiopia, Mauritania, Rwanda, Somalia, Swaziland and Tunisia have so far not signed the statute. Even more worrying is that the world's most powerful nation has not only opted out of the ICC, but has taken strident

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measures to oppose it. Through its actions the US has set not only a poor example for other nations to follow, but its growing hostility to the Court—starting with its decision to oppose the adoption of the Statute at Rome, and most recently exemplified in its move to 'un-sign' the treaty—does little for the hope of international criminal justice.

With or without the involvement of the Americans, however, the Court is expected to be up and running in March 2003. It is important nonetheless to consider why the US has refused to join the world's first permanent international criminal court, and to appreciate that other nations need not follow suit.

The fear of jurisdiction

US opposition to the ICC is motivated, primarily, by the Court's ability to exercise jurisdiction over crimes committed by nationals of states not party to the treaty.

The ICC Statute creates a system of jurisdiction over the core crimes of genocide, crimes against humanity, and war crimes (the crime of aggression will be hammered out later). Once a state ratifies the Rome Statute or consents to jurisdiction on an ad hoc basis, it recognises the Court's jurisdiction over all core crimes committed by its nationals or on its territory.

In terms of Article 12 of the statute, the Court may exercise jurisdiction if:

a) the state where the alleged crime was committed is a party to the statute (*territoriality*), or
b) the state of which the accused is a national is a party to the statute (*nationality*).

The jurisdictional allowance in a) is anathema to the US since it allows a state party to bring cases before the Court against nationals of a non-party state *if the crime was committed on its territory*. The most serious concern underlying this objection is said to be a political one—the concern that members of the US armed forces, in fulfilling their wide-ranging peacekeeping and security obligations abroad, will be subject to frivolous, politically motivated charges. This, the US suggests, will have a knock-on effect for international peace, in that the US will be forced to reduce its commitment to participate in international peacekeeping missions so as to avoid the risk of its peacekeepers being subjected to malicious prosecution.

In response, the US has taken various measures to undermine the Court and to reflect its opposition. One measure that has attracted much attention is the passing by the US of the American Servicemembers Protection Act 2001. The act restricts US participation in any peacekeeping mission and prohibits military assistance for those nations that ratify the Rome Statute, with the exception of NATO member countries and other major allies (Australia, Egypt, Israel, Japan, the Republic of Korea and New Zealand). Under the act, the US may not participate in any peacekeeping mission unless the president certifies to Congress that the Security Council has exempted US Armed Forces members from prosecution, and each country in which US personnel will be present is either not a party to the ICC, or has an agreement with the US exempting US Armed Forces members from prosecution.

In addition, the act prohibits any governmental entity in the US, including state and local governments or any court, from co-operating with the ICC in matters such as arrest and extradition of suspects, execution of searches and seizures, taking of evidence, seizure of assets and similar matters. Perhaps the most alarming provision of the act, however, is section 8, which authorises the US president to use all necessary and appropriate means to free US or allied personnel detained by or on behalf of the ICC. The act has elicited a marked response from the European Union and, not surprisingly, the Netherlands, which will host the ICC in The Hague. Matters have not been helped by the US efforts in June and July to veto a six-month extension of the UN peacekeeping mission in Bosnia on the grounds that no immunity to the ICC's jurisdiction had been granted by the Security Council to American peacekeepers serving under UN auspices.

Nothing to fear

The US has set its face against the Court and international criminal justice because the ICC will have jurisdiction (even over Americans) by virtue of a crime having been committed on a state party's territory. According to the US, the consent of the state of nationality of the accused is mandatory before an international criminal court can exercise jurisdiction.

At the Rome negotiations the US delegation therefore sought to require the consent of the state of nationality of the accused in every circumstance before the Court could have jurisdiction. Thereby, a state could shield its nationals from the Court, even for crimes committed abroad, by simply withholding its consent to the Court's exercise of jurisdiction.

However, this suggestion did not attract much support from other states at Rome, and for good reason. The world's dictators would too easily frustrate the purpose of the Court—imagine Cambodia, ruled by Pol Pot, giving him or Cambodian nationals up for trial. The Rome Statute therefore reflects a rejection of the American insistence on the consent of the national's state as a necessary ingredient for jurisdiction. As a result, for the ICC to exercise jurisdiction over an offence, the consent either of the state of nationality of the accused or of the state on whose territory the crime was committed, is required.

This jurisdictional allowance is not as controversial as the US suggests. When the states parties to the ICC allow the Court to exercise the type of jurisdiction which it does under Article 12 of the Rome Statute, the Court is being allowed to do so only on the basis of established jurisdictional grounds—that of nationality and territoriality.

On the basis of *nationality*, international law has long recognised that a state may prosecute its own nationals for crimes committed anywhere in the world. And on the basis of the *territorial* principle international law allows a state to claim jurisdiction over a person who commits crimes on its territory, regardless of that person's nationality. It is the territorial principle and its ramifications for non-party states which underlies the US objection to the Court. However, this principle has been recognised for many years. As Philippe Kirsch, Chairman at the Rome Conference, has explained, the Rome Statute:

> does not bind non-parties to the statute. It simply confirms the recognised principle that individuals are subject to the substantive and procedural criminal laws applicable in the territories to which they travel, including laws arising from treaty obligations.

Indeed, the US is itself party to numerous international conventions that empower states parties to exercise jurisdiction over perpetrators of any nationality found within their territory, regardless of whether the state of the accused's nationality is also a party to the treaty. Such conventions include the 1949 Geneva Conventions, the 1970 Hijacking Conventions, and the 1984 Torture Convention, to name but three.

In any event, there are various safeguards built into the statute which ensure that all states have nothing to fear from the Court, and which ought to allay US fears of a rogue prosecutor acting out of spite against American peacekeepers. The Preamble to the Rome Statute says that the Court's jurisdiction will be *complementary* to that of national jurisdiction. The complementarity scheme creates a complex relationship between national legal systems and the ICC, but in a nutshell, the Court is required under the statute to decline to exercise jurisdiction when a case is being appropriately dealt with by a national judicial system.

Because a national judicial system will have the first bite at the cherry in respect of any investigation which affects its territory or its nationals, the ICC will be able to step in only where a national judicial system is *unwilling* or *unable* genuinely to investigate. The principle ensures that the ICC operates as a system of international criminal justice which buttresses the national justice systems of states parties. In any case, Article 18 of the Rome Statute requires that the ICC

prosecutor notify all states parties and states with jurisdiction over the case before beginning an ICC investigation, and cannot on his/her own initiative begin an investigation without first receiving the approval of a Chamber of three judges. At this stage, it would be open to states (including non-party states) to make it clear that they will investigate allegations against their own nationals themselves. In such a situation the ICC must then suspend its investigation. The Court will only take over if the national system is unable to investigate, for example, because of a breakdown in its judicial systems (the Rwanda example) or because it had refused to investigate without appropriate justification.

If it had investigated and subsequently refused to prosecute, the Court could only proceed if it concluded that that decision was motivated purely by a desire to shield the individual concerned. This, one can surmise, is an unthinkable prospect in any state committed to the Rule of Law if an accusation appeared to have any basis in fact. South Africa, along with other like-minded states such as the UK, Canada and New Zealand, is therefore satisfied that its citizens enjoy the complementarity safeguard built into the statute and confident that its nationals would be protected from malicious or politically motivated prosecutions.

Conclusion

The overriding concern of the international community to bring an end to impunity for war crimes and crimes against humanity will be advanced significantly by the emergence of the ICC. The US balks at the thought of its nationals being dragged before the Court on trumped up charges by a gung-ho prosecutor. This is a trumped-up fear that other states need not react to once they realise that the Court's exercise of jurisdiction is well within the parameters of existing international law principles, and that the Court will act only where national jurisdictions cannot. Those African states (committed to the Rule of Law) that are still dithering about signing the Rome Statute need fear nothing—national legal systems retain the option to prosecute if they are able and willing.

While the current US administration does not appear open to persuasion on this point, this should not be allowed to detract from the international aspirations of the Court. Only with universal acceptance of the ICC—by Africans, Americans, Asians and Europeans—will the world be in a proper position to bring an end to impunity for gross violations of human rights.

THE SOUTH AFRICAN STRATEGIC DEFENCE PROCUREMENT PACKAGE AND ECONOMIC GROWTH

Are they mutually exclusive?

MARTIN SEHLAPELO

Introduction

In September 1999 the South African government decided to acquire defence equipment valued then at R30.3 billion in order to retain an effective defence capability. Part of this deal included the National Industrial Participation Programme, which was aimed at developing South Africa's manufacturing sector. After the Standing Committee on Public Accounts (SCOPA) report concerning the possibility of corruption in the Strategic Defence Procurement deal, the view that South Africa does not require the equipment gained in prominence. This has often been backed up by reference to the high and rising levels of unemployment and poverty in South Africa. Many citizens seem to be saying that the money should be used to provide water, build houses or finance social upliftment programmes.

In simple terms economic growth refers to the improvement in the economy. In economic terms, it refers to the increase in gross domestic product (GDP) in real terms. Economic growth is, however, not synonymous with economic development, although it is hardly possible to conceive of development in the absence of such growth, since the latter includes key elements such as improvements in the quality of life through access to water, schooling, etc.

Security and development

The new concept of security as accepted by the South African government, expressed in the White Paper on Intelligence, is that:

> (t)he main threat to the well-being of individuals and the interests of nations across the world does not primarily come from a neighbouring army, but from other internal and external challenges such as economic collapse, overpopulation, mass migration, ethnic rivalry, political oppression, terrorism, crime and disease, to mention but a few.[1]

Within this context, the view that the military is the primary agent of security is no longer prevalent. Schoeman[2] suggests that security and development are the same thing: one being the condition and the other the process. This is different to how former Deputy Defence Minister Ronnie Kasrils justified the Strategic Defence Procurement in Parliament by arguing that security is a prerequisite for development.[3] What should be noted is that in terms of these concepts, additional actors become relevant rather than the traditional agents like the military. In the process, development and security become intertwined.

The vision of the South African Department of Defence includes the provision of modern, affordable and

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technologically advanced defence capabilities; this is seen to be in accordance with the provisions of the constitution.[4] Concepts like affordability and technological advancement are notoriously difficult to measure and can thus give any defence planner freedom of action.

Deterrence

Despite the fact that the Defence Review that was concluded in 1997 does not directly link the concept of a technologically advanced defence force to deterrence, one is likely to lead to the other. Deterrence is the ability to dissuade a potential adversary from resorting to a particular course of action by making him believe that the costs of pursuing that action outweigh the benefits. For deterrence to succeed the potential adversary should be convinced that South Africa has the necessary military potential as well as the political will to use it, should the need arise. Deterrence is a fundamental pillar of the South African government's approach towards defence.

That said, the question is: how far should a country be advanced for military technological advancement to deter a potential opponent and at what cost should this be pursued? Visser[5] suggests that South Africa should seek a technological advantage relative to its potential opponents. This does not mean that a technological advantage will necessarily deter potential adversaries. Major General (now president) Paul Kagame of Rwanda had this to say on this subject:

> We are used to fighting wars in a very cheap way. Our people don't drive tanks. We don't have aircraft, people move on foot and they eat very little food. We can go on like this for many years.[6]

Inasmuch as it is difficult to predict the outcome of any war based on the military potential of any country, it is also difficult to determine the exact contribution of technological advantage towards military power. At the same time most countries rely on acquiring some military power to avert the risk of being threatened.

All things being equal, if the Democratic Republic of the Congo had had an effective and strong defence capability, chances are that Rwanda and Uganda would not have invaded it. Similarly, the balance of mutually assured destruction during the Cold War might have been costly, but it prevented a world war between the major powers while simultaneously restricting and exporting war to those countries on the global periphery.

Offsetting the financial drain

As already alluded to, the procurement will be mitigated by a number of mechanisms to offset the financial drain on the fiscus. These are in the form of Defence Industrial Participation (DIP) and the Non-defence Industrial Participation (NIP) programmes, which were developed in line with the government National Industrial Participation Programmes (NIPP) for all public sector procurement where the imported content exceeds $10 million.[7]

The government originally expected the offsets to deliver R35.8 billion in investments and R31 billion worth of counter-purchases, all of which—it assured the public—would create more than 65,000 permanent jobs, transfer skills and technology, as well as create opportunities for South African companies to export other goods.[8] The R35.8 billion that will be invested in South Africa already exceeds the total procurement spending, especially when considering the

Projected defence spending and GDP in South Africa[9]

	2000/01	*2001/02*	*2002/03*	*2003/04*
GDP (Rbn)	897.9	987.2	1069.3	1154.9
Total Defence Budget as % of GDP	1.6%	1.6%	1.6%	1.5%
Arms Payment Programme (Rbn)	2.849	4.220	5.078	5.828
Payment Programme as % of GDP	0.32%	0.43%	0.47%	0.50%

Source: SA Budget Review

multiplier effect and is a sufficient argument to counter arguments that the R30 billion invested on the defence of the country is a waste of resources. The government also emphasises that the defence budget is well below the international norm at 1.5% of GDP, and that after including the strategic procurement package in its calculations, it will still be in the region of two per cent of GDP or below—the World Bank guideline for developing countries. It can be seen from the table opposite that in the short term, the payment programme has a limited effect on the total defence budget as a percentage of GDP of between 0.32% and 0.5% per annum. Without refurbishment and replacement South Africa's defence capability would be reduced and this will impair the country's deterrence potential.

Economic growth

Roux[10] identifies four factors that contribute towards economic growth: land and natural resources; labour; entrepreneurship; and capital. He correctly argues that should any of these increase, the GDP is also expected to increase.

With regard to natural resources, former Deputy Minister of Defence Ronnie Kasrils argued that maritime resources are plundered by foreign vessels within the economic exclusion zone of South Africa.[11] This is one example of how the country can exploit additional resources, leading to economic growth.

South Africa's problem with labour is that most of it is unskilled.[12] By creating 65,000 or more jobs, the skills base of South Africa will increase. With the increase in the labour force, GDP will increase and with the new skills acquired other jobs will most likely be created. Government spending guidelines encourage the development of entrepreneurs, which is not only for this procurement, although there seems to be no direct link with increasing entrepreneurship.

Creating regional peace

South Africa has to be interested in regional peace in order to create an environment conducive to investment. As a regional power the country will have to play a bigger role in peace efforts. This involvement will require South Africa to have some reasonable capability. Internationally, the more prosperous a country, the more it is likely to spend on defence,[13] although this spending must be managed in order that it not reduce the amount of capital available for investment. This is done by focusing less on imports; as such, GDP is not negatively affected. The nature of the current deal creates the potential that this trend may also be possible in South Africa within the next 20 years.

Batchelor, Dunn and Saal's[14] research on South Africa's growth and military spending between 1989 and 1995 supports the idea that military spending can have a positive effect on the economy. In evaluating the above argument it should be taken into consideration that South Africa requires both economic growth and a deterrent capability. The question should therefore not be whether the R30 billion, or whatever the actual amount is, should be used for defence procurement or other opportunity costs, but rather how to maximise the benefit of any defence procurement for economic growth.

Conclusion

- Economic growth on its own will not lead to economic development: simply targeting economic growth is therefore not enough.
- A technologically advanced defence force contributes positively to deterrence and hence to avoid the economic destruction associated with armed conflict.
- These latest procurements will not represent a significant change in defence spending as a percentage of GDP. South Africa will therefore still remain within the acceptable defence-spending ratio for countries in its category.
- Even though it cannot be quantified, the defence procurement, if properly managed, will contribute towards

economic growth: procuring defence equipment does not stall economic growth.

- It is important for the South African National Defence Force to be more technologically advanced than its potential adversaries and this should be consistently maintained rather than engaging in expensive one-off programmes.
- Irrespective of whether corruption existed within the current procurement process, South Africa requires the equipment it has ordered. The programme should therefore continue, especially considering that the longer it takes to implement it the harder the fiscal impact of the deal.

Notes

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