SOUTHERN AFRICAN SECURITY REVIEW

2015

Edited by
Anthoni van Nieuwkerk
and Catherine Moat

Cover Art:

Erik Schnack's cyborgian installation evokes a distinct sense of unease. The interactive structure moves the viewer to confront the paradoxical relationship between technological advancement and humankind. The work examines the debate around our relationship with technology. Much of humanity's existence has shifted into a virtual space. As the distinction becomes increasingly blurred, the difference between what is real and what is virtual is difficult to define. The paradox of a painstakingly handcrafted cyborg portrays the shift from the material to the artificial world where a cyborgian self receives more nurture and care than the physical self. It is the artist`s hope that the internal conflicts operating within the installation will encourage us to engage more responsibly and caringly in our relationship with technology and humanity.

Erik Schnack lives and works in Windhoek/Namibia as artist and lecturer. "A Cyborgian Trans(per)formance" is a multi-media installation work in progress for the degree of Master in Visual Arts at the University of South Africa.

Photographs: Michel Dei-Cont

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ABOUT THE AUTHORS

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Dr. Mxolisi Notshulwana holds a BA in Political Science from the University of Pennsylvania; a MSc. in International Policy (IP) from the University of Bristol and a Ph.D. in Regional Integration from Wits University. He is currently based at the Development Bank of Southern Africa (DBSA) as a Senior Specialist - Infrastructure Programme. Previously, he was a senior manager in the South African Government and Head of Policy Directorate at the Government Communication and Information System (GCIS). Additionally, Mxolisi had a short teaching career at the University of Fort Hare as well as at the Nelson Mandela Metropolitan University (NMMU), lecturing political economy, regional integration, international political economy and political science. Mxolisi occasionally publishes articles in the Thinker Magazine on regional integration, BRICS and on developments in the infrastructure space in Africa.

Dr. Motlamelle Anthony Kapa obtained a BA in Political Science and Public Administration from the National University of Lesotho (NUL) in 2002; a MA in Political Science from the University of Toronto, Canada in 2005, and PhD in Politics from Rhodes University, South Africa in 2011. Since 2002, he is a Senior Lecturer and Head of Department of Political & Administrative Studies at the NUL. His professional activities include examination of theses and dissertations for the NUL, the University of South Africa and University of KwaZulu-Natal; consulting services on governance issues in Lesotho for the government of Lesotho and the United Nations Development Programme (UNDP); Electoral Institute for Sustainable Democracy in Africa (EISA);Open Society Initiative for Southern Africa (OSISA) and briefing international elections observer missions. Motlamelle has publications in the areas of elections and conflict; political parties and coalitions; traditional leadership and local government.

Dr. Mark Shaw holds a PhD from the University of the Witwatersrand and is a National Research Foundation Professor of Justice and Security at the Centre of Criminology, University of Cape Town. He is also Director of the Global Initiative against Transnational Organized Crime in Geneva and Senior Visiting Fellow at the London School of Economics and Political Science (LSE) IDEAS International Drug Policy Project. Prior to joining UCT he previously worked in a number of senior positions for the United Nations Office on Drugs and Crime. In South Africa, he has held a number of positions in government, civil society and think tanks. Mark has just completed a book on the evolution of organised crime in South Africa, which is due out in 2017. He is currently writing a study of the United Nations Convention against Transnational Organised Crime.

Dr. Lucy Shule holds an M.A in Political Science from the University of Dar es Salaam (Tanzania) and a Ph.D from the University of Newcastle (Australia). She works at the Mozambique-Tanzania Centre for Foreign Relations and has since 2005 served as a Researcher/Lecturer in the Southern African Defence and Security Management (SADSEM) Network. Additionally, she is a guest lecturer and served as an external examiner to a number of academic and training institutions.

Lucy's research interests and the focus of her publications are on foreign policy, gender, international political economy, conflict resolution as well as other aspects of defence and security.

Catherine Moat holds a MA (Econ) from the University of Manchester's Institute of Development Policy and Management. She is an emerging researcher after spending two decades in the practitioner space. She is currently pursuing PhD studies at the University of Konstanz where her research focuses on governance responses to transnational organized crime. Before undertaking PhD research in 2016, Catherine headed the Public Safety Programme at the Wits School of Governance where she managed the executive education, research and outreach of the programme that covered diverse topics in the criminal justice, public safety, and policing. In addition, she convened the Post-graduate Diploma in Security and continues to teach the Public security and Justice module of the programme.

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Dimpho Motsamai holds an MA in International relations from the University of the Witwatersrand and is presently completing her doctoral studies at Wits University's School of Governance in Johannesburg, South Africa. She is an experienced African security and development analyst with over 8 years of work. She is currently a Senior Researcher for the Institute for Security Studies, specializing on Southern Africa. She has broad experience with advising policymakers on security, politics and foreign policy issues and processes. Dimpho publishes extensively on conflict and governance issues in countries of the Southern African Development Community (SADC) and how SADC evolves and functions.

ACRONYMS AND ABBREVIATIONS

ABHS	Advisory Board on Human Security
ACC	Anti-Corruption Commission
ACPP	Africa Conflict Prevention Pool
AEC	African Economic Community
AGOA	African Growth and Opportunity Act
AIMS	African Integrated Maritime Strategy
AMISOM	African Union Mission in Somalia
AMLC	Anti-Money Laundering Council [of the Bank of Namibia]
AMU	Arab Maghreb Union
APSA	African Peace and Security Architecture
ASCLME	Agulhas/Somali Current for Large Marine Ecosystem Project
ASEAN	Association of Southeast Asian Nations
ASF	African Standby Force
ASSN	African Security Network
AU	African Union
BCC	Benguela Current Commission
BCLME	Benguela Current Large Marine Ecosystem
BDF	Botswana Defence Force
BoN	Bank of Namibia
BNP	Basotho National Party
BRICS	Brazil-Russia-India-China-South Africa
CAADP	Comprehensive African Agricultural Development Plan
CADSP	Common African Defence and Security Policy
CCR	Centre for Conflict Resolution [Cape Town]
CDR	Coalition pour la Defence de la Republique
CEN-SAD	Community of Sahel-Saharan States
CFTA	Continental Free Trade Area
CHS	Commission on Human Security
CIO	[Rhodesian] Central Intelligence Office
CODESA	Convention for a Democratic South Africa
COMESA	Common Market for Eastern and Southern Africa
CONSAS	Constellation of Southern African States
CPEX	Command Post Exercise [in Maputo, Mozambique]
CSO	Central Statistical Office
CSOs	Civil Society Organization

CSS	Centre for Strategic Studies
CTFTP	Counter-Terrorism and Financing of Terrorism Policy
DBSA	Development Bank of Southern Africa
DC	Democratic Congress
DFI	Development Financing Institution
DFID	Department of International Development [British]
DRC	Democratic Republic of Congo
EAC	East African Community
EASFCOM	East Africa Standby Force Coordination Mechanism
EAS-IO	East Africa, Southern Africa and the Indian Ocean Region
ECCAS	Economic Community of Central African States
ECOSOC	Economic and Social Commission
ECOWAS	Economic Community of West African States
ECPM	European Centre for Development Policy Management
EEZ	Exclusive Economic Zone
EIMS	ECOWAS Integrated Maritime Security Strategy
EISA	Electoral Institute for the Sustainability of Democracy in Africa
EMB	Election Management Bodies
ENDE	Estrategia Nacional de Desenvolvimento
EPA	Economic partnership Agreement
EROC	Enhance Response to Organized Crime
ESAAMLG	Eastern and Southern African Anti-money Laundering Group
EU	European Union
FAO	Food and Agriculture Organisation
FATF	[Paris-based] Financial Action Task Force
FCO	Foreign and Commonwealth Office [British]
FDI	Foreign Direct Investment
FES	Friedrich-Ebert-Stiftung
FLS	Frontline States
FOCAC	Forum of China-Africa Cooperation
FOPRISA	Formative Process research for Integration in Southern Africa [Norwegian funded]
FRELIMO	Frente de Libertacao de Mozambique
FTEX	Field Training Exercise [code-named GOLFINHO, Lohatla, South Africa]
FTLRP	Sat Track Land Reform Programme
GCPP	Global Conflict Prevention Pool
GFTA	Grand Free Trade Area

GICW	Global Islamic Civil War
GIZ	Deutsche Gesellschaft fur Internationale Zusammenarbeit
GLR	Great Lake Region
GNU	Government of National Unity
GOA	Gulf of Aden
GPA	Global Political Agreement
HDI	[UNDP's] Human Development Index
HIPC	Highly Indebted Poor Countries
HSN	Human Security Network
HSU	Human Security Unit
ICGLR	International Conference on the Great Lakes Region
IBSA	India-Brazil-South Africa [alliances]
ICARA	International Conference on Assistance to Refugee in Africa
ICC	International Criminal Court
ICPs	International Cooperating Partners
IG	Inclusive Government
IGAD	Intergovernmental Authority on Development
ILEA	International Law Enforcement Academy
IMF	International Monetary Fund
IMO	International Maritime Organization
INEF	Institute for Development and Peace [at the University of Duisburg, Germany]
INF	International Neutral Force
IPA	International Policy Analysis
IPDSC	Interstate Politics and Diplomacy Committee
IRTC	Internationally Recommended Corridor
ISDSC	Inter-state Defence and Security Committee [of the FLS]
ISPDC	Inter-state Politics and Diplomacy Committee
ISRI	Institute of International Relations
ISS	Institute for Security Studies
IUU	Unreported and Unregulated Fishing
JOMIC	Joint Monitoring and Implementation Committee
JOSPC	[Namibian] Joint Offshore Protection Command
LCD	Lesotho Congress for Democracy
LDCs	Least Developed Countries
LDF	Lesotho Defence Force
LHWP	Lesotho Highlands Water Project
LMPS	Lesotho Mounted Police Service

MAPEX	Map Exercise [in Cabo Ledo, Angola]
MCC	Millennium Challenge Corporation
MCO	Ministerial Committee of the Organ
MDC	Movement for Democratic Change
MDCs	More Developed Countries
MDG	Millennium Development Goal
MEC	Malawi Electoral Commission
MOD	[British] Ministry of Defence
MNF	Mwalimu Nyerere Foundation
NAMFISA	Namibia Financial Institutions Supervisory Authority
NAMPOL	Namibia Police Force
NAMPOWER	National Power Authority
NARC	North Africa Regional Capability
NATO	North Atlantic Treaty Organisation
NCA	National Constitutional Assembly
NCIS	Namibia Central Intelligence Agency
NDPs	National development Plan
NDP	New Development Bank
NGO	Non-government Organisation
NEPAD	New Partnership for Africa's Development
NPC	National Planning Commission
NRM	National resistance Movement
NSPF	National Security Policy Framework
NSS	Namibian Security System
NSSA	National Social Security Authority
OAU	Organisation of African Unity
OCHA	Office of the Coordination of Humanitarian Affairs
ODA	Official Development Assistance
ONUMOZ	United Nations Operations in Mozambique
OPDSC	[SADC] Organ on Politics, Defence and Security Co-operation
OPV	Offshore Patrol Vessel
OSISA	Open Society Initiative for Southern Africa
PAC	Pan African Congress
PARMEHUTU	Movement de L'Emancipation des Bahutu
PARP	Poverty Reduction Strategy Papers
PCRD	[AUs] Post-Conflict and Reconstruction Policy
PF	Parliamentary Forum
PLANELM	Planning Element [of the SADC Standby Force]

PIDA	Programme for the Infrastructural Development in Africa
PRAU	UNISA – Policy Research and Analysis Unit
PSC	Peace and Security Council
PSOs	Peace Support Operations
RECs	Regional Economic Communities
RENAMO	Resistencia Nacional de Mocambique
REWC	Regional Early Warning Centre
RISDP	Regional Indicative Strategic Development Plan
RMs	Regional Mechanisms
RPTC	Regional Peacekeeping Training Centre
SAARC	South Asian Association for Regional Cooperation
SABC	South African Broadcasting Corporation
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
[SADC]MCO	SADC Ministerial Troika of the Organ
SADPA	Southern African Development Partnership Agency
SADSEM	Southern African Defence and Security Management network
SAG	South African Government
SAIIA	Southern African Institute of International Affairs
SALW	Small Arms and Light Weapons
SAN	South African Navy
SAPs	Structural Adjustment Programmes
SARPAM	Southern African Regional Program on Access to Medicines and Diagnostics
SARPCCO	Southern African Regional Police Chiefs Co-operation Organisation
SASR	Southern African Security Review
SEAC	SADC Electoral Advisory Council
SEZs	Special Economic Zones
SHADE	Shared Awareness and Deconfliction
SIPO	Strategic Indicative Plan for the Organ on Politics, Defence and Security Co-operation [SADC]
SIPO II	Revised Strategic Indicative Plan for the Organ on Politics, Defence and Security Co-operation
SLOCs	Sea Lines of Communication
SMDP	SADC Mutual Defence Pact
SNC	SADC National Committees
SOMILES	SADC Observation Mission to Lesotho

SSF	SADC Standby Force
SSR	Security Sector Reform
SUA	Convention Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation
SWANU	South West African National Union
SWAPO	South West African Peoples Union
T-FTA	Tri-partite Free Trade Area [between SADC, COMESA and the EAC]
UMA	Arab Maghreb Union
UNAMID	United Nations-African Union Mission in Darfur
UNCLOS	United Nations Convention on the Law of the Sea
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commission for Refugees
UNITA	National Union for the Total Independence of Angola
UNODC	United Nations Office on Drugs and Crime
UNTFSH	United Nations Trust Fund for Human Security
UNTOC	United Nations Transnational Organized Crime Convention
US AFRICOM	United States Africa Command
WB	World Bank
WHO	World Health Organisation
ZANU	Zimbabwe African National Union
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZAPU	Zimbabwe African Peoples Union
ZIPSET	Zimbabwe Peace and Security Education and Training
ZoPC	Zone of Peace and Cooperation
ZoPCSA	Zone of Peace and Cooperation in the South Atlantic

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Anthoni van Nieuwkerk and Catherine Moat

We also thank the authors of the chapters for dedicating time to producing chapters that as a volume provide an overview of the pressing security issues facing the region.

Anthoni van Nieuwkerk and Catherine Moat

SASR 2015 editors.

INTRODUCTION

Anthoni van Nieuwkerk & Catherine Moat

As elsewhere, security in Southern Africa is not a singular perspective or set of ideas. The chapters of this book reveal the diversity of thinking, decisions and strategies for creating security and responding to threats in the countries in the region. The intended and unintended consequences of these approaches, internally and on the interactions between neighbours and global players, link to the lived experiences of inhabitants in the region. This volume provides policy makers and academics with insights and thinking into current security trends and challenges. The intention is that these chapters will serve to deepen and broaden ideas that contribute to building greater stability to security challenges in the region.

The trends under discussion in this edition of the Southern African Security Review (SASR) – diplomacy, democracy and organised crime – follows from the engagements with academics and practitioners at the annual Maputo Dialogue – a partnership activity between the members of the Southern African Defence and Security Management (SADSEM) network and the Maputo Office of the Friedrich Ebert Foundation. The first edition of the SASR focused on peace and security conceptual debates, institutional frameworks, and case studies of peace and security management in the region. The Maputo Dialogue now sets the agenda for research conducted by members of the SADSEM network and is debated at the Maputo Dialogue before being made available via the biannual SASR. In this manner the academic-practitioner interface is addressed and through these intellectual engagements the organisers hope to contribute to peace and security in Southern Africa. Feedback after the launch of the first edition of the SASR suggests that students, analysts and indeed policy makers find the contents of the SASR useful and in some cases they are used to give practical effect to the design and management of peace and security structures and practices in the Southern African region.

The first chapter of this volume positions the security trends and approaches in the region within the philosophy of regional integration and the idea that any new strategy to address peace and security ought to look beyond conventional 'threat assessment' approaches to incorporate insights from a broad universe of data and information, using the human security paradigm as an ordering device. The next eight chapters of the Southern African Security Review are then focused on three themes that are pertinent to the current security context: the diplomacy of regional security; elections, democracy and stability; and the impact of organised crime in Southern Africa.

In the theme on diplomacy of regional security, state integrity and strategies for managing threats form the basis for understanding the evolution of continental, regional and sub-

regional interplay. Tanzania's role in the Great Lakes Region provides a case for peacemaking approaches adopted and tested over several decades. It offers insights into political, economic, social and environmental factors with which decision-makers ought to be familiar in shaping SADC agendas, policies and strategies. The ongoing situation in Burundi makes this a live case with ongoing diplomatic efforts complementing security strategies and operations. Extending the academic lens further and wider, the chapter on the regional and continental approach to maritime security highlights the requirements for integrated approaches to ensuring the security of the waters in the region. So too, the chapter on security on the Horn region illustrates the necessity for security thinkers and actors to include situations further afield in their analyses of security threats and maintenance in their home countries and the region.

In the second theme, elections, democracy and stability, the trends in the region are explored through the lens of systemic and consistent democratic practice – and threats to this. Several countries in the region have had national elections in the last two years. In the main these elections indicate a recognition that elections are accepted and that protocols consistent with generally accepted norms and standards are followed. This contributes to the regional integration project by providing consistency in governance practice. The regional challenges though that are experienced provide insight into the approaches to governance that are at odds with such practice. The implications of this for regional stability are explored by the authors in this theme.

The third theme is more specific than the first and second. The narrower focus on organised crime offers the reader a particular lens through which to consider two quite different factors. The first is that the evidence that does exist and that is accessible points to the complexity of governing in a climate where patronage often trumps rule of law. The second is that the potential for undertaking significant, evidence-based research into matters of governance and security in the region is challenging. Chapter seven provides a chilling account of the criminalization of the state in the Southern African context and chapter eight deepens the analysis by providing an overview of the state of research in this critical arena of security. Both chapters provide insights into situations that negatively affect prospects for useful regional integration and advancing security.

The Review concludes with a brief overview of the nature and activities of the Southern African Defence and Security Management (SADSEM) network.

OVERVIEW OF CHAPTERS

THEME ONE:

The Diplomacy of Regional Security

In chapter one, authors Van Nieuwkerk and Notshulwana sketch what they believe to be some of the key factors and trends shaping Southern African Peace and Security. They argue that the promotion and consolidation of peace and security in Southern Africa is a strong driver behind the integration philosophy of SADC and that over the years, it has adopted a peace and security Protocol and two strategies — although as they point out, the implementation and impact of these elaborate frameworks remain outstanding. The chapter recommends that as the region contemplates yet another strategic peace and security framework, it is appropriate for its decision-makers to consider the range of factors impacting on the region's democracy, security and stability.

The authors then identify and describe such a range of contemporary factors, including political, safety and security, socio-economic, developmental, food, health and environmental factors. The chapter is mostly a descriptive study, drawing on several recent data sets available in the literature.

The authors advise that any new strategy to address peace and security ought to look beyond conventional 'threat assessment' approaches to incorporate insights from a broad universe of data and information, using the human security paradigm as an ordering device.

In chapter two Shule examines regional security and Tanzania's mediation in attempting to promote security in the Great Lakes Region. The Great Lakes Region (GLR) has seen waves of conflict, and continues to do so. Shule reflects on Tanzania's deliberate choices in attempts to secure stability in the region. This commitment in the region dates back to the 1960s. Using the cases of Rwanda and Burundi, the chapter reviews Tanzania's historical and current foreign policy and involvement in the GLR. Shule's main argument is that historical relations with the GLR countries have largely influenced Tanzania's post-Cold War conflict resolution strategies.

This reflects a balancing act between economic diplomacy, and a facilitative approach towards peace through agreements.

The country's concern about the GLR has largely been influenced by promotion of regional security rather than economic interests.

In chapter three Kornegay explores SADC's maritime security equation. At a time when Africa is considered as a major 'emerging market' and the attendant economic dynamism and

demographic momentum, it is also experiencing equally critical security challenges. Kornegay places emphasis on the implications this irony holds for the continent generally and SADC in particular. He notes that given that SADC is Africa's only bi-coastal regional economic community (REC), its uniqueness within the context of the continent's integration in the global maritime commons from north to south, east to west is explored with particular focus on the southern sea-lanes nexus joining the Indian and South Atlantic Oceans.

The chapter also identifies the implications for southern hemispheric tri-continental integration between Africa, South America and Asia. These need to be spelled out given the geopolitical-economic security interests of powerful external actors plying the waters of the southern oceans. Within the overall African continental context, Kornegay argues that there is an urgent need for African analysts and policy makers interacting with external stakeholders to consider the comparative continental-maritime security connectivity interfacing Africa's RECs within the African Union (AU). This relates to its African Integrated Maritime Strategy (AIMS) and how AIMS might inform South and Southern African strategy within SADC and interactively with other RECs in advancing the objectives of AIMS. The chapter concludes by exploring initiatives that might be considered to enhance Africa's maritime security and oceans governance capacity and capability.

In chapter four, Mulugela examines whether piracy in the Horn of Africa (and beyond) constitutes a threat or offers opportunities. The Horn of Africa is one of the most unstable regions in Africa. Ongoing intra-state and inter-state conflicts, and piracy off the coasts of Somalia threaten regional security. The waters of the Western Indian Ocean and the Gulf of Aden have been designated as high-risk areas. This has caused disruption in international trade routes and caused significant costs to the international economy.

The combined efforts of the international and regional stakeholders have resulted in incidences of piracy having subsided substantially. However sustaining this result is challenging, hence, there is a growing call for local and regional actors to take ownership of the fight against piracy. This chapter analyzes the impact of piracy and counter-piracy operations on states in the Horn of Africa and further South to determine if these states are up to the challenge.

THEME TWO

Elections, democracy and stability

In chapter five, Kapa provides the reader with an overview and trend analysis of elections and democratisation in SADC since the early 1990s until 2014. The trends suggest that despite some challenges regarding the management of the electoral process, the region remains on a democratisation track. The chapter identifies and discusses several of these challenges, including issues around the quality of voters' registers, equitable access to state resources by political parties, administrative capacity of elections management bodies (EMBs) and perceptions about these, and the acceptance of electoral outcomes.

Kapa notes that regional elections are becoming competitive as opposition parties grow in strength thereby challenging one-party-dominant systems, which define regional political systems. He advises that the improvement of the quality of elections and electoral processes require SADC member countries to pay careful attention to and implement the recommendations of elections observer missions.

In chapter six, Motsamai examines SADC interventions in Lesotho between 2012-2015. Lesotho experienced a renewed security crisis in August 2015. It followed a change of government after early polls in February. They resulted in a new seven-party coalition government headed by the country's former opposition – the Democratic Congress (DC). The coalition was the second in Lesotho's history – but also the second in the last two years. The early poll was recommended by the SADC facilitation mission deployed in 2014 to quell insecurity. It was expected to restore political stability and security to the country. This was under the framework of its peace facilitation mission led by South Africa's Deputy President Cyril Ramaphosa. A security accord to calm tensions between the country's key security structures, the Lesotho Defence Force (LDF) and the Lesotho Mounted Police Service (LMPS), was also agreed.

However, as Motsamai notes, insecurity has since persisted, along with doubts on whether existing political arrangements are capable of accommodating and sustaining the changes required by SADC settlements. The changing character of, and interplay between, security and political interests in the country has increasingly manifested itself in ways that have circumvented SADC resolutions. These developments have serious consequences for Lesotho, as well as for SADC.

THEME THREE

The Impact of Organised Crime on Southern Africa

In chapter seven, Shaw argues that organised crime is the greatest long-term threat to security in the SADC region; and indeed on the continent. This chapter argues that illicit flows and criminal networks are a critical feature to be analysed within the economic, social and security frameworks of Africa, and Southern Africa in particular, but are in fact integral to the understanding of governance and the state itself: the protection economy.

Shaw applies the model of organised crime and state formation to the African context. He notes that ethnographic studies of countries such as Mozambique, the Democratic Republic of the Congo (DRC) or Zimbabwe have analysed the evolution of organised crime within a continuum of state-crime networks. However, he points out that constraining the analysis within national boundaries belies both the unique features of regional organised crime and transnational flows. Serving as critical nodes in criminal economies, a set of actors are instrumental to sourcing illicit goods, ensuring the smooth passage of transnational illicit flows and realising their monetary value in destination markets. In order to successfully play their role, these actors must have a privileged relationship to the state, or specific institutions of the state, thereby making the state itself a defining feature of criminal networks in Southern Africa that has become essential to criminal success. Thus, these transnational flows and the networks that enable them have uniquely bound the SADC region together socially, economically and politically.

In chapter eight, Moat provides an overview of research on organised crime in Southern Africa from the early 1990s. She points out that at this time the opening of financial markets increased flows of money globally, both licit and illicit. Since then, the research into all aspects of organised crime illustrates the nexus between state actors and criminals, and the perpetual consequence that curbing organised criminal activity remains elusive. A broad spectrum of research indicates that responses in the Southern African region are uneven in their application within countries and as a region. In the main, research is concentrated in South Africa with very few regional studies and country studies outside of South Africa. In addition, this expanding area of criminal activity now includes cyber-based and terrorist activities.

Here the research is very underdeveloped. Moat notes that while the picture emerges of a fertile organised crime environment across the region, conducting research in the region is challenging. The availability of reliable data and varying degrees of willingness to have this made available for study hinders quantitative and qualitative data collection and analysis. This relatively under-researched area of security has also not received sustained support from

regional bodies. The consequences of this for regional policy development are that evidence-led regional and national strategies are currently improbable. Meaningful alternatives for integrated regional responses will remain elusive without useful flows of information and an openness to research studies. Moat suggests that the potential to turn this around may present itself in the restructured regional security architecture that is likely to be forthcoming.

The Southern African Defence And Security Management Network.

www.sadsem.org

The Southern African Defence and Security Management (SADSEM) network comprises eleven tertiary partner institutions throughout the SADC region. Members include centers at Universities in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa and Zimbabwe, as well as centers in Angola and Tanzania. The network's Secretariat rotated between the University of the Witwatersrand in Johannesburg, Mzuzu University in Malawi and currently the University of Namibia.

The network seeks to contribute to peace and security in Southern Africa by strengthening the democratic management of its defence forces and other security organs.

It does so primarily by offering specialised training programmes to officers, officials and non-state actors involved in managing defence and security in the region.

It also undertakes research on defence and security issues, and helps governments in the region to develop defence and security policies.
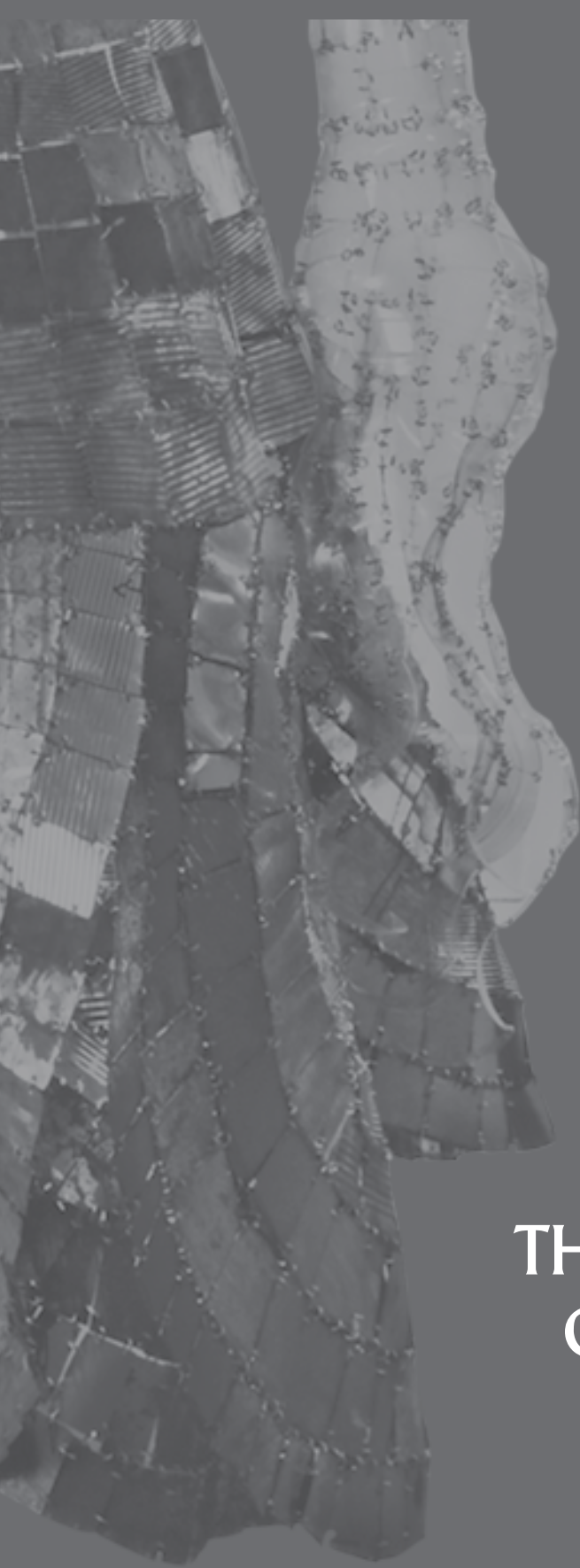
THE DIPLOMACY OF REGIONAL SECURITY

A critical examination of the key factors and trends shaping Southern African Peace and Security

Anthoni van Nieuwkerk & Mxolisi Notshulwana[1]

SUMMARY

The promotion and consolidation of peace and security in Southern Africa is a strong driver behind the integration philosophy of the Southern African Development Community (SADC). Over the years, SADC has adopted a peace and security protocol and strategy (the Strategic Indicative Plan for the Organ on Politics, Defence and Security Co-operation or SIPO) — although the implementation and impact of these elaborate frameworks remain outstanding. As the region contemplates yet another strategic peace and security framework, it is appropriate for its decision-makers to consider the range of factors impacting on the region's democracy, security and stability.

Informed by the human security philosophy, this chapter identifies and describes such a range of contemporary factors, including political, safety and security, socio-economic, developmental, food, health and environmental factors. The chapter is mostly a descriptive study, drawing on several recent data sets available in the literature.

The authors advise that any new strategy to address peace and security ought to look beyond conventional 'threat assessment' approaches to incorporate insights from a broad universe of data and information, using the human security paradigm as an ordering device. This chapter provides a snapshot of these diverse factors impacting on the quality of life of the SADC citizen and hence the need for a particular kind of philosophical approach and institutional arrangements to secure the people and states of the region.

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1   We gratefully acknowledge the research assistance of Karien Schribante. Interpretation of facts and errors of judgment fortunately remain with the authors.

INTRODUCTION

The Southern African Development Community (SADC) is an expression by countries of the Southern African region to collaborate in the interests of peace, security, democracy and development. SADC is first and foremost an arrangement facilitating economic integration in order to 'improve the quality of life of the peoples of the region'. The SADC vision is one of

> …a common future, a future within a regional community that will ensure economic well-being, improvement of the standards of living and quality of life, freedom and social justice and peace and security for the peoples of Southern Africa.

In order to promote and consolidate peace and security, in 2001, SADC agreed to a Protocol on Politics, Defence and Security Co-operation that provides for an Organ on Politics, Defence and Security Co-operation ('the Organ') under the control of SADC Summit. The Organ has its own set of regional structures and mechanisms for policy formulation and implementation.

The SADC Organ and its Directorate have overseen the creation and implementation of two successive peace and security strategic plans: the Strategic Indicative Plan for the Organ or SIPO (established 2004) and a revised version, known as SIPO II, established in 2010.

Formal and informal evidence (Van Nieuwkerk, 2013, Nathan, 2013) suggests that the factors impacting on implementation include not only challenges with programme design and management, appropriate structure and staffing, lack of financial resources to fund related operations, regular and systematic monitoring and evaluation but also institutional politics and political control, donor policies and politics, and contextual factors especially fragile or conflict-prone environments. An internal review led to the establishment of SIPO II in 2010 (and a delayed launch in 2012). The formal lifespan of SIPO II came to an end in August 2015 (but was extended by another year); an evaluation of the implementation of SIPO II is arguably overdue.

Approaches to the design of future Southern African peace and security strategic plans must be preceded by a thorough understanding of SIPO's successes, achievements, failures and challenges. It must also spell out the rapidly evolving strategic context of historical, socio-economic, political, and institutional settings, as these are factors that will impact directly on the architecture and content of a new peace and security plan for SADC.

This chapter aims to contribute to the construction of a future SADC peace and security strategy by providing an overview of the critical factors and trends affecting Southern

African Peace and Security which, in the authors' view, ought to be taken into consideration by the policy formulators as they strategize a future peaceful SADC. The chapter will base its overview on the seven components to human security as popularised by the UNDP's HDR and as outlined by Tadjbakhsh and Chenoy (2007), as replicated (in adjusted format) in table one below.

Table One: Adapted from Tadjbakhsh and Chenoy (2007).

TYPE OF SECURITY	DEFINITION	CONSEQUENCES OF FAILURE TO PROVIDE SECURITY
Peace and stability	Living in a society that honours basic human rights	Political or state repression, including torture, disappearance, human rights violations, detention and imprisonment
Personal	Security from physical violence	Violence from the state (torture), other states (war), groups of people (ethnic tension), individuals or gangs (crime), industrial, workplace or traffic accidents
Socio-Economic and Developmental	An assured basic income	Poverty, unemployment, indebtedness, lack of income, inequality, little or inappropriate training and education,
Food	Physical and economic access to basic food	Hunger, famines and the lack of physical and economic access to basic food
Health	Protection from diseases and unhealthy lifestyles	Inadequate health care, new and recurrent diseases including epidemics and pandemics, poor nutrition and unsafe environment, unsafe lifestyles
Environmental	Healthy physical environment	Environmental degradation, natural disasters, pollution and resource depletion

From the authors' perspective these categories are relevant to the Southern African context and the bulk of the chapter will be populated with a review of relevant literature and critical reflections on available data relating to these categories and its meaning for the region. The authors are also mindful of the deep-seated inter-state engagements on both the internal and external sources of the six categories. In this regard, this chapter provides an analysis of these categories to establish the historical, socio-economic and political as well as institutional

factors upon which to build the narrative framework about new regional security architecture.

The methodology in the chapter is exclusively qualitative; however there are elements of the categories that are quantitative in their indicators. Historical information on the categories is found mostly in scholarly books and journals as well as in reports of regional and international organisations. Thus the chapter is based on an overview of literature on the six themes and how these might serve as the basis for the construction of a new regional peace and security architecture.

THEME ONE:

Peace, Stability, Safety and Security

Given the Southern African region's exploitative colonial and turbulent post-independence history and developmental trajectory, securing peace and stability remains a challenge. SADC was established in 1992 (with its forerunner, the Southern African Development Coordinating Conference in 1980) to deal with these issues. The security challenges facing the region are not essentially military, but largely political, social, and economic. Poverty and underdevelopment are at the heart of the region's human insecurity. To address these themes, SADC has developed the RISDP, which together with the SIPO provides the common SADC agenda.

In terms of peace and security, Southern Africa is generally less violent and unstable than any other region in the African continent. However SADC faces simmering conflicts in the eastern part of the DRC, and political instability in several member states: Madagascar, Swaziland, Malawi, Mozambique and Zimbabwe. The majority of SADC member states undertake regular, and relatively free and fair elections, but democratisation remains a struggle particularly for weak, crisis-prone states.

The main objectives of SADC are to achieve development, peace and security, and economic growth, to alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa, and support the socially disadvantaged through regional integration, built on democratic principles and equitable and sustainable development. The SADC leadership is rhetorically committed to full integration in both the socio-economic and security arenas - and to the eventual merging of these two agendas into one, human security, agenda.

However, practice reveals the maintenance of a stable (but not always efficient) organisation, used by members to behave in a disaggregated manner, driven by the overriding demands of national interest and sovereignty. This is displayed by the complex and at times dysfunctional relationship between the SADC Organ Directorate and the SADC Secretariat, and between these two internal arrangements and member states, and between them and non-state actors and ICPs. Motsamai (2013) provides a similar perspective by noting that the SADC Organ remains reactive rather than proactive in its work and identifies several key underlying factors that influence these complex relationships:

- ¤ Weak SADC capacities for early warning, conflict prevention and management
- ¤ Extreme shortage of skilled staff

- ¤ Insufficient awareness at the SADC Organ of the stakeholders of the PSGG objectives and its deliverables beyond the SADC Secretariat

- ¤ Uneven progress in the signing, ratification and implementation of key SADC peace and security protocols such as SIPO

- ¤ Uneven and non-existent SADC National Committees (SNCs)

- ¤ Weak division of labour or interaction with regional and international organisations such as the United Nations (UN), African Union (AU) or Parliamentary Forum (PF).

SADC, however, has made progress on several political and security fronts. These include:

- ¤ The building of trust and confidence by sharing and exchanging information,

- ¤ Establishing the SADC Mutual Defence Pact,

- ¤ Operationalising a Standby Force and Early Warning Centre as part of the wider African Peace and Security Architecture,

- ¤ Integrating policing in the region as part of the Organ's mandate, and

- ¤ Advancing democratisation via the establishment of an Electoral Advisory Council and Mediation Unit, as well as actively participating in conflict prevention and election management and oversight processes in the region.

Another notable achievement is the very existence of a policy framework that governs the SADC peace and security agenda: the SIPO and its revised version adopted in 2010 and launched in Arusha in 2012. The five themes addressed by this policy framework relate to SADC's political, defence, state security, public security and police sectors. The table below highlights the purpose of each of the sectors.

Table Two:

SECTOR	BRIEF DESCRIPTION
Politics and Diplomacy	This sector seeks to promote good governance among member states on the basis of shared political values and practices, improved conflict management, improved disasters.
Defence	This sector seeks to enhance participation in peacekeeping, roll out the SSF, and provide support to civilian authorities.
State security	This sector seeks to prevent the subversion of the constitutional order, and deal with economic threats to member states, by regularising intelligence exchanges among state security agencies and services in the region.
Public security	This sector seeks to address the threats associated with organised crime syndicates by co-ordinating the activities of law enforcement, public safety, correctional services and prisons, immigration, parks and wildlife, and customs and refugee agencies.
Police sector	This sector focuses on prevention of cross-border crime, and enhancing law and order by co-ordinating the activities of the region's police services and forces.

Regarding gender, the SADC Protocol on Gender and Development of 2008 calls on Member States to put in place measures that will ensure equal gender representation in conflict resolution and peace-building processes in accordance with the UN Security Council Resolution 1325. This is important against the backdrop of an alarmingly high occurrence of gender-based violence in Southern Africa and male-dominated official peace and security related processes, which is also reflected in the small number of women employees in the SADC Organ Directorate.

In 2011 the SADC Organ developed the Framework for Mainstreaming Gender into the SADC OPDSC (2012-2015) stating that "gender has not been mainstreamed in the peace and security architecture of SADC" and that "women do not feature as key players in peace negotiations processes or in the decision-making roles of the security sectors". The

Framework aims to prevent violence against women, to protect women during conflicts and to promote women's engagement in peace-making, peacekeeping and peace-building."

The SIPO, however, does not yet reflect gender in a sufficient manner. The subject is mentioned as one of 20 challenges in the area of public security and one of 15 challenges for the police sector but is almost unreflected in the objectives, strategies and specific activities for the public security sector.

Democracy and stability are key variables impacting the regional integration project. It is not always evident how the former influences the latter and this remains an important area of research. Motsamai provides a thoughtful analysis of regional dynamics shaping (enabling and frustrating) processes of democratisation. As she points out, the overall picture of the region is one where most countries have established political systems based on electoral accountability and alteration in leadership, but the persistence of past patterns of authoritarian governments, socioeconomic inequalities, and inadequate attention to the delivery of services continues to impede the consolidation of democratic governance in SADC member states (Motsamai, 2013).

Several analysts describe a dual political culture at work in the region. Some countries with a history of multiparty democracies and strong state institutions set the pace for democratic consolidation through regular elections and leadership rotation (including leadership transitions in the ruling parties). However some political systems are marked by authoritarian political practices where ruling parties barely countenance opposition parties, or where violence and intimidation are used to maintain power. In between, the majority of Southern African countries could be characterized as fledgling democracies that made incremental efforts to erect participatory institutions and institutionalize the separation of powers via checks and balances. They struggle with weak political parties and parliaments, strong executives, and apathetic mass engagement in politics.[2]

Finally, Motsamai (2013), Kaunda (2010), Van Nieuwkerk (2012) and others have commented on the state of public policy decision-making in the region. Motsamai (2013) draws attention to the question of legitimate processes of policy-making, and notes that the capacity of governments in Southern Africa to formulate sound policies has depended on how elected bodies have negotiated vital public policy questions with various stakeholders, including civil society and the wider public. In these intricate negotiations, she points out, representative institutions have had to grapple with the tensions between effectiveness on one hand and accountability, transparency, and responsiveness on the other hand.

She also notes that government effectiveness is an attribute of the ability of bureaucratic

2   For a comprehensive discussion of political systems in Southern Africa see Kadima and Booysen, 2009.

institutions to implement policies crafted by legislative and executive branches. Throughout the region, countries have continually faced capacity deficits in bureaucratic institutions that stem from inadequate investment in education, low professionalism, and recruitment patterns that are not meritocratic. The institutional landscape for policy effectiveness therefore ranges from weak states recovering from civil wars such as Angola and the DRC and strong states such as Botswana, Mauritius, and South Africa with steady legacies of bureaucratic competence. The latter states have variously laid claims to the status of democratic developmental states because of strong bureaucratic systems and robust representative institutions. The majority of Southern African states have made progress in resuscitating public service institutions for policy implementation but still lack adequate capacity. Bureaucratic constraints are further magnified where legislative institutions cannot perform their oversight roles and where political leaders still command significant policy discretion.

Overall then, regarding governance challenges, SADC's vulnerabilities are deepened by incomplete and weak state building processes; strong executives and weak parliaments; low government effectiveness; weak links between (democratic) electoral events and better governance; weak safety and rule of law; inefficient natural resource governance; and socioeconomic marginalisation (Motsamai, 2013).

THEME TWO:

Socio-Economic Development

The Southern African Development Community (SADC) is composed of fifteen countries at various levels of industrial development. SADC has a combined total of more than 200 million inhabitants but there are large differences between countries in terms of size, language spoken, levels of economic development, trade patterns and factor endowments (ADB, 2013). The group is diverse and includes least developed countries (LDCs) and middle income countries (MICs). In spite of the economic imbalances amongst its member states and the relatively small size of the market, in the African context, SADC's aggregate GDP of about USD 990 billion (in 2010 prices) is more than double that of ECOWAS, and equivalent to more than half the aggregate GDP of Sub Saharan Africa (SSA). It also has the highest GNI per capita in the whole of SSA (SADC, 2010).

The snapshot of the economic structure of SADC countries depicts a heterogeneous picture and reflects different stages of development of individual countries. The output structure is typical for a developing region where large shares of GDP originate from primary sectors (agriculture and mining). Agriculture plays a key role in forming the national product in

DRC, Tanzania, Malawi and Madagascar; while the mining sector leads economies in Angola, Botswana and Swaziland, where the total contribution to GDP is greater than half of the cumulated value-added (SADC, 2010).Two countries in particular, DRC and Tanzania, derive about 45 per cent of their GDP from agriculture. Industry, broadly defined including mining and manufacturing, is the main source of GDP as pronounced in Angola and Botswana owing to oil and diamonds respectively. The services sector is dominating in relatively developed countries, Mauritius and South Africa but also Zimbabwe owing to a previous strong manufacturing base. The level of development of the services sector is likely to relate to the level of development of the manufacturing sector and level of export-orientation of the national economy (IMF, 2012).

Within the industrial base of Southern Africa, in particular manufacturing is weak and its contribution to the GDP is minimal. Most countries in the region are characterised by the predominance of small industrial units, which mostly produce for the national and regional markets. The industrial sector is nearly excluded from international competition, especially where protectionist and neo-Marxist policies are practiced. Only South Africa and Mauritius possess considerable manufacturing sectors producing around 20 per cent of GDP (AfDB, 2009). Swaziland and Lesotho's manufacturing capacities are mostly due to the emerging textiles sector, which benefited from the favourable export framework within the AGOA agreement with the USA. The once significant manufacturing sector of Zimbabwe has stalled as a result of several factors, including political uncertainty, flow of cheap foreign merchandise, higher input costs and shortages in foreign exchange for imported raw materials and components (World Bank, 2013). With respect to real GDP growth, the trend is positive in most countries except Zimbabwe, which has declined continuously. Swaziland is also not doing well as the annual rate of economic growth is below 3% for the period 2000 to 2006. SADC countries need to maintain GDP growth rates of above 7% for a longer period in order to make a noticeable dent in poverty reduction and achieve the MDGs (UNECA, 2013).

For most of the last decade, the SADC region recorded rising growth rates, falling inflation, improved fiscal deficits, and favourable terms of trade, declining debt levels, and low current account deficits (IMF, 2005). The declining trend of outstanding external debt over the decade resulted from debt forgiveness through the Highly Indebted Poor Countries (HIPCs) and the Multilateral Debt Relief Initiative (MDRI) but also sound fiscal management (AfDB, 2009). However, the recent global economic recession has inflicted damage on the region's economy, due to a sharp drop in the external demand and prices of mineral commodities on which many of the countries depend (AfDB, 2009). According to the World Bank 2010, Doing Business Report, the Southern African region is the best performing African region in terms of ease of doing business (World Bank, 2010). In general however, only 5 out of 12 Southern African countries are ranked among the top 100 performers globally. Low levels of education, skills

and poor health tend to lower productivity and competitiveness, particularly in labour-intensive industries.

Education is a crosscutting issue when it comes to human security (UNESCO, 2011). Not only should education be provided equally, issues of quality, cost efficiency and cost effectiveness are also important. In Southern Africa, the ratio of dependent children per person of working age remains the world's highest and thus more government expenditure needs to be allocated to the education sector then in other regions. Yet, teaching has become increasingly insecure, even though teachers are regarded as the mainstay of quality in basic education (Lauwerier & Akkari, 2015).

Post-conflict countries face issues of low human development specifically in education and literacy rates. Low human development is impacted by disease and poor health conditions, which in turn impacts back on education and the cost for education. Declining foreign investment impacts several African countries and although intra-regional integration is being explored, a large part of regional trade still depends on trade with non-SSA countries.

International aid has increased for many reasons, including the Millennium Development Goals (MDGs), but, as is already being seen, this high reliance on foreign aid increases vulnerability to external conditions. Even though education systems are expanding in SSA, international goals require not only enrolling but also retaining students in the education system until the end of the primary cycle.

Scenario analysis of Africa has become attractive but the outcome of scenario development processes and evaluations of utility has often been limited. Despite this, there are several examples of applications addressing questions of public interest at national, regional and continental levels of analysis. Foresight techniques have been especially prominent in South Africa where scenarios continue to be used as a tool for creating dialogue at a national level on the future of the country. These techniques have also been used in analysis of the scale of the AIDS crisis in Africa. Uncertainty is placed in the centre of the analysis and the focus is on exploration of different outcomes rather than prediction.

Lunsgaarde (2012) provides a compendium of insights based on scenario and mapping exercises of development trends in Africa and from this research we learn the following.

¤ While the scale of intra-African trade has also expanded in recent years, it remains modest in comparison to trade with other world regions. The level of intra-regional trade on the continent is also low in comparison to intra-regional trade within other world regions. South Africa is the main pole for exports in Africa, which reflects the important role that emerging powers play in the intra-African trade structure.

¤ Obstacles limiting the expansion of intra-regional trade include the small size of most African economies, poor infrastructure, and political factors like corruption,

unfavourable economic policies and political tensions. For some African countries, neighbouring countries provide the most important markets and the expansion of intra-African trade could be beneficial in terms of diversifying production in African countries. Aid dependency ratios are higher in SSA than in other regions of the world.

¤   Although developmental assistance is a useful vehicle to promote reform, it can serve as a barrier to institutional development because it can provide incentives for leaders to be less responsive to domestic accountability systems and less motivated in mobilising domestic resources for the development.

¤   Agriculture plays a pivotal role in domestic economies in Africa, especially in SSA. Although women play a larger role in the production of food crops that are used for domestic consumption, women's work has a lower income and limited access to land also restricts economic opportunities of women.

¤   In Southern Africa, many live under the poverty line. The benefits of recent economic growth have not been distributed evenly, especially in resource-rich countries, and this is an important economic and political problem in addition to being a measure of social progress.

¤   Levels of human development are determined by education and health measures. While the school enrolment rate has improved, SSA has the lowest primary school ratio worldwide. Current development trends in the health sector in SSA are dismal as average ratios for child mortality rates and maternal mortality is double of those in other developing countries.

¤   Disagreements between SADC members persist with respect to interventions in domestic affairs, as seen in the recent case of the Zimbabwe crisis. In recent years almost all African conflicts have been intra-state rather than inter-state conflicts. This is due to a growth in peacekeeping operations and military spending.

Water scarcity will continue to be a challenge for many African countries due to the increased population growth, changes in the climate and in land use patterns. The expansion of irrigation could contribute to increases in agricultural productivity. Slow improvements in agriculture are due to underutilization of irrigation, limited investments in technology, rural infrastructure, unfavourable economic policies and inequalities in land distribution.

THEME THREE:

Food Security

The region's food system is characterised by environmental degradation, high dependency on fossil fuels, and marginalisation of small farmers and high levels of food insecurity amongst poor rural and urban households (AfDB, 2010). Critical issues for the food security challenge in Southern Africa are that the majority of households experience hunger and are at risk of extreme hunger (AfDB, 2010). In urban areas, 70% of poor urban households are reported to live in conditions of significant and severe food insecurity (Hartzenberg, 2011). Almost 50% of women and 30% of young men do not have nutritional diets that have less high saturated fats and sugars, leading to chronic diseases amongst the poor. Critical limits to agricultural production are due to a shortage of arable and high fertility land. Current and projected climate change has effects on water, exacerbated by the fact that most parts of the region are dry country (AfDB, 2010).

A major problem in Southern Africa remains the level of food insecurity and malnutrition. Africa's vulnerability as regards food provision is emphasised by the fact that a large number of people are suffering from malnutrition and are facing starvation. An estimated 70% of the population depends on agriculture for full time employment and many others rely on agriculture for part of their household income (SADC, 2013). At current rates it is estimated that Africa will be able to feed less than half of its population in the current year (2015). Agricultural GDP per farmer has over the last two decades risen by 2% per annum in Asia, nearly 3% in Latin America but less than 1% in Africa (SADC, 2013). Farmers have been working harder, more people have taken up farming, but productivity has not increased.

The underlying causes of malnutrition are the result of the availability of, access to and control of resources in society, which are determined by ecological, technical, economic, social, political and ideological conditions. Causes at this level are referred to as basic causes. Resources are of three main types: human capabilities (people, their knowledge, skills and time); economic resources (assets, land, income, etc.) and organisational resources (formal and non-formal institutions, extended family and child care organisations). Poverty, understood as a lack of resources and opportunities, and the structural factors that give rise to poverty, are thus basic causes of malnutrition. The two essential elements of food security are the "availability of food and the ability to acquire it" (SADC, 2013). These premises are a major challenge and can be described as the two sides of the hunger equation, namely supply and demand for food:

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¤ The first premise is that there is increased food availability through increased domestic production, storage, and/or trade. Availability of supplies goes hand in hand with stability of supplies - severe fluctuations in food availability or accessibility, caused by such factors as droughts, floods, sharp price increases or seasonal unemployment, leave people vulnerable; and

¤ The second premise is that, because poverty is the root cause of hunger and malnutrition special efforts are needed to help increase access and entitlements to food through home production, the market or food transfers.

However, agriculture currently consumes 60% to 70% of national water supply, and contributes around 3% to 4% of GDP, even though volumes of farm produce have increased, along with revenues. The sector also employs 8.5% of the national employed workforce (SADC, 2013). The result will be increased pressures on farmers to use water more efficiently (e.g. by using water licensing controls). Energy & oil price increases have negative impacts on farmers, who struggle to survive as profit margins shrink (Ranganathan, 2011). Pressures exerted by global retailers on food prices have artificially lowered food prices, leading to increased pressure on commercial and small farmers alike at a global scale, which is now globally one of the professions with the highest suicide rates for both small scale and commercial scale farmers (Ranganathan, 2011). Climate change impacts on water may reduce soil moisture, and maize production may fall by ~30%. Commercial farmers in Southern Africa, by and large, already practice precision farming, and are already within high water efficiency standards. Existing regional policies for food security and agriculture do not support a green oriented food economy, and mainly focus on commercial agriculture, and not on small-scale farmers.

THEME FOUR:

The Environmental Context

The SADC region is committed to integrated and sustainable development as reflected in the SADC treatise and protocols as well as in the region's active participation in major Multilateral Environmental Agreements.[3] Although there has been some progress in environmental management, there are still high levels of pollution, loss of biodiversity,

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3   These include the United Nations Framework Convention on Climate Change, the United Nations Convention on Climate Change, the United Nations Convention to Combat Desertification, the United Nations Convention on Biological Diversity, the Basel Convention on Persistent Organic Pollutants, and the Ramsar Convention.

inadequate access to clean water and sanitation services, and land degradation and deforestation. It has been estimated that over 75% of the land in the region is partially degraded, with 14% being classified as severely degraded (AfDB, 2008). Soil erosion has been identified as the primary cause of declines in agricultural production. And SADC has protocols, governing wildlife, forestry, shared watercourse, and the environment including climate change.

Climate change is eroding decades of hard-won development achievements in Southern Africa. Increased climatic variability results in floods, droughts and storms and consequently damages scarce infrastructure, aggravates food crises and disrupts socio-economic development in the region (AfDB, 2008). The impact of floods, loss of biodiversity, desertification, and erratic rainfall and higher temperatures have resulted in extreme drought in many places including in South Africa. Rising water levels due to climate change are increasing the environmental vulnerability of island countries and even threaten their existence. Closer regional cooperation in meteorological services for enhanced water shed management to increase food security throughout the region might be accomplished through capacity building efforts.

In view of South Africa's energy-intensive industries and the predominance of coal as a cheap source of energy, South Africa is one of the five highest greenhouse gas emitting emerging markets[4] and accounts for 65% of Africa's emissions. To mitigate the impact of climate change, South Africa and other countries in the SADC region have commenced promotion of clean energy resources in particular through DBSA and other funding in clean technology.

A review of the evidence on the potential impact of higher food prices on poverty in Africa identifies three types of policy responses: the first policy attempts to stabilize rising prices by affecting the aggregate supply and demand balance (Wodon, Q & Zaman, 2009). The second broad type of policy response revolves around using existing safety net instruments to either increase benefit levels or increase beneficiary coverage. However, while many countries in Sub-Saharan Africa have food-based transfer programs, the coverage of these programs tends to be small (in part due to lack of financing), relative to needs. The third type of policy measure involves supporting domestic food production, though impacts here typically accrue over the medium term. Scaling up or introducing free or subsidized input distribution (for example Malawi), or the government import of fertilizers (for example Tanzania), are common short-term responses, though they often have significant fiscal consequences.

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4   The other ones are China, India, Brazil, and Mexico, South Africa accounts for only 1.5% of greenhouse gases emitted globally.

The number of people living in urban areas is rising particularly rapidly in SADC. In order to provide a picture of the state of urban food insecurity in Southern Africa, the African Food Security Urban Network (AFSUN) undertook a baseline urban food security survey in eleven cities in nine countries in Southern Africa in 2008-9 (Frayne, et al, 2010). Overall, the study found that: four out of five households sampled in all 11 cities are food insecure, there is a temporal dimension to urban food security, dietary diversity is poor, poverty and food insecurity are directly correlated, food price increases have negatively impacted four out of five households surveyed, food security has a gender dimension to it, with female centred households the most food insecure (although by a small proportion), inter-household food transfers are important (especially for food insecure urban households), urban agriculture is an important source of food amongst poor households. Dealing with urban food poverty will therefore be a major policy and development challenge to city and national governments across the SADC region over the coming decades, especially due to persistent urbanization and poverty.

The damaging effects of environmental degradation on human security in sub-Saharan Africa (SSA) have received far less attention than they deserve Akokpari, 2012). Environmental decay reflected in deforestation, climate change, the loss of biodiversity and pollution is on the increase and impacts negatively on the fragile human security condition in SSA. Human insecurity, conceived of as threats to human life, is dramatized in economic insecurity, food shortages and malnutrition, violent conflicts, health insecurity, personal insecurity as well as in environmental decay. While these disconcerting developments persist, even escalate, SSA states have remained passive observers to the drama. Governments in the region have only paid lip service to environmental conservation. Although environmental regimes are established these have had little impact on environmental conservation. This stems from a number of factors including the tendency to classify environmental issues as "low politics". Consequently, states consider themselves under little, if any, obligation to pay attention to environment conservation. The desire to increase revenue from timber exports has helped accelerate the rate of deforestation in SSA. The result has been continuous degradation of the environment and the inevitable heightening of human insecurity in SSA.

THEME FIVE:

Health Factors

The SADC region adopted the Millennium Development Goals (MDGs) at the Millennium Summit of the United Nations, confirming to the world's political leaders that the region is committed to reducing poverty and improving the health of the poorest

of the poor in many societies. Despite international commitments to the MDGs, the recent reviews and evaluations of progress show that Africa has lagged behind in almost all the targets in the MDGs (UNECA, 2009). While key health outcomes such as infant survival and nutritional stunting have improved over the last decade, most developing countries are unlikely to achieve the MDGs for reducing under-five mortality, maternal mortality, and the spread of communicable diseases. Africa and Asia are the worst affected regions (World Bank 2010). One of the greatest challenges facing the SADC region is the adverse effects of the HIV and AIDS epidemic on social, political and economic development. With the highest prevalence of HIV, Southern Africa is grappling with the severe impact of the maturing HIV and AIDS epidemic. The related opportunistic infections such as tuberculosis (TB) have caused a serious strain on member states' health budgets.

The importance of nutrition and human health cannot be overemphasized. Households affected by HIV and AIDS experience decreased or loss of income, and as a result, are unable to buy nutritional food as the cost of health services escalate. At the regional level, SADC has adopted a Strategic Framework for a multi-sectoral response driven by the individual Sectoral Coordinating Units located in different member states. The Health Sector Coordinating Units are mandated to provide overall coordination of the regional response. The Regional Indicative Strategic Development Plan (RISDP) recognises that combating diseases, including epidemics and infectious pandemics is integral to poverty reduction and development in the region. Long term responses and coordination depends on the development and implementation of evidenced-based health interventions.

In this regard, the SADC Secretariat has established a mechanism for exchange of technical information from both scientific and behavioural research among member states as a key output of the SADC HIV-AIDS Business Plan (2005-2009). The SADC Health Protocol deals with communicable disease control in Articles 10 to 12, requiring that member states cooperate to harmonise appropriate standard policies. The Protocol on Gender and Development addresses matters related to gender-specific health care needs. Universal access to health treatment for all men, women, girls and boys and the elderly is often raised as critical. Many donor programmes have been established in the region to address diseases including epidemics and pandemics. The Southern African Regional Programme on Access to Medicines and Diagnostics (SARPAM), sponsored by the UK Aid, promotes a more efficient and competitive market for essential medicines in the SADC region. The programme supports the SADC Pharmaceutical Programme with access to information about medicines, understanding of intellectual property to assist in building SADC member states' capacity in pharmaceutical policy reform.

Working with ten other UN agencies, UNAIDS is co-sponsoring a programme aimed at preventing HIV infections and AIDS related deaths as well as the prevention of discrimination.

The World Health Organisation (WHO) provides evidence-based technical support to the efforts of SADC member states in supplying treatment and prevention. Despite significant investment and donor programmes in HIV-Aids and health in general in the SADC region, the health system might not be ready for the likely increase in the number of people that present for prevention, treatment and support in the next five (5) to fifteen (15) year period. Sustained strengthening of the SADC Health system will be critical to limit possible collapse, as more people require care. Critical success factors will need to be put in place for the successful implementation of the SADC health interventions stated above including:

¤   Proper recruitment of competent health professionals and chief executive officers for hospitals

¤   Boosting the programme management capability and internal capacity for new infrastructure planning and monitoring

¤   Strengthen and implement SADC's vision to turn around a legacy of dysfunctional regional health systems.

¤   Coordination of efforts and health resources for the accelerated implementation of comprehensive multi-sectoral health interventions for disease prevention, treatment and care.

¤   Provision and sharing of technical information between regional governments, private health sector and other health stakeholders

¤   Training and development for human capacity building and skills development appropriate for the SADC region.

CONCLUSION

This exploratory chapter has identified and examined the key factors with the greatest potential to shape the future of the Southern African region. In particular, it has identified the interplay of five themes as critical in terms of providing security for its people: peace and security, personal safety, socio-economic and developmental trends, food security, health factors and the state of the environment. Any new strategy by SADC to address peace and security ought to look beyond conventional 'threat assessment' approaches such as crime or terror to incorporate insights from a broad universe of data and information, using the human security paradigm as an ordering device. This chapter provides a snapshot of these diverse factors impacting on the quality of life of the SADC citizen and hence the need for a particular kind of philosophical approach and institutional arrangements to secure the people and states of the region. And in the final analysis, the development of any new

regional strategy can no longer be undertaken without the participation of a wide range of stakeholders drawn from the state and non-state sectors. Nothing less than the credibility of the regional organisation is at stake.

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Regional Security and Tanzania's mediation in the great lakes region: lessons learnt

Lucy Shule

ABSTRACT

The Great Lakes Region (GLR) has historically gone through waves of conflict. While regional and international actors have been involved in the management of the conflicts, Tanzania has assumed a specific role. The country's commitment in the region dates back to the liberation struggles period, as it was the case in Southern Africa. This chapter reviews Tanzania's current foreign policy and involvement in the GLR. The main argument is that historical relations with the GLR countries have largely influenced Tanzania's post-Cold War conflict resolution strategies. The chapter further argues that even though the current foreign policy focuses on economic diplomacy, the country's concern about the GLR has largely been influenced by promotion of regional security rather than economic interests. The chapter is divided into four major parts, focusing largely on Rwanda and Burundi. Parts one and two review the nature and historical context of the GLR conflicts, including initiatives adopted by Tanzania to promote regional security. Part three provides lessons drawn from Tanzania's foreign policy and its involvement across the GLR and lastly, the conclusion.

INTRODUCTION

The Great Lakes Region (GLR) comprises an area defined in terms of geographical features, the region covers an area surrounded by five lakes – Albert, Edward, Kivu, Tanganyika and Victoria. This is different from the other sub-regions such as South or Eastern Africa whose identification is in terms of economic and/or security cooperation. Developed during the nineteenth and twentieth centuries the term "Great Lakes Region" has been used to refer to the territory found between the lakes, by then named the interlacustine region. Since then the area has been characterised in terms of endless conflicts. As is the case in the other sub-regions, intra-state conflicts cause instability to the neighbouring countries and ultimately the whole region.

In the post-Cold War period an increasing number of actors have been involved in managing the GLR conflicts. They range from individuals – eminent statespersons, countries as well as other institutions at the regional and international levels. Tanzania has been working with most of these actors in promoting regional security. This is partly because from the early 1990s regional and sub-regional actors have increasingly been assuming the responsibility to manage the conflicts. The adoption of the Cairo Declaration in June 1993, for example, facilitated the then Organisation of Africa Unity's (OAU) immediate response to Rwanda. In Burundi's case, the international community's intervention remained minimal until 1993 following President Melchior Ndadaye's assassination.

This chapter is about Tanzania's foreign policy and the facilitation of peace talks in the GLR. Whereas during the liberation struggles and promotion of political diplomacy Tanzania seemed to concentrate more on the Southern African region, the country was also involved in resolving the GLR conflicts. The main argument is that historical relations with the GLR countries have largely influenced Tanzania's post-Cold War facilitation of the peace talks in the GLR. The chapter further argues that besides promotion of economic diplomacy, Tanzania's concern about the region has largely been on promotion of regional security rather than economic interests. Using Rwanda and Burundi's experiences lessons will be drawn from across the region.

The nature of Rwanda's conflicts

Conflicts have occurred in Rwanda since the 1930s. This discussion will focus on the 1959 conflict onwards. Named the "the social revolution," the 1959 conflict was intended to liberate the people and subsequently change the socio-political and socio-economic

structures.[5] The Catholic-educated Hutu succeeded in removing the King from power and conducted elections at all levels. The conflict, nevertheless, did not neutralise the ethnic relations that existed instead; Hutu elites replaced the Tutsi elites in leadership positions. The 1959 conflict caused about 10 000 deaths and approximately 130 000 Tutsis fled to Uganda, Tanzania and Burundi.[6]

The Belgians supported the 1959 revolution and later in 1961 recognised the country as the Rwandan Republic. In 1962, Rwanda-Urundi was divided into Rwanda and Burundi and the two joined the UN as separate countries. A government was formed based on a power-sharing agreement between the Parti du Mouvement de l'Emancipation des Bahutu (PARMEHUTU) comprising of Hutu elites and the progressive Tutsis. The first decade of independence (1963-1973) was marked by a series of massacres.[7]

The next phase of conflict was ushered in by the July 1973 bloodless coup, when Juvénal Habyarimana,[8] then the Army Chief of Staff, overthrew Grégoire Kayibanda, the nationalist president.[9] His leadership marked a power shift from Southern to Northern Hutu elites and

5   The Germans and later the Belgians created and shaped the country's ethnic relations between the majority Hutu agriculturalists and the minority Tutsi cattle owners. For example, in 1935 the Belgians introduced the identity cards. For a discussion on this see Maundi, M. O., Zartman, W., Khadiagala, G. M., and Nuamah, K., 2006. Getting In: Mediators Entry into the Settlement of African Conflicts, Washington D.C.: Endowment of the United States Institute of Peace p. 31.

6   Maundi, M. O., 2000. Initiating Entry into the Mediation of Internal Conflict. Ph.D. Dissertation. Johns Hopkins University p. 45; Koopmans, A., 2005. Rwanda. Philadelphia: Mason Crest Publishers 24-26; Clapham, C., 1998. Rwanda: The Perils of Peacemaking. Journal of Peace Research 35 (2), pp. 197. See also Uvin, P., 2001. Reading the Rwandan Genocide. International Studies Review 3 (3), Autumn, pp. 79.

7   Khadiagala, G. M., 2002. Implementing the Arusha Peace Agreement on Rwanda. In Ending Civil Wars: The Implementation of Peace Agreements. Stephen John Stedman, Donald Rothchild and Elizabeth M. Cousens. eds. A Project of the International Peace Academy and the Center for International Security and Cooperation. Colorado: Lynne Rienner Publishers Inc. 464; Koopmans, ibid., p. 26. See also Clapham, ibid., p. 198; Johnston, A., 1998. Ethnic Conflict in Post-Cold War Africa: Four Case Studies. Ethnic Conflict, Tribal Politics a Global Perspective. Kenneth Christie. ed. Surrey: Curzon Press. p. 135

8   Habyarimana who was born on 8 March 1937 in Gisenyi – Rwanda, served as the country's President (1973-1994). He studied at St. Paul College – Bukavu and Lovanium University – Kinshasa, both in Zaire. He acquired military training at the Officer's School in Kigali – Rwanda (1960-1961). Habyarimana was trained by the Belgian army to enforce Belgian colonialism. Afterwards throughout the Cold War he represented France's interests. Berkeley, B., 1997. Ethnic Conflict in Africa: A Journalist's View. Harry G. West. ed., Conflict and its Resolution in Contemporary Africa, Series Editor. Kenneth W. Thompson. Maryland: University Press of America. p. 5-6; Clapham, C. 1996. Africa and the International System: The Politics of State Survival. New York: Cambridge University Press. p. 253; For a detailed discussion on this see http://www.answers.com/topic/juv-nal-habyarimana; http://www.biographybase.com/biography/HabyarimanaJuvenal.html. [Both accessed 04 August 2012].

9   Berkeley, ibid., p. 5-6.

from a civilian rule to a military one.[10] Unlike the 1959 revolution, this was indeed an intra-Hutu regional conflict. Habyarimana led the Northern Hutus in a protest against the exclusionist tendencies of the Kayibanda regime, which was mainly dominated by the Hutus of South and central Rwanda.[11]

Although the urban population hailed Habyarimana's coup, he turned into a dictator. He killed the Tutsis and did not treat the Hutus any better. The country's low international profile placed it in a difficult position both diplomatically and economically.[12] The international community did not criticize Habyarimana's practices. The international community was by then less concerned with the country's domestic practices. The OAU's Charter for example, obliged African governments not to interfere with other states' internal affairs. Consequently, the governments in power could do whatever they wanted to their people.

The members of Habyarimana's regime dominated the Rwandan state. The Mouvement Republican National pour le Developpement (MRND) was formed and was afterwards declared by the President the only legal party.[13] The Party's supporters were given key administrative positions in the regions, the education sector, the army, state and the church. By 1980, 80 percent of command positions in the armed forces were held by members of the akazu, that is, a little house around Habyarimana, especially members of his clan. The akazu comprised of senior ministers in the MRND and senior army officers.[14] Consequently, instead of reducing ethnic divisions, the government created an "intra-ethnic clique" in the sense that the marginalised Southerners were dissatisfied with the Northern Hutu dominating Rwanda's economy, causing conflict. Jones argues that referring to Habyarimana's regime as "a Hutu" does not capture the pre-genocide Rwandan politics. The regime was clan-based; the Northern Hutu discriminated against both the Hutus from Southern Rwanda and the Tutsis.[15]

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10   Khadiagala, G. Implementing the Arusha Peace Agreement on Rwanda. pp. 464-465.

11   Maundi, Initiating Entry into the Mediation of Internal Conflict. p. 46. See also Maundi, Zartman, Khadiagala and Nuamah, Getting In p. 32.

12   Prunier, G., 1999. The Rwanda Crisis: History of a Genocide. Kampala: Fountain Publishers. p. 75. See also Smyser, R.W., 2003. The Humanitarian Conscience: Caring for Others in the Age of Terror. New York: Plagrave Macmillan. P. 187.

13   Its relationship with the state was similar to that of the old Communist Party of the Soviet Union (CPSU) to the Soviet Government.

14   Khadiagala, Implementing the Arusha Peace Agreement on Rwanda. p. 464.

15   Jones, D. B., 1999. Military Intervention in Rwanda's Two Wars: Partisanship and Indifference. In Civil Wars, Insecurity and Intervention, Barbara F. Walter and Jack Snyder. ed., New York: Columbia University Press. p. 121-123. See also Newbury, C. 1992. Rwanda-Recent Debates Over Governance and Rural Development. In Governance and Politics in Africa. Goran Hyden and Michael Bratton. eds. Boulder: Rienner.

Increasing population and struggle over land caused resource-based conflicts in Rwanda.[16] Between 1963 and 1993, the population rose from around 3 million to 7.5 million at an average growth rate of 3.7 percent per annum.[17] The increase made Rwanda one of the most densely populated countries in both the GLR and Africa South of the Sahara. This population increase resulted in a decrease in the size of cultivated land reducing the land that could be used for growing coffee, Rwanda's only cash crop. Deforestation and soil erosion compounded the problem by further decreasing the available land for cultivation to 72 percent. The 1988/89 drought caused famine which killed about 300 people and led to others crossing the border into Tanzania in search of food.[18]

From 1989 onwards, a combination of internal and external factors caused conflicts in Rwanda. Internally, famine caused by an extended period of drought coincided with the decline in coffee prices at the world market. Consequently, coffee export dropped from US $ 150 million in 1986 to US $ 70 million in 1989. The situation caused economic difficulties to the Rwandan people, resulting in pressure for leadership change. Opposition groups, especially from southern Hutu elites, arose and pressed for political reforms. Around the same time, the 1959 refugees in the neighbouring countries intensified claims for their right to return to Rwanda.[19] There was also an international pressure to democratise, led by the 1990 French threat to cut development assistance if Habyarimana's government did not open up for political liberalisation.[20] As a result, the multiparty system was adopted in 1993, followed by the formation of a multiparty government. There were, however, insignificant changes in the distribution of leadership positions.[21]

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16 Uvin, ibid., pp. 81-83; 'Bayo A.J., Kiplagat, B. and Mohammed, A. N., 1999. Comparative Study of Existing sub-Regional Security Protocols in Africa. Research Report. Ibadan: Africa Leadership Forum Publications. p. 3. See also Versi, A. 1994. Rwanda/Burundi: Anatomy of the Crisis. New African London. Number 320.

17 According to the World Bank, by 2013 Rwanda's population was 11.78 million people, while that of Burundi was 10.16 million people.

18 Prunier, ibid., 87; Crook, J., 2006. Promoting Peace and Economic Security in Rwanda through Fair and Equitable Land Rights. California Law Review 94 (5), pp.1487. See also Sheehy, P. T., 1997. Limitations to UN Peacemaking in Africa. Conflict and its Resolution in Contemporary Africa. Harry G. West Series Editor (Kenneth W. Thompson) Maryland: University Press of America. p. 111.

19 Des Forges, L. A. 1997. Genocide in Rwanda and the International Response. Conflict and its Resolution in Contemporary Africa. Harry G. West Series Editor (Kenneth W. Thompson) Maryland: University Press of America. p.126.

20 Khadiagala, Implementing the Arusha Peace Agreement on Rwanda. p. 465.

21 Longman, T. 1999. State, Civil Society and Genocide in Rwanda. In State, Conflict and Democracy in Africa. Richard Joseph ed., London: Lynne Rienner Publishers. p. 339.

The October 1990 invasion by the RPF from Uganda justified the movement's strategy of pressuring the government to allow refugees to return to Rwanda. The RPF's objective attracted even some Hutu political exiles, including Colonel Alexis Kanyarengwe and Pasteur Bizimungu, who later became top-ranking Hutu officers in the movement. Apart from the 1959 refugees, there were other Hutu fighters in the RPF who had migrated to Uganda in the 1920s and 1930s. These escaped Belgian colonialism and wanted to benefit from the economic privileges offered then in Uganda.[22]

Paul Kagame led the RPF during the invasion. He was born in October 1957 in Gitarama, central Rwanda. Kagame fled with his parents to Uganda after the 1962 killings. While in Uganda, Kagame received education up to secondary level. He later became one of the 27 activists who collaborated with Museveni in 1980 to form the National Resistance Movement (NRM), which later launched a five-year Uganda liberation war. Kagame served as a senior officer in Uganda's army from 1986 to 1990. After the completion of a staff and command course in Kansas – USA in 1990, Kagame started leading the Rwandan Patriotic Army – RPF's military wing. He served as the Vice-President and the Minister for Defence in the Government of National Unity that was formed on 19 July 1994. In 1998, he was elected RPF's Chairperson and on 17 April 2 000 the Transitional National Assembly elected him Rwanda's first Tutsi President.[23]

The genocide that started on 6 April 1994, after the shooting down of Habyarimana's plane at Kigali airport, set the scene for the other phase of Rwanda's conflict. Planned by a group of extremists within Habyarimana's regime, the extremists fought against the Tutsi minority and the moderate Hutu. The groups perceived the power-sharing solution to the conflict between the government and the RPF as betrayal and a threat to their positions and privileges. Again, the extremists feared that the inclusion of the RPF in the new national army would facilitate the launching of a Tutsi military coup. The assumption was complicated by the assassination of Melchior Ndadaye, Burundi's first Hutu President, by Tutsi military extremists in October 1993. [24]

Scholars such as Adelman challenge the compressed timeline approach to Rwanda's conflicts. He notes that the Rwanda genocide neither started on 6 April 1994 nor did it end three months later. The genocide of the Tutsis started in 1959 and the "test runs" of the 1994

22   Maundi, Initiating Entry into the Mediation of Internal Conflict. pp. 52-53.

23   Smith, D., 2003. The Atlas of War and Peace with Ane Bræin. London: Earthscan Publications Ltd., p. 92;Jha, S. U. and Yadav, N. S., 2005. Rwanda: Towards Reconciliation, Good Governance and Development. New Delhi: Association of Indian Africanist. pp. 11-15. See also Rake, A., 2001. African Leaders: Guiding the New Millennium. Lanham: The Scarecrow Press Inc., pp. 185-186.

24   Adebayo, A., 2006. The United Nations. In Security Dynamics in Africa's Great Lakes Region. Gilbert M. Khadiagala, ed., London: Lynne Rienner Publishers Inc., p. 146.

genocide began as early as 1991. The genocide further introduced patterns of conflicts in the GRL such as the 1996 DRC conflict.[25] Mackintosh, on the other hand, is of the view that "ethnic conflict" assertions inadequately explain Rwanda's 1994 conflict. According to him, regional division, economy and party politics also caused the conflict. He goes on to argue that the Hutus and Tutsis cannot be considered as distinct groups since they speak a common language – Kinyarwanda, share similar traditions and have inter-married for centuries.[26]

Du Pisani adds that ethnicity is in itself not necessarily a negative factor but can be manipulated to cause conflicts. If manoeuvred in politics, ethnic identity can result in the dominant ethnic group effectively controlling the limited resources for its own interest. In the case of Rwanda, the favouring of one group over the other gave room for ethnic mobilisation that resulted in a terrible conflict.[27]

Initiatives to manage conflicts in Rwanda

Motivated by the need to promote pan-African unity Tanzania had been cooperating with Rwanda even before the escalation of the civil wars.[28] To this end, from 1977 onwards, Tanzania and Rwanda harmonised trade, transport, banking, immigration, cultural, industrial, educational and media affairs. This management was to be implemented by a Joint Commission of Cooperation. As a result, Habyarimana's visit to Dar es Salaam was followed by the admission of Rwandese students to hotel management and wildlife colleges in the country. Furthermore, some students were admitted to the University of Dar es Salaam and Sokoine University while others were trained at the Prisons College in Kiwira, Mbeya. Tanzania provided Rwanda with fifteen Kiswahili teachers for the university and secondary school levels.[29]

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25   Adelman, H. 2005. The Rwanda Genocide. In Genocide at the Millennium: A Critical Bibliographical Review. Volume 5. Samuel Totten ed., New Brunswick: Transaction Publishers. p. 31. See also Shaw, M., 2003. War and Genocide: Organised Killing in Modern Society. Cambridge: Polity Press. p. 211.

26   Mackintosh, A. 1997. Rwanda: Beyond 'Ethnic Conflict. Development in Practice 7(4), Special Double Issue. p. 470.

27   Du Pisani, A., 2007. Democratic Governance and Security: A Conceptual Exploration. Security and Development in Southern Africa. Gavin Cawthra, Andre du Pisani and Abillah Omari eds. Johannesburg: Wits University Press. p. 13. See also Sheehy, ibid., 111.

28   J.K. Nyerere, K. J., 1987. Unity vital for economic recovery. An interview with Radio Rwanda journalist. Daily News, 27 April 1987, p.1.

29   Reinforcing fraternity" Daily News 22 May 1987, p. 4.

To resolve the refugee crisis, Tanzania granted citizenship to some Rwandese refugees. The decision was to some extent influenced by Tanzania's regional and international commitments to promote security. The Arusha Pan-African Conference on refugees of May 1979 developed the "international solidarity" and "burden-sharing" principles whereby refugees were declared Africa's responsibility. The Arusha recommendation largely influenced the Tanzanian government's decision. Later in 1980 the government granted citizenship to approximately 36,000 refugees from Rwanda and provided them land for farming. It was the first occasion in Africa when such a large number of exiles ceased to be refugees. In the subsequent 1981 Geneva International Conference on Assistance to Refugees in Africa (ICARA), the international community commended African countries on their commitment to address their own problems. [30] Initiatives to promote regional security were again demonstrated in February 1991 through organising a regional summit on refugees. This initiative was partly justified by the then President Ali Hassan Mwinyi's [31] commitment to uphold Tanzania's credibility in conflict resolution. Mwinyi further persuaded Habyarimana to accept the return to Rwanda of the 1959 Tutsi refugees who had been living in Uganda and Tanzania.[32] The Refugee Conference of February 1991 resulted in the Dar es Salaam Declaration which set the ground for negotiations on refugee repatriation. The Declaration partially resolved the conflict between the government of Rwanda and the refugees' right to return to their country.[33]

The Arusha negotiations attempted to set the ground for conflict resolution. In essence, the agreement "took" away power from the akazu and "divided" it between the regime and the opposition political parties. Two components of the agreement, however, produced strong reactions from certain factions in Rwanda. The ruling MRND and the Coalition pour la Défense de la République (CDR) were allocated a minority position in both the transitional government

30   A Letter from the Ambassador – Permanent Mission of the United Republic of Tanzania – Geneva to the Principal Secretary Ministry of Foreign Affairs, Reference Number TZG/U.10/19A of 4 May 1981, signed by G.B. Liundi. See also Mamdani, M., 2001. When Victims Become Killers: Colonialism, Nativism and the Genocide in Rwanda. Kampala: Fountain Publishers. p.164.

31   As Tanzania's second phase government President Mwinyi was involved in resolving the conflict that broke out after the October 1990 invasion. He was the appointed facilitator to Arusha talks held under OAU authority. He then delegated the responsibility to Ami Mpungwe who was then the Director of Africa and the Middle East in Tanzania's Ministry of Foreign Affairs and International Cooperation. For a discussion on this see Jones, D. B., 2001. Peacemaking in Rwanda: The Dynamics of Failure. Colorado: Lynne Rienner Publishers. pp. 78-79, 89, 91.

32   Translated from Assemblée Nationale, Enquête sur la tragédie rwandaise (1990-1994). 1998. Tome III, Auditions Volume II p. 265; Assemblée Nationale, Enquête sur la tragédie rwandaise (1990-1994). 1998. Tome I, Rapport, Rapport Number 1271. pp. 182-183.

33   Maundi, Initiating Entry into the Resolution of Internal Conflict. p. 66. See also Jones, ibid., pp. 54-55. Also translated from Taasisi ya Mwalimu Nyerere 2001. Kazi za Taasisi ya Mwalimu Nyerere. Dar es Salaam: Mkuki na Nyota Publishers. p. 6.

and the national assembly. The RPF was given a larger share in the integrated national army which comprised RPF and FAR troops in a 40-60 ratio but was commanded by a 50-50 split of RPF and FAR officers.[34]

Furthermore, the Arusha Agreement gave the UN, the OAU and Tanzania the responsibility to implement it. The parties assumed that the UN would take charge of the implementation of the Agreement, for it had supported the talks until the agreement was reached.[35] This implied that Tanzania and the OAU would essentially play a secondary role to that of the UN. Yet the mediators and the parties had great expectations of the UN. In reality, the mediators overlooked the politics behind the Security Council's decision to establish a peacekeeping force, which most of the time would dictate other factors.

Tanzania was proposed by the UN Secretary General to host the International Criminal Tribunal for Rwanda (ICTR). In February 1995, Boutros Ghali, the then Secretary General of the UN Security Council, identified Arusha to host the ICTR. His report sought "impartiality and objectivity in the prosecution…[which] require that trial proceedings be held in a neutral territory."[36] As a result, Resolution 977 of February 1995 designated Arusha as the ICTR seat. Tanzania was chosen over Kenya largely because it had a symbolic significance. The 1993 Power-sharing Agreement was signed in Tanzania. In addition, locating the tribunal outside Rwanda meant that there would be little influence over the court from the government and the RPF. Although at the beginning Kigali protested against the court being located in Arusha, it later supported the decision so as to "foster the spirit of cooperation."[37]

Tanzania's initiatives to promote regional security faced a number of challenges. The failure to install the transitional government in Rwanda was a setback to the resolution of the conflict.[38] This was in part caused by president Habyarimana's reluctance to negotiate with the RPF whom he regarded as rebels. Moreover, even when Tanzania and the region succeeded in pressurising Habyarimana to observe and implement the Arusha Peace Accord,

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34   See Walter, B. F., 2002. Committing Peace: The Successful Settlement of Civil Wars. Princeton: Princeton University Press. p.145; Jones, Bruce D., 1999. Military Intervention in Rwanda's Two Wars: Partisanship and Indifference. In Civil Wars, Insecurity and Intervention. Edited by Barbara F. Walter and Jack Snyder. New York: Columbia University Press. p. 124.

35   Khadiagala. Implementing the Arusha Peace Agreement on Rwanda. p. 481.

36   See Report of the Secretary General Pursuant to Paragraph 5 of the Security Council Resolution 955, 13 February 1995; See also Peskin, V., 2008. International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation. New York: Cambridge University Press. pp. 166-167.

37   Jha and Yadav, Rwanda 59-60.

38   Miall, H., Ramsbotham, O., and Woodhouse, T., 2003. Contemporary Conflict Resolution: The Prevention, Management and Transformation of Deadly Conflicts. Cambridge: Polity Press. pp. 133, 134.

the shooting down of Habyarimana's plane changed the direction which the resolution of the conflict had taken.

Tanzania's participation in Rwanda's conflict resolution was influenced by a combination of factors. The country thought that Rwanda's conflict could result in large numbers of refugees that the government could not manage. Dar es Salam was even more concerned that some refugees could use Tanzania as a ground for subversive activities against the Rwandan government. [39]Moreover, after the October 1990 invasion, the government seemed to be more concerned about Tanzanian-based Rwandese refugees than those in the other countries. [40] Perhaps this was due to the fear that the exiles might use a strategy similar to that of the RPF to secure their return to Rwanda.

The regional dynamics influenced Tanzania's approach to resolve Rwanda's conflict. First, Tanzania was aware of competing interests between Zaire (the present-day DRC) and Uganda. While Zaire supported Habyarimana, Uganda backed the RPF.[41] Dar es Salaam sought to harmonise the interests by ensuring that the conflicting parties were facilitated to discuss the issues that were being contested. It was from this practice that the Tanzanian government commended political respect at the regional and international levels. The second factor is related to Tanzania's historical record of ensuring that stable and constitutionally elected governments lead in the neighbouring countries. Presidents Mkapa and Kikwete have at different times underscored the importance of resolving conflicts so as to promote [economic] cooperation and reconciliation with the neighbours.[42]

39   Nyang'oro, E. J., 2011. A Political Biography of Jakaya Mrisho Kikwete, President of the United Republic of Tanzania. Trenton: Africa World Press Inc., pp.118-119.

40   Translated from Assemblée Nationale, Enquête sur la tragédie rwandaise (1990-1994). 1998. Tome III, Auditions Volume II. pp. 265-266.

41   Jones, D. B., 1999. Civil War, the Peace Process and Genocide in Rwanda. In Civil Wars in Africa: Roots and Resolution. Taisier M. Ali and Robert O. Matthews. eds. Montreal: McGill-Queens University Press. p. 62. See also Maundi, Zartman, Khadiagala and Nuamah, Getting In. p. 42.

42   Kikwete, M. J. Presidential Speech during the inauguration of the 9th Parliament of the United Republic of Tanzania in Dodoma, 30 December 2005, 50. See also Mkapa, W. B. Presidential Speech at the opening of the 13th Conference on the State of Politics in Tanzania at Nkrumah Hall – University of Dar es Salaam 19 July 2005, 18.

Background to Burundi's conflicts

Until the 1960s, elements of ethnic discrimination did not feature in Burundi although the potential had existed since the pre-colonial time.[43] Ganwa Prince Louis Rwagasore formed the Unité Pour le Progrès National (Uprona), a nationalist party in 1958. Rwagasore was largely influenced to form Uprona by Mwalimu Julius Nyerere and the 1955 Bandung Conference that called for immediate independence of the colonised territories.[44] In the 18 September 1961 general elections held under UN supervision Uprona won 58 out of the 64 seats in the new National Assembly.[45] To prevent (ethnic) conflict, Uprona retained the monarchy [46] and the first post-independence governments were to be led alternately by the Tutsis and the Hutus. In reality, Uprona was a non-ethnic political party[47] like the other institutions such as the parliament and the armed forces.

Burundi is one of the GLR countries to have most experienced series of coups. The first phase of conflict occurred in October 1965, following a coup attempt by Hutu army officers. The January 1965 killing of the Hutu Prime Minister, Pierre Ngendandumwe, preceded the incident. Afterwards, King Mwambutsa refused to appoint a Hutu Prime Minister despite the fact that the Hutu had won 23 out of the 33 seats during the May 1965 legislative elections. In response, a group of Hutu in the armed forces staged a coup. The army succeeded in managing the conflict as by that time it comprised both Hutu and Tutsi. The failed coup was followed by the killings of the Hutu officers in the army and in the political institutions. Increasingly the Tutsi gained control of the government and the military.[48]

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43   Laely, T., 1997. Peasants, Local Communities, and Central Power in Burundi. The Journal of Modern African Studies 35 (4), pp. 699.

44   Scherrer, P.C., 1998. Resolving the Crisis in Central Africa, Policy Options. Copenhagen Peace Research Institute (COPRI), 6 May 1998. p. 11.

45   Burundi became a UN member on 26 July 1961 and subsequently attained independence on 1 July 1962.

46   In monarchy the King remained the Mwami/or ruler of the Kingdom of Burundi. This arrangement ended in 1966, whereby Ntare V was the last King.

47   Lea, D. ed., 2001. Europa Publications, A Political Chronology of Africa. London: Europa Publications Limited. pp. 52-53. See also Mpangala, P. G., and Mwansasu, U. B., ed., 2004. Ethnic Conflicts in the Region of the Great Lakes: Origins and Prospects for Change. Dar es Salaam: The Mwalimu Nyerere Foundation. pp. 74-75.

48   Ndikumana, L., 2000. Towards a Solution to Violence in Burundi: A Case for Political and Economic Liberalisation. The Journal of Modern African Studies 38(3), pp. 433-434. See also Kaiser, K. M. R and Kaiser, J. P., 1997. Modern Folklore, Identity and Political Change in Burundi. African Studies Review 40 (3), pp. 34.

The 1966 coup installed Captain Michael Micombero[49] a Tutsi officer. During the coup, prominent Hutu politicians and soldiers were killed, and afterwards, the Tutsis-Hima who were controlling most of the armed forces monopolised power. Subsequent Burundian governments from 1966 to 1993 were led by military[50][51] regimes with the army mainly used as an instrument to maintain power. Again, all the Presidents were from the same village and Buyoya was Micombero's nephew. The Tutsi from the South dominated the key institutions, including Uprona's top positions, the army's command structure and the judiciary. For instance, by 1994, only 13 of the 241 magistrates were Hutu.[52] Accordingly, other Tutsis and Hutus were excluded from leadership and politics.

Inter- and intra-ethnic conflicts as well as tensions within Micombero's regime largely caused the 1972 conflict. After the Hutu revolt in the Southern province, the Tutsi-controlled army was called in to intervene. The conflict lasted for two months and several people lost their lives as the army sought revenge against the Hutu. Between 100 000 and 200 000 Hutus lost their lives while approximately 150 000 fled into neighbouring countries, including Tanzania. Micombero's government retaliated by organising a "selective genocide" against educated Hutus, including teachers, church leaders, bank clerks, nurses, traders and civil servants. The army assembled and killed them.[53]

The 1972 conflict hardly attracted the attention of the international community. The US for example, did not intervene partly because its national interests were not threatened by the incident. The inaction could be confirmed by the characterisation of Burundi by the 1972

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49   Micombero was born in 1940 in Rutovu – Bururi Province and passed away in 1983 while in exile in Mogadishu – Somalia. As Burundi's first President he graduated from a military academy – Brussels in 1962. He served as the Secretary of State for National Defence from 1963 to 1966. Micombero was appointed the Prime Minister in 1966 and in the same year assumed Uprona's leadership. He promoted African Socialism and received support from China. Scherrer, ibid., p.12; For a discussion on this see http://www.encyclopedia2.thefreedictionary.com/Michael+Micombero. Accessed 10 January 2013. See also http://www.massviolence.org/Micombero-Michael. Accessed 10 January 2013.

50   Martin Meredith, The State of Africa: A History of Fifty Years of Independence 488.

51   Captain Micombero (1966-1976), Colonel Bagaza (1976-1987) and Major Buyoya (1987-1993) and (1996-2003). All were Hima – Tutsi. Buyoya and Bagaza were trained together at Ecole Royale Militaire de Bruxelles 1968-1973. See Scherrer, ibid., p. 12.

52   Uprona, led by Prince Louis Rwagasore, won both pre and post-independence elections. The opposition however, soon killed Rwagasore and his party was subsequently paralysed by an internal conflict. Uvin, P., 1999. Ethnicity and Power in Burundi and Rwanda: Different Paths to Mass Violence. Comparative Politics 31(3), pp. 256-257.

53   Kaiser and Kaiser, ibid., p. 35; Ndikumana, ibid., 433-434.

State Department policy paper as "an autistic and suspicious society."[54] As the conflict displayed some elements of discrimination, the Hutu in leadership positions developed fear and mistrust of the Tutsi-controlled government and the military. Several years afterwards Hutu parents could not send their children to school, fearing victimisation.[55]

Jean-Baptiste Bagaza[56] was installed as President through the 1976 bloodless coup. Bagaza attempted to harmonise ethnic relations by preventing the Hutus and the Tutsi from upholding ethnic differences. Apparently, the army and the government came to be under the control of Bagaza's political associates whose majority were again the Tutsi from the South.[57] He facilitated constitutional changes that made Burundi a one-party state under Uprona. During his leadership Catholic schools were nationalised and the government banned the radio station and the newspaper owned by the church. Part of the reason could be that Bagaza related the activities of the church to those of the colonialists. Furthermore, he perceived the church as a threat to his leadership as it was providing social services, hence becoming a powerful institution.

Pierre Buyoya,[58] another Tutsi officer from the South, became President through the 3

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54   Lemarchand, R., 1998. U.S. Policy in the Great Lakes: A Critical Perspective. A Journal of Opinion 26 (1) Central Africa in Crisis, pp. 41.

55   Uvin, Ethnicity and Power in Burundi and Rwanda. p. 258; Ndikumana, ibid., p. 433-434. Reyntjens, F., 1993. The Proof of the Pudding is in the Eating: The June 1993 Elections in Burundi. The Journal of Modern African Studies. 31 (4), pp. 563.

56   Bagaza was born in 1946 – Rutovu. He served as Burundi's President between 1976 and 1987. Bagaza was the Chairperson of the Supreme Revolutionary Council in Burundi until 10 November 1976. He was a socialist with close ties to Moscow. Ndadaye overthrew Bagaza in 1987 while attending a meeting in Canada. He went into exile in Libya for a short time, then Uganda until 1993. In 1994 he formed le Parti Pour le Redressement National (PARENA) and remained its leader. Buyoya put Bagaza under house arrest in 1998 with the allegations of plotting another coup. Being the former Head of State he is currently Senator for life. See Scherrer, Resolving the Crisis in Central Africa 12; http://www.gahuza.com/burundi-news/64-politique/392-larrivee-au-pouvoir. For more discussion on this see also http://www.britannica.com/EBchecked/topic/48741; http://www.articles.latimes.com/ jean-baptiste-bagaza. All accessed 10 January 2013.

57   Kaiser and Kaiser, ibid., p. 35.

58   Buyoya, the son of a farmer, was born in 1949 in Rutovu, Bururi province. He studied in France and West Germany and was also educated in Belgium. Buyoya served as Burundi's third President from (September 1987-July 1993) and the seventh President from July 1996 to April 2003. He is so far the country's longest serving Head of State. Nkosazana Dlamini-Zuma appointed Buyoya as the AU High Representative for Mali and the Sahel on 26 October 2012 to coordinate the initiatives aiming at addressing the root causes of Mali conflicts. Buyoya is also currently Burundi's Senator for life. http://www.nytimes.com/1987/09/24/ world/burundi; http://www.nytimes.com/1996/07/30/world/new-leader. Accessed 29 December 2012. http://www.encyclopedia.thefreedictionary.com. Accessed 10 January 2013. http:// www.nytimes.com/1997/04/16/world/talks-on-burundi. Accessed 29 December 2012.

September 1987 coup that proclaimed the Third Republic. Buyoya's coup had a limited impact since new violence erupted in August 1988, almost a year later. The military randomly killed thousands of unarmed Hutu civilians in some of the Northern provinces. Twenty thousand people are estimated to have lost their lives while 60 000 fled to Rwanda.[59] The coup changed the direction of Burundi's ethnic relations and conflict resolution. To some degree, the citizens could freely identify themselves on an ethnic basis without fearing government punishment. Moreover, the President organised a national unity campaign to prevent another intra-state conflict.

Melchior Ndadaye,[60] a Hutu and Front pour la Démocratie au Burundi (Frodebu) presidential candidate, was elected in 1993. Ndadaye was voted into power during Burundi's first multiparty elections and it seems that voting was done along ethnic lines. Ndadaye sought to regulate the dominance of the Tutsis in all sectors, to return the land taken by them to the Hutus and to open up for the return of the Hutu exiles. Eventually, a Hutu-dominated government was formed whereby, Sylvie Kinigi – a Tutsi woman was appointed the Prime Minister. Nevertheless, a significant percentage of the Tutsi remained in the armed forces[61] and Tutsi officers were not reconciled to the reforms. In the end, Ndadaye and other Hutu leaders were assassinated on 21 October 1993. The government was at the same time overthrown[62] and the conflict immediately spread throughout the country. As the army attempted to manage the conflict, thousands of non-Southern Tutsis and

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59   Reyntjens, ibid., p. 563; Kaiser and Kaiser, ibid., p. 35. See also Ndikumana, ibid., p. 449.

60   Ndadaye was born in 1953, Murama – Muramvya Province. He grew up in Burundi and subsequently joined a teachers' training college. Following the 1972 killings of Hutus he fled to Rwanda where he graduated with a first degree in education of the National University of Rwanda. He also studied at the teachers' training college in Butare. Afterwards, he worked as a teacher and part time lecturer at the university. Ndadaye further pursued the second degree in banking at the National Academy of Arts and Trade – France. In 1975 he founded Burundi's workers party while in Rwanda and served as its President. After 11 years in exile he went back to Burundi where he worked in the credit department of the Meridien Biao Bank. In 1986 Ndadaye founded Frodebu, which operated as an underground political movement until 1991 during political liberalisation. In 1989 he was appointed an advisor to the rural development bank. http://www.universalis.fr/encyclopedie/melchior-ndadaye; http://www. africansuccess.org/visuFiche.php?Ndadaye; See http://www.s9.com/biography/Ndadaye-Melchior; http://www.britannica.com/EBchecked/topic/407322/Melchior. All accessed 10 October 2013.

61   Mamdani, ibid., p. 215.

62   It was approximately three months in office and only two months after the signing of the Arusha Agreement. See Dowden, R., 2008. Africa: Altered States, Ordinary Miracles. London: Portobello Books Ltd., p. 224; Mamdani, ibid. p. 215.

Hutus were killed.[63] Coups were not the only cause of Burundi's conflicts. As was the case in Rwanda, high population rates coupled with the competition for limited resources also caused the conflicts. Moreover, the interaction of events between Burundi and the neighbouring Rwanda as well as the use of ethnicity for political mobilisation were a source of the conflicts.[64] Members of the elite manipulated ethnicity to maintain power. Weinstein notes that even among the Tutsis, regionalism and clan ties were used to exclude others.[65] Besides land scarcity and population growth, Burundi's economic performance was not good. Part of the reason was limited market opportunities caused by a low average per capita income, which was less than US $ 50 per annum.[66] As a result, the country highly depended on foreign aid to subsidise the scarcity of resources.

Burundi's conflict from 1993 was principally caused by unequal access to national resources. Economic opportunities for the Tutsi from the South were created by the military regime in the civil service, in education and in the armed forces. Moreover, corruption and patronage paved the way for the establishment of ethno-regional monopolies in the private sector.[67] After the assassination of the President and the Vice-President in the coup, power-sharing negotiations were conducted. Cyprien Ntaryamira, who was elected President by the parliament in January 1994, died on 6 April 1994 in the plane crash together with Rwanda's Habyarimana. President Sylvestre Ntibantunganya led the new government that was formed again in October 1994. The government could not rule as it was still affected by the conflict. Ntibantunganya's government was overthrown on 25 July 1996 in a coup staged again by Buyoya; an international embargo followed. Buyoya's second military coup took place when peace talks had already started in Tanzania.[68]

The major cause of Burundi's conflicts seemed to be the institutional failure, coupled with the government's loss of legitimacy and credibility. Institutions could not perform

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63   It is estimated that between 50,000 and 100,000 people lost their lives in a three-month period after the coup; one million fled the country and hundreds of thousands were internally displaced. See Stedman, S. J., 1996. Conflict and Conciliation in sub-Saharan Africa. In The International Dimensions of Internal Conflict. Michael E. Brown, ed., Centre for Studies in International Security, London: The MIT Press. p. 235.

64   Evans, G., 1997. Responding to Crises in the African Great Lakes. International Institute for Strategic Studies. Adelphi Paper 311. New York: Oxford University Press. p. 19.

65   Weinstein, W., 1972. Tensions in Burundi. A Journal of Opinion 2 (4), pp. 27-28.

66   Weinstein, W., 1975. Burundi: Alternatives to Violence. A Journal of Opinion 5 (2), pp.19.

67   Ndikumana, ibid., 449.

68   Uvin, ibid., p. 262; See also Forster, G. P., Hitchcock, M. and Lyimo, F. ed., 2000. Postscript: Development in Rwanda and Burundi in the 1990s. In Race and Ethnicity in East Africa. London: MacMillan Press Ltd., p. 116-117. See also Ramadhani, L. 2002. The Utility of Mediators in Conflict Resolution in Africa: A Case of Burundi Peace Talks. M.A. Dissertation, University of Dar es Salaam. p. 37.

the basic functions of protecting the citizens and equally distributing the resources to them. Ramadhani notes that the powers that imposed the rules of the game in Burundi heavily favoured both the military and the Tutsi elite from the South. As a result, the Burundian state relapsed into a private institution.[69]

Tanzania's initiatives to manage Burundi's conflicts

Historical relations could be used to explain the manner that Tanzania has been involved in Burundi. Tanzania is more familiar with Burundi's conflicts than arguably, other African countries. Having close relations established in the past by Prince Louis Rwagasore, a Pan-Africanist, Nyerere was concerned about the plight of Hutu refugees. Besides opposing unconstitutional changes of governments, Tanzania was against Buyoya's coup. Nyerere said herein that "… Africa is no longer willing to accept military regimes…" As a result, any initiative by Tanzania to assist Burundi to go back to a constitutional rule was interpreted by Buyoya and other actors as backing the rebels. Indeed, Nyerere and the Tanzanian government were interested in resolving the conflict and facilitating refugees' repatriation.[70]

Tanzania had been hosting Burundian refugees since the late 1960s. While some exiles were escaping discrimination, others were victims of droughts.[71] Providing asylum to the refugees caused conflicts between the two governments. Burundi feared that Hutu refugees in Tanzania could form an opposition against the government. In 1972, during Micombero's leadership, Tanzania received a large number of Burundian refugees. Consequently, in March 1973 Burundian soldiers invaded Tanzania's border village, claiming that the refugees were organising hostilities against the Burundian government. Seventy-four people lost their lives, among them 33 Tanzanians. The government in turn imposed sanctions by stopping the purchase of Burundian goods. Confirming the absence of the conflict between the two countries, Nyerere warned Micombero during "good-neighbourly" talks that he should stop killing his own people. The conflict was resolved through negotiations and the Burundian government compensated Tshs 3.4 million. The border agreement was later signed in 1984.[72]

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69   Ramadhani, ibid., p. 34.

70   Daley, P. O., 2008. African Issues, Gender and Genocide in Burundi: The Search for Spaces of Peace in the Great Lakes Region. Indiana: Indiana University Press, p. 200-201.

71   Meyers, B. D., 1974. Intraregional Conflict Management by the Organisation of African Unity. International Organisation 28(3), Summer, pp. 358-359.

72   Daily News, 23 July 1973, p. 2; Daley, ibid., p. 155; Ameir, S. J. K., 2008. Tanzania's Role in Burundi's Peace Process. M.A. Dissertation. University of Witwatersrand. p. 67; See also Sunday Observer, "'Lift Burundi' meeting set for next week" 26 February 2006, 1; Taasisi ya Mwalimu Nyerere, ibid., p. 24.

To control rebel activities and minimise accusations, Tanzania opted to resettle refugees away from the border as well as hold regular meetings between border officials to discuss common security problems. In August 1974, Tanzania and Burundi signed an Anti-smuggling Agreement whereby the people living along the border were allowed to cross without passports.[73] Tanzania continuously warned the refugees about the effects of subversive activities on the country's relations with Burundi.

Again in 2010 the Tanzanian government naturalised 162 000 Burundian refugees who had entered the country in 1972. Most of them were Hutus who had run away from the war that was waged by the Tutsi-dominated armed forces. The UN commended Tanzania for the decision. Melissa Fleming, a UN refugees' agency spokesperson said, "…the most generous naturalisation of refugees anywhere…" and Antonio Guterres, a UNHCR head, said that it was a historic moment and requested other countries with long-term refugee flows to follow Tanzania's example.[74]

The Tanzanian government further supported Nyerere during the facilitation of the Arusha peace negotiations.[75] From the beginning, Nyerere declared that he would work as a "freelance facilitator." It implied that his facilitation would not have to be controlled by one state or state organisations and that he would not be the official representative of any state or organisation.

He wanted to be able to act with total independence. After the approval of the region, the UN and donors, he delegated administrative, financial, legal and other technical issues to specialised institutions and experts. Tanzania's Ministry of Foreign Affairs and International Cooperation and the Mwalimu Nyerere Foundation (MNF) played this role.[76] Nyerere's uncompromising stand turned him into an enemy to the West.

Tanzania's interactions with the other actors in Burundi's conflict resolution were at the summit and during the peace talks. The summit comprising of the Heads of State and Government provided the "political leadership" to the mediation. In other words, the summit intervened when the negotiations reached a stalemate. For example, in 1997 when

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73   Weinstein, Burundi: Alternatives to Violence. p. 18.

74   Until 2000 Tanzania had one of Africa's largest refugee populations, 680 000 mainly from Burundi and the DRC. See BBC News, "Tanzania gives citizenship to 162,000 Burundian refugees" http://news.bbc.co.uk/2/hi/africa/8625429.stm. Accessed 17 April 2010.

75   See http://www.tanzania.fes-international.de/doc/conceptualising-conflict-resolution. Accessed 16 April 2009. p. 2. See also Ameir, ibid., p. 12.

76   The MNF was created with the objective of promoting Africa's unity, peace and development. See Bomani, M., 2004. "Foreword." In Beyond Conflict in Burundi. Gaudens P. Mpangala and Bismarck U. Mwansasu, eds., Dar es Salaam: The MNF, p. vii-viii. Translated from Taasisi ya Mwalimu Nyerere, Kazi za Taasisi ya Mwalimu Nyerere, p. 6

the parties continuously questioned his partiality as the mediator, Nyerere expressed his intention to withdraw from facilitation. The regional summit in turn adopted a declaration reinstating Nyerere's key role in Burundi's conflict resolution. Nyerere's legitimacy was thus renewed even though the FDD and the FNL exclusion were yet to be resolved.[77]

After the 25 July 1996 coup Tanzania examined different strategies to resolve the conflict.[78] At first, the government asked Buyoya to return to constitutionally elected government but he refused. In response, Tanzania initiated a discussion about the military option. Dar es Salaam volunteered military assistance to the Burundian army to oust coup leaders and re-activate the negotiations. The Tutsis considered the proposal a Tanzanian agenda and consequently raised doubts about the country's impartiality. The support was seen as a direct threat to Tutsis' security,[79] hence the Burundian armed forces refused to cooperate with the committee.[80] The rationale for the refusal was that if the army and Buyoya removed the coup leaders, then the Tutsi influence would be dismantled.

Tanzania's perception of the discrimination and victimisation of Burundi's Hutus was not different from its perception of the other movements that it had supported and fought for. Tanzania better understood the Burundi conflict because it had been involved in its resolution for almost five decades. The Buyoya coup was seen as a strategy to strengthen the Tutsi regime that Nyerere wanted to reform.[81] Indeed, the moral grounds and the promotion for the right of all the groups to be recognised and to participate in the economic and political affairs informed Tanzania's involvement in Burundi's conflict resolution.

In other circumstances Tanzania spearheaded the adoption of sanctions by the region as some form of conflict management. Tanzania seemed to have advocated the imposition of the sanctions to Burundi in part due to the past success in South Africa during the 1970s and 1980s. According to Nyerere, "… economic sanctions succeeded even in South Africa, where the country is stronger [economically] than Burundi. The effects of the embargo are not that immediate as those of the bullets, but they [sanctions] usually succeed…"[82]

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77   Ramadhani, ibid., p. 55-56.

78   It should be noted, however, that discussions about military plan were initially held in Arusha during May and June 1996. Officers from Tanzania, Kenya and Uganda participated.

79   Evans, ibid., p. 36, 60.

80   The committee was headed by Tanzania and comprised officers from Ethiopia, Uganda and Rwanda. The objective was to evaluate the modalities for providing regional military assistance.

81   Ameir, ibid., p. 86. See also Prunier, G., 2009. From Genocide to Continental War: The 'Congolese' Conflict and the Crisis of Contemporary Africa. London: Hurst Publishers. p.65.

82   Translated from Maliyamkono, L. T., 2003. Changamoto Tanzania. Dar es Salaam: TEMA Publishers Company Ltd., p. 183-184. See also Reporter "Nyerere Wants Political Solution to Burundi" The Guardian 26 September 1996.

It should be noted, however, that 1996 was the third time when Tanzania imposed an embargo against Burundi. Unilateral sanctions were for the first time imposed in 1973. The second was the arms embargo on Burundi after Ndadaye's assassination in 1993.

Even if the effectiveness of Burundi's sanctions was questioned, they marked an important step in the resolution of the conflicts. Being less costly than military force especially when applied systematically, sanctions can resolve an intra-state conflict.[83] Indeed, without the embargo Buyoya could not have accepted mediation, re-opened the National Assembly and re-admitted the opposition parties.[84] At the international level, the sanctions had a symbolic importance. The move demonstrated that African countries could take initiatives to resolve conflicts without being backed by the West.[85] This differs from de Waals' argument that African countries could hardly impose sanctions on their neighbours. His claim, based on the wealth of the sanctions imposing countries, overlooked the fact that for a landlocked country like Burundi sanctions could effectively work, if systematically applied.[86]

To advance the foreign policy objective of promoting peace and security in the GLR, Tanzania contested and won the Security Council seat in 2004.[87] In January 2006, the country demonstrated its commitment to conflict resolution by sponsoring the adoption of Resolution 1653 on the GLR. As a result, Tanzania broke a myth by preparing and tabling resolution 1653 (2006) on the situation in the Great Lakes Region. The resolution called on the UN to resolve the GLR conflicts so that the countries could engage in development activities. It was indeed a remarkable contribution given that the crafting of a resolution had

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83 Rogers, S. E., 1996. Economic Sanctions in Internal Conflict. In The International Dimensions of Internal Conflict, Michael E. Brown ed., Centre for Studies in International Security. London: The MIT Press. p. 412-413. For a discussion on Burundi's sanctions see Khadiagala, M. G., 2007. Meddlers or Mediators? African Interveners in Civil Conflicts in Eastern Africa. Daniel Druckman and William Donohue (Series Editors) Leiden: Martinus Nijhoff Publishers. p.124-128, 131-135.

84 Lemarchand, R., 2006. Burundi at a Crossroads. In Security Dynamics in Africa's Great Lakes Region. Gilbert M. Khadiagala, ed., Colorado: Lynne Rienner Publishers Inc., p.52

85 Ndikumana, Towards a Solution to Violence in Burundi. p. 446-447

86 Burundi depends on Dar es Salaam port. Before the imposition of sanctions in 1995 there were 133 970 tonnes, which dropped to 32 312 tonnes in 1997 and 31 013 tonnes in 1998. After the sanctions were lifted, imports rose from 78 197 tonnes in 2000 to 100 998 tonnes in 2001. De Waal, A., 2000. Who Fights Who Cares? War and Humanitarian Action in Africa. Eritrea: Africa World Press Inc. p. 48; Rogers, E. S., 1996. Economic Sanctions in Internal Conflict. In The International Dimensions of Internal Conflict. Michael E. Brown, ed., Centre for Studies in International Security. London: The MIT Press. p. 143. See also Ameir, Tanzania's Role in Burundi's Peace Process. P. 75.

87 Tanzania served as the UN Security Council non-permanent member from January 2005 to December 2006. The country received 187 out of 191 votes and was ahead of Japan and Denmark as well as other African countries such as Ethiopia, Eritrea, Uganda and Sudan.

been the sphere of the P5 and was largely determined by their strategic interests.[88]

As a UN Security Council member, Tanzania was determined to promote Burundi's post-conflict reconstruction. First, its diplomats succeeded in convincing the UN to consider sending peacekeeping forces and an expert to monitor the implementation of the Arusha Accord. The motive behind this was that by January 2005 – when Tanzania joined the Security Council – the implementation of the Accord had been stalled and the parties were unwilling to stop the hostilities, hence elections could not be held.[89] Second, Tanzania, supported by Denmark, advocated for and participated in the formation of the Peace Building Commission, thus becoming one of the 31 founding members. The aim of the commission was to monitor the implementation of the peace agreements, and therefore prevent the countries from relapsing into a conflict. The resolution to establish the commission was concurrently adopted by the Security Council and the General Assembly.[90]

Critics have raised concerns about the effectiveness of the UN Peace Building Commission. Their argument is based on the commission's structure, that it promotes liberal peace. In other words, it concentrates on holding democratic elections and on promotion of market liberalisation, rather than on addressing the factors that cause and sustain conflicts. The commission has further been criticised for being uninfluential to the IFIs, which have sometimes been undermining peacebuilding initiatives. Finally, right from its creation in 2005, the founding mandate has been limiting the commission's responsibilities. Working towards preventing conflicts from recurring, it does not prevent the conflicts that arise in the first place.[91]

To promote post conflict nation building, Tanzania and Burundi signed a cooperation agreement on 28 October 2008. The countries agreed to jointly work in military training and exchange of military-related activities; this would further enable Tanzania to assist Burundi in establishing the national service. The two countries are to exchange military officers and information, and host sports. According to German Niyoyankana, Burundi's then Minister of Defence "…the partnership will help sharpen the skills of Burundi soldiers, the majority

88   Mahiga, A. 2007. Ambassadorial Lecture. Tanzania's membership in the UN Security Council. 17 August 2006. Dar es Salaam: Centre for Foreign Relations.

89   Daily News, 2007. Tanzania's reputation at the UN impressive 18 January, p. 13.

90   Mahiga, A. 2007. Ambassadorial Lecture. Also translated from Jamhuri ya Muungano wa Tanzania, Hotuba ya Waziri wa Mambo ya Nje na Ushirikiano wa Kimataifa, Bernard Kamillius Membe akiwasilisha Bungeni makadirio ya Matumizi ya Fedha 2007/2008. Dar es Salaam: Mpigachapa Mkuu wa Serikali, Agosti 2007. p. 9.

91   For a discussion on this see Centre for Conflict Resolution, 2013. Africa, South Africa and the United Nation's Security Architecture. Policy Advisory Group Seminar Report, Cape Town, p. 4.

of whom were guerrillas and lacked formal training.[92]" If used constructively the national service would promote national unity and solidarity in a seemingly highly divided society.

Although South Africa's facilitation in Burundi was considered a success, it was Tanzania that laid the ground for a successful conflict resolution. Nyerere largely managed to restore hope and trust among the Burundians by bringing the conflicting parties to the negotiations table. Mandela confirmed, "Without his [Nyerere's] hard work, I doubt that we would have been able to make the progress we did."[93] Moreover, Nyerere mainly succeeded in reducing the uncertainties that prevented the parties from resolving the conflict. He visited the refugee camps to hear their views on the peace talks as well as to remind them of the necessity of overcoming the factors that cause conflicts.[94]

Tanzania chiefly succeeded in resolving Burundi's conflict even though the facilitation of the negotiations process had been complex and unpredictable. The peace talks comprised a large number of actors with diverse interests and constituencies. In addition to consulting the conflicting parties, the facilitators chaired all plenary sessions.[95] In turn, the mediators devised a formula suitable for all. Furthermore, the agreements took years to be debated before being signed; it was not guaranteed that the dialogue would bear positive results. In the end, the signing of the agreement was only a step, as there needed to be the mobilisation of resources and the willingness to implement the agreement.

Tanzania's foreign policy and promotion of regional security: Lessons learnt

Tanzania's experience in conflict resolution largely illustrates a trend away from the role of the President as a key mediator to other actors. Tanzania's Ministry of Foreign Affairs and International Cooperation (MFAIC), special envoys, the secretariat and elder statespersons have increasingly been involved in mediation. Rwanda and Burundi's conflict resolution experience demonstrates a shift of mediation from presidents to experts and institutions. The Arusha negotiations were delegated to a mediation team in MFAIC, led by Ambassador Ami Mpungwe and the President(s)/Summit intervened when the parties reached a

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92   Daily News, 2008. Dar, Burundi sign defence pact. 29 October, p. 2.

93   Mandela, N., 2005. Foreword. In African Peace Process: Mandela, South Africa and Burundi Kristina A. Bentley & Roger Southall. Cape Town: Human Sciences Research Council. p. ix.

94   Ramadhani, The Utility of Mediators p. 73-74; Also translated from Nyerere's speech of 1998 during a visit to refugees communities in Ngara, aired by TBC television 13 October 2011, 16:00-16:30 hours.

95   Ramadhani, The Utility of Mediators 73-74.

stalemate. In this way, experts could conduct the negotiations professionally. As a result, Nyerere and Mandela's Burundi mediation teams employed the Tanzanian mediators who developed their skills during the 1992-1993 Rwanda talks.[96]

One of Tanzanian foreign policy strategies for promoting good neighbourliness is to maintain peace and stability. At the regional level, the intention has been to create a peaceful environment to foster economic diplomacy, particularly trade and investment. If one goes through the strategies and actions for the New Foreign Policy implementation, one will find that Tanzania's involvement in conflict resolution is emphasised in terms of its participation and training on peacekeeping, conflict prevention, peace building and conflict management.[97] Indeed, the training and support for mediation, negotiations and the facilitation of the peace talks in which Tanzania has registered success in the region are not mentioned. They are either overlooked or generally interpreted as being a part of the support for the prevention, management and resolution of intra-state conflicts.

Whereas the nature and causes of conflicts in the GLR vary and could be found at various levels, the proposed solutions appear to be fixed. Even where the conflict has been caused by political or socio-economic factors, most of the solutions are devised to address political issues such as power sharing, promotion of liberal democracy, economic and social reforms. The solutions further specify a timeframe for processes such as constitution making and holding elections to be undertaken. Moreover, the transitional institutions are structured in such a way that both the political parties and the rebels can share them.

In reality, power sharing does not always lead to profound changes in the nature of the state; sometimes it encourages insurgent conflicts, instead of resolving them.[98]

Recent conflict resolution developments in the DRC, between M23 rebels and the Kabila administration, suggest a shift away from "fixed solutions" to different types of conflicts. After the rebels were defeated, leaders called for peace talks facilitated by President Yoweri Museveni [99]— then International Conference on the Great Lakes Region (ICGLR) Chairperson. Given that the negotiations were concluded after the defeat of M23 rebels,

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96   Khadiagala, Meddlers or Mediators? p. 256.

97   United Republic of Tanzania, Ministry of Foreign Affairs and International Cooperation, 2004. Strategies and Actions for the Implementation of the New Foreign Policy. Dar es Salaam: Government Printer. p. 1-2, 12-13.

98   Daley, Gender and Genocide in Burundi p. 189.

99   Museveni persuaded the M23 senior officials in November 2012 to withdraw from Goma and resume negotiations with the DRC government on a peace deal. Museveni's credibility in mediation was tested when General Sultan Makenga — former M23 rebel leader, together with the other rebels surrendered to Ugandan forces. The Kabila government has been charging them for committing war crimes and crimes against humanity.

the DRC government refused to sign a "peace agreement/accord." The government explained that signing an agreement would legitimise the fighters who mutinied from the national army and it would mean giving amnesty to the people who had committed war crimes. In the end, a declaration to end the conflict was signed whose provisions were non-binding to the DRC government.[100]

The proliferation and circulation of the SALW has become one of the GLR long-term security threats. The region has been the nucleus of the spread of SALW throughout East, Central and Southern Africa. Weapons circulating from the conflict areas have found their way into Tanzania through illegal ways. Most of the illicit arms are transported into the region as licensed. The weapons that are transferred are either diverted to irresponsible end users or are stolen and then enter the illegal market.[101] Even so the role of the international community remains crucial in the management of the SALW at the regional and sub-regional levels. If the West continues to sell weapons to the rebel groups, the initiatives will remain largely unsuccessful. A member of Burundi's CNDD-FDD maintained that whereas some Western governments urge African governments to fight against arms proliferation "yet they were supplying [arms]...to the illegal groups."[102]

To promote regional security Tanzania supported the negotiations for resolving Kenya's 2007 post-election conflict. Unlike Museveni, who declared his support for the crisis, Kikwete worked behind the scenes by sending emissaries to Kenya. The strategy was coupled with the facilitation of the negotiations, which in the end succeeded by signing a power-sharing agreement. Some Kenyans were satisfied with Kikwete's mediation strategy, as he urged the parties to the conflict to find a solution to the problem, rather than imposing a solution on them.[103] This approach was, to a large extent, similar to that used to resolve Rwanda's and Burundi's conflict.

Advocating and facilitating negotiations has been Tanzania's approach to resolving conflicts in the GLR. During the 26 May 2013 AU Summit held in Addis Ababa, President

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100 For discussions on this see The East African, 2013. Museveni gets DRC, M23 to sign deal. p. 9,10; Kinshasa, M23 sign 'declaration,' but will it herald peace in volatile DRC? p. 8, both published on 14-20 December. See also The East African, 2013. Museveni's dilemma as ex-rebel leader Makenga now runs into his arms, 9-15 November, p. 16-17; The East African, 2013. Which way forward for Uganda-led DRC, M23 talks? 5-11 October, p.14.

101 African Peer Review Mechanism (APRM), 2011. Tanzania Country Self Assessment Report (Final Revised Edition), p. 515; Masanyika, S. C., 2006. Foreign Policy Challenges for Tanzania in a Post Apartheid Period. M.A. Dissertation. University of Dar es Saalaam, p. 87.

102 The East African, 2005. Great Lakes MPs meet over small arms. 25 April-1 May, 8.

103 Nyang'oro, A Political Biography of Jakaya Mrisho Kikwete. p. 246-247.

Kikwete highlighted the necessity of promoting security in the GLR. He advised Presidents Kagame, Museveni and Kabila to initiate peace talks with the rebel groups fighting in the region, with the majority in the DRC.[104] Tanzania's recommendation was based on the fact that the Rwandan government had not succeeded in resolving the conflict involving the FDLR,[105] which had been launching attacks on the Rwandan people from inside the DRC, causing insecurity in the GLR for more than 20 years.[106] Even though Rwanda bitterly reacted to the suggestion, it has to be understood that Tanzania has traditionally been promoting negotiations. Indeed, it was Tanzania which forced Habyarimana to talk to Kagame's RPF at the time when the RPF was regarded as a "rebel group."

Tanzania's suggestion started some sort of a "Cold War" between Dar es Salaam and Kigali. Rwanda on its part maintains that as a legitimate government it cannot talk to the perpetrators of the 1994 genocide whose leader Major General Sylvestre Mudacumura has been indicted by the International Criminal Court (ICC) for war crimes.[107] While Rwanda has its own reasons, perhaps there is a need to re-define the current FDLR members and/or the Interahamwe. The reason is that those who were really involved in the genocide more than two decades ago perhaps are very old now and maybe their children are the ones who are members of the FDLR. Moreover, for quite some time the Rwandan government has considered the FDLR militarily weak.[108]

Whereas Tanzania seems to be guided by principles, it has sometimes displayed inconsistent

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104   Museveni was advised to resolve the conflict with Allied Democratic Force (ADF), a Ugandan-led Islamist rebel group founded in 1995. It operates in the northwest of the Rwenzori mountains. Kabila was advised to talk to M23.

105   FDLR is the Eastern DRC-based rebel group opposing the Tutsi-led government in Rwanda. The group comprises remnants of the Army for the Liberation of Rwanda and some descendants of the Interahamwe militia. The group also comprises some members who committed the 1994 genocide, some Hutu of the former Rwandan army and several displaced Rwandan Hutus. The US has categorised FDLR as a terrorist group. For a discussion on FDLR's composition see The Guardian on Sunday, "We won't apologise to Rwanda-Membe" 2-8 June 2013, 2; The East African, 2013. Kikwete's plea for peace talks angers Rwanda. 1-7 June, p. 11; Also translated from Raia Mwema, 2013. Rwanda yafunguka kuhusu uhusiano wake na Tanzania. 10-16 Julai, p. 31

106   See Sunday News, 2013. Dar says no to Kigali demand for apology. 2 June, pp. 1, 3; translated from Raia Mwema, 2013. Kagame akoleza hasira. 12-18 Juni, p. 3.

107   Following an announcement by Rwanda's opposition parties — such as Socialist Party Imbekuri and Rwanda Dream Initiative to form an alliance with the FDLR, Kigali has warned that they will be categorised as terrorists too. See The East African, 2014. CoW moves to mend rift with Tanzania as mistrust festers between Rwanda and Dar. 25-31 January, p. 16.

108   Rwanda National Congress (RNC) — an opposition party comprising former government officials is claimed by Rwanda's criminal investigation department to be cooperating with the FDLR. The Kagame government accuses RNC and the FDLR for carrying out grenade attacks inside Rwanda. For a discussion on this see The East African, 2014. Kigali fears FDLR could be regrouping. 19-25 April, p. 10.

foreign policy behaviour as demonstrated in resolving the 2015 Burundi's elections impasse. Tanzania, which is currently serving as the EAC Chair, has remained a key player in Burundi's negotiations. The country again received more than 77,000 refugees escaping presidential election clashes. Before the May 2015 attempted coup, president Kikwete was emphasising upholding the constitution and the Arusha Agreement that specifies the two-term limit presidential terms. The court's ruling in favour of the incumbent Nkurunzinza, who contested for the third term, resulted in a conflict. Ensuing the May events, Tanzania re-directed its stance towards finding a negotiated solution between the president and the opposition parties. While on the one hand this conduct could be described in terms of Tanzania's traditional approach of encouraging negotiations, on the other hand, it could be explained in terms of Dar es Salaam-Kigali relations and the perception of the latter's role in the attempted coup (IRIN 2015).

With the exception of the Democratic Republic of Congo (DRC) — which is keen to join — the other GLR members have been cooperating through the East African Community (EAC). There have been regional tensions between Tanzania and Burundi on the one hand, and Rwanda, Uganda and Kenya on the other over the pace of East Africa integration. Rwanda, Uganda and Kenya, together with South Sudan, caucused under the Tripartite Initiative for Fast-Tracking the East African integration dubbed the "Coalition of the Willing — CoW."[109] Justifying the reason for performing a two-track affair the members of CoW argued that Tanzania is "dragging its feet" in the process, which is an obstacle to the pace of the integration.[110] Apart from Tanzania's seemingly defensive approach to such issues as land ownership, free movement of labour, immigration and the use of common IDs, there are other reasons for this stance.

Taking the integration cautiously and the deployment of peace enforcement force in Eastern DRC could be interpreted by the other EAC partner states as an indication that Tanzania's strategic interests are more in the southern than in the East African region. Furthermore, judging from the time when the CoW became operational, that is, from June 2013 onwards one could argue that it was some form of revenge on the part of Uganda and Rwanda given that their interests were to some extent interfered with by Tanzania's decision to contribute to the force that would assist the DRC government to fight back M23 rebels.

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109   The countries agreed to speed up the integration process in infrastructure — railway and road projects, establishment of a common visa and a common ID; a single customs territory and eventually political federation.

110   Kikwete, M. J., Presidential Address to the United Republic of Tanzania Parliament November 2013. The East African, 2013. Dar is in EAC to stay despite isolation strategy by Coalition of the Willing. p. 14; After victory in DRC, a newly confident Tanzania emerges on East African stage. p. 14 both on 9-15 November.

The issue of timing added to the problem again in September 2013 when the Tanzanian government decided to flush out illegal immigrants. Dar es Salaam explained that the big number of illegal immigrants, for example 52 000 in the Kagera region alone, made it difficult for the government to provide sufficient social services to the citizens.[111] Even though the exercise was directed at all illegal immigrants in the country, it was interpreted by the regional members as targeting Rwandans and was against the spirit of the "East Africanness."

An alternative explanation could be the struggle for regional economic supremacy. The recent oil and gas discoveries and extraction in the East African countries, including South Sudan, could further pose a challenge to Kenya's dominance in petroleum products transportation in Eastern and Central Africa. It could also be seen that Tanzania is increasingly becoming a strategic and potential investment area in the region. This trend was demonstrated by a visit by the leaders of the economic powerful countries such as China and the US. Among other projects, the Chinese and Tanzanian governments signed a contract in March 2013 to construct a port in Bagamoyo, which after its completion will be one of Africa's largest ports. This development in the long run would possibly accelerate Tanzania's economic dominance in the region.[112]

CONCLUSION

Tanzania's approach to promoting regional security in the GLR has over the years remained the same regardless of whether the country focuses on political or economic diplomacy. With the increased involvement in conflict resolution in the post-Cold war period, historical relations with the countries in the region have largely influenced Tanzania's perceptions of the promotion of regional security. The adoption of an OAU mechanism for conflict prevention, management and resolution further facilitated Tanzania's management of the conflicts that were considered to be an internal affair. Moreover, the framework enabled Tanzania to work with regional actors to intervene in circumstances where the international community was either reluctant or delayed taking actions to manage the conflict.

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111 For a discussion on this see The Citizen, 2013. Three allies meet again without Dar. 08 October, p. 1-2; The East African, 2013. After victory in DRC, p. 12-13. See also The East African, 2013. Dar defends move to expel Rwandans.

112 Translated from Mwananchi, 2013. Rais Xi Jinping kuipatia neema Tanzania 24 March, p. 9. See The East African, 2007. Kenya pipeline's dominance under threat. 13-19 August, p. 3; The East African, 2013. Looking East ushers in new diplomacy. 14-20 December, p. 4

While Tanzania's regional role in conflict resolution has not profoundly changed over the years, the emphasis seems to be shifting from mediation and facilitation of peace talks to the deployment of peacekeeping forces with peace enforcement mandate. The changing reality on the ground has influenced the country's approach to conflict resolution. The main reason is based on the successful participation in the missions such as the UN Intervention Force coordinated by Southern African Development Community (SADC) in the DRC. In addition, an attack on Tanzanian soldiers participating in the African Union-UN Mission in Darfur (UNAMID) coupled with the type of weapons used by the rebels – such as M23 in the DRC, provides another justification for the emphasis on peace enforcement.

The Southern African Development Community and the African Maritime Security Equation

Francis A. Kornegay, Jr.

INTRODUCTION

At a time when Africa is experiencing major 'emerging market' economic dynamism and demographic momentum, it is also experiencing equally critical security challenges. As such, this article explores Africa's continental-maritime security equation. Emphasis is placed on the implications this irony holds for the continent generally and the Southern African Development Community (SADC) in particular. Given that SADC is Africa's only bi-coastal regional economic community (REC), its uniqueness within the context of the continent's integration in the global maritime commons from north to south, east to west is explored with particular focus on the southern sea-lanes nexus joining the Indian and South Atlantic Oceans.

This dimension contains broader security and geo-economic implications for southern hemispheric tri-continental integration between Africa, South America and Asia. These need to be spelled out given the geopolitical-economic security interests of great power external actors plying the waters of the southern oceans. This is especially urgent given the multilateral institutional underdevelopment of the global South in relation to the global North and the extent to which Africa is centrally nested within the global North-South equation. That said, within the overall African continental context, there is an urgent need for African analysts and policy makers interacting with external stakeholders to consider the comparative continental-maritime security connectivity interfacing Africa's RECs within the African Union (AU). This relates to its African Integrated Maritime Strategy (AIMS) and how AIMS might inform South and Southern African strategy within SADC and interactively with other RECs in advancing the objectives of AIMS.

Although the Mediterranean falls outside the SADC emphasis of this paper, in terms of addressing the continental context of maritime security, this region cannot be ignored in

attempting establishment of an overall 'big picture' perspective on the challenges facing Africa and the AU. Why this is so has to do with the extent to which what essentially is a Global Islamic Civil War (GICW) has engulfed Africa's northern tier from the Maghreb, extending into and below the Sudano-Sahelian inter-continental belt stretching from the west into the Horn of Africa's Red Sea/Gulf of Aden nexus across from Yemen at the base of the Arabian Peninsula.[113]

The extent to which the full continental security integrity of the AU and AIMS are unfulfilled and rendered limited in effectiveness and relevance (apart from already existing lack of operational implementation) due to the absence of a functioning North African pillar should not be underestimated. Apart from the fact that this dimension of Africa's security receives no serious attention (as well as the reality of it being ignored), this predicament affects SADC and South Africa in as much as decision-making within the AU's Peace and Security Council (PSC) affects the integrity of Africa's control over its continental-maritime security equations – which, in turn, impacts on continental and regional economic security, stability and development. In other words, Africa's continental sovereignty is incomplete. Otherwise, Africa's economic dynamism risk being seriously compromised amid its expanding demography. This will be elaborated on at more length in laying out the full continental context facing SADC's maritime security challenges.

Bearing in mind the foregoing, this paper concludes by exploring the kinds of initiatives that might be considered for enhancing Africa's maritime security and oceans governance capacity and capability. This might include considering the need for a specialist development financing instrument to underwrite maritime security and 'blue economy' capacity-building. Hence, a preliminary proposal is ventured on the desirability and feasibility of there being established a SADC-based maritime infrastructure investment institution or facility (possibly within the ambit of the African regional centre of the BRICS new development bank) for Africa and the global South.

Such a proposal would fall within the scope of SADC. It would address the need for a bicoastal 'Zone of Peace and Cooperation' (ZoPC) convergence in elaborating a southern hemispheric tri-continental security and development cooperation architecture joining the littoral states of the Indian and South Atlantic Oceans. (Elsewhere, it is recommended that India and Indonesia forge a closer bilateral strategic relationship linked to inter-regional maritime security cooperation between the South Asian Association for Regional

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113   Iqbal D. Jhazbhay. Somalinand: An African Struggle for nationhood and international recognition. Institute for Global Dialogue & South African Institute for International Affairs, 2009. 243 pp. See: "Religion (Islam)," pp. 109-148, especially pp. 123-124, quoting from article by Francis Kornegay," Danger that Iraqification policy will mutate into a globalised civil war," Sunday Independent, November 30, 2003.

Cooperation and ASEAN, including elaborating a ZoPC for the Indo-Pacific, setting up a convergence with the already existing ZoPC in the South Atlantic in establishing a southern oceans governance and security system.)

Conceptual framework: The Continental-Maritime Equation

From a conceptual standpoint, maritime security analysis should be informed by the interplay between continental and offshore domains in the geopolitical-economic and strategic dynamics driving regional and international politics. This can be conceptualized as the continental-maritime security equation. In Africa, this interplay has been clearly in play in the ebb and flow of West African dynamics in Nigeria's Niger Delta, throughout the Gulf of Guinea and off the Horn of the African Somali Coast in that region's piracy crisis. It can similarly be argued that the illegal migratory flows from sub-Saharan and northern Africa, extending as far east as the Horn, into Europe, constitutes yet another rendition of the continental-maritime dynamic animating Africa's – and, for that matter, Europe's – security challenges.

Closer to home, in Eastern and Southern Africa, the threat of the Somali piracy crisis migrating into the Mozambique Channel gave impetus to the drafting of a SADC Maritime Security Strategy.[114] This strategy may require factoring in the potential for an expanding jihadi terrorist threat that could disrupt the smooth operationalizing of the Common Market for Eastern and Southern Africa (COMESA)-Southern African Development Community (SADC)-East African Community (EAC) tripartite Grand Free Trade Area (GFTA). The GFTA, interacting with the on/offshore energy exploration-exploitation momentum integral to Africa's economic dynamism (but dimmed by the collapse in the global price of oil) highlights geo-economic factors informing the continental-maritime equation and its security implications. In this regard, Kenya's ability to contain and/or reverse the jihadi threat that emerged out of its being sucked into the Somali civil war vortex reaching into its Northern Frontier District and beyond into Nairobi and Mombasa, has implications for the safety and security of economic development of the expanded Comesa-SADC-EAC trading community.[115]

The magnitude of the stakes involved are reflected in the demographic market potential of this mega-FTA. It is estimated to be somewhere between 600-800 million people. Thus, its potential for contributing to an emerging Afro-asiatic Indian Ocean inter-regional economic

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114   Joao Paulo Borges Coelho, " Southern African maritime security: Problems and prospects," sadsem.org/wp-contents/uploads/2014/04/chapter 8-pdf. Pp. 120-133.

115   See for example: Rashid Abdi, "Security agencies worry about new terrorist threats in Kenya," Daily Nation, October 12, 2013.

space involving what will be the ASEAN economic community at the end of 2015 (not to mention the potential for the South Asian Association for Regional Cooperation and the Gulf Cooperation Council to add further flesh to such possibilities as well).[116] Francis A. Kornegay, Jr. Pax-Afroasiatica: Revisiting Bandung Amid a Changing World Order. Johannesburg, Institute for Global Dialogue, 2004. 73pp. But SADC is bi-coastal with South Africa geographically positioned astride the conjunctural convergence of Indian and Atlantic Ocean southern sea lanes around the Cape of Good Hope. The GFTA thus provides a gravitational economic pull of its westerly Atlantic states into an emerging Indian Ocean geo-economic space; this space also encompasses SADC Indian Ocean island states Mauritius, Madagascar and Seychelles reaching via Mauritius into the geo-cultural, economic and political sphere of India and South Asia.

The trans-Mediterranean continental-maritime subsystem

Given the foregoing, from a comparative perspective, Africa's continental-maritime security equation can be summed up as reflecting the continent's geographical positioning as a virtual island, peninsular extension of transcontinental Eurasia. As such, inter-regionalism between Africa and non-African continental regions, including the seascapes they share, must be factored in as integral to the African maritime security calculus, one defined as inter-regional geostrategic interdependencies. Six regional littoral interfaces appear to align with the AU's five regions. As such, the trans-Mediterranean can be divided into two AU North African sub-regions: west and east. The west constitutes the bulk of the Maghreb, reflecting a long-destabilized security environment, at least in part, resulting from Moroccan-Algerian-Sahrawi stand-off over the status of the Western Sahara. This, in turn, has dysfunctionalised the Arab Maghreb Union (UMA), thereby turning the AU into essentially a sub-Saharan continental body.

Hence, north-western Africa is subjected to a long-standing security vacuum. This was more or less obscured by the former regime of Muammar El-Qaddafi in Libya, which essentially contained and kept a lid on regional instability but for Qaddafi's destabilizing regional interventions in west and equatorial west-central Africa. However, this vast region's chronic underdevelopment and weak governance is a major factor behind what has become a veritable trans-Mediterranean invasion of desperately poor Africans to Europe. This constitutes a shared inter-regional maritime security crisis between the AU and a European Union (EU) suffering multi-layered blow-back repercussions: on the one hand, an illegal migratory reinforcing of marginalized Muslim communities within the EU in what now constitutes a jihadist threat on both sides of the Mediterranean

116 Francis A. Kornegay, Jr. Pax-Afroasiatica: Revisiting Bandung Amid a Changing World Order. Johannesburg, Institute for Global Dialogue, 2004. 73pp.

and, dialectically in reaction, fuelling of a populist xenophobic and racist right-wing politics of nationalism and subnational sentiment threatening European integration as these tensions interact with EU economic malaise and a Berlin-Brussels austerity regime.

Feeding into this trans-Mediterranean instability are the conflicted politics of the eastern Mediterranean revolving around Egypt. Arab Spring dynamics have drawn Egypt and Persian Gulf countries into the unsettled politics of the Maghreb, especially in and around Libya.[117] But the main maritime security tension, characterizing Egypt and the Levant centres around the Nile River Basin, having more to do with the unending inland waterway power-struggle over the control of the Nile. While the primary dynamic in this struggle has been Ethio-Egyptian, tensions extend into the East African Community and involve bitterly unresolved differences between down-stream countries dependent on Nile waters for irrigating agricultural development in Egypt and northern Sudan and up-stream countries equally in need of the Nile's resources for their development. In spite of years, if not decades of deliberation involving the Nile River Basin Initiative, a mutually satisfactory 'win-win' up-stream/down-stream settlement remains elusive.[118]

To the extent that the integrity of Africa's river basins and in-land waterways constitute a dimension of maritime security, the Nile Basin tug-of-war underlines the already referenced enduring North African-sub-Saharan divide in inter-African relations. But apart from that, the Arab Spring upheavals of the Egyptian Levant, with interventions from the Persian Gulf, reinforce the instabilities of the Maghreb and their spillover into Europe. Moreover, the trans-Mediterranean subregion is a collecting point for refugees and illegal migrants from the Horn of Africa and north-western and sub-Saharan West Africa.

The west-central South Atlantic continental-maritime interface: ECOWAS-ECCAS

The African South Atlantic can be subregionalised into two continental-maritime domains: a northern west-central subregion overlapping into the northern tier of the SADC; and the southern South Atlantic inter-regionally adjoining the South American 'southern cone' of the MERCOSUR economic community dominated by Brazil. The African RECs dominating the west-central South Atlantic are the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS). Both RECs are jointly involved in the African inter-regional Gulf of Guinea Commission (GGC) while ECOWAS has been in the forefront of implementing the AU's AIMS with

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117 "Egypt's president calls for an Arab coalition against ISIS," For the Record – IPT Blog, February 24, 2015. (The Investigative Project on Terrorism)

118 Alex De Waal," Sisi goes to Addis Ababa," New York Times, January 26, 2015.

its 2014 launch of the ECOWAS Integrated Maritime Security Strategy (EIMS). The fact that SADC member Angola, also a member of ECCAS, is involved as well in GGC attests to the potential for an expanding integrated Afro-South Atlantic maritime community as ECOWAS-ECCAS concerns have equal relevance for Namibia and the Democratic Republic of Congo, bordering as they do Angola, combined with the stake both have in the SADC agenda.

In human security terms, the aspirational maritime security agenda informing the west-central continental-maritime equation is the civil society-oriented Abuja Declaration augmenting EIMS. It was adopted at the "West African Approaches to Maritime Security" convened May 21-23, 2014 by the Friedrich Ebert Stiftung (FES) in the Nigerian capital, Abuja. There was notable participation of the AFRICOM U.S.-Africa Command in this confab which is part of a partnership series on 'African Approaches to Maritime Security' between FES and SADSEM.

The Southern South Atlantic continental-maritime interface: SADC

The southern South Atlantic forms the western extension of the southern sea lanes of convergence with the Indian Ocean around the Cape of Good Hope dominated by South Africa. As such, South Africa, geographically occupies the centrally pivotal African and global South 'gateway' astride both oceans and their respective littorals and Africa's continental hinterland. [119]The prospect that the country's continental shelf extending beyond its Exclusive Economic Zone (EEZ), covers a territory in totality, on shore and off, making it Africa's largest state, reinforces it's unique status within SADC as well as relative to the rest of the continent.[120] Thus located, South Africa is more than simply a 'nation-state.' It is, as well, a subcontinental maritime regional power embracing the base of SADC's bicoastal identity and potential as an evolving federated supranational state.

Moreover, given the sophistication of its economy, these characteristics make South Africa the geo-strategically indispensable African partner rounding out the India-Brazil-South Africa (IBSA) trilateral dialogue forum and the Brazil-Russia-India-China-South Africa

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119 This reality motivated the convening of a symposium on the relationship of South Africa and Southern Africa to the Indian Ocean and South Atlantic on November 17-19, 2014 in Pretoria. It was jointly convened by the Institute of Global Dialogue and the SA Department of International Relations and Cooperation and, in partnership with SADSEM with funding from the Open Society Foundation SA and the Maputo regional office of the Friedrich Ebert Stiftung, the first maritime security conference of its kind.

120 "SA claims vast tracts of sea floor," South Africa.info: Brand South Africa country portal, July 20, 2006.

(BRICS) forum.[121] Given the geo-strategic maritime and naval logic of IBSA, the three countries have joined together in holding bi-annual IBSAMAR naval exercises with South Africa serving as the strategically convenient meeting point of engagement for both India and Brazil. Specifically regarding the southern South Atlantic, South Africa also engages Brazil in the ATLASUR naval exercises that also involve the navies of Argentina and Uruguay.

Within a much broader multilateral framework, the defining geopolitical organisational potential of this region is contained in the Zone of Peace and Cooperation in the South Atlantic (ZPCSA). However, in terms of SADC (apart from ECCAS), it is Angola that has assumed a more active leadership role in the ZPCSA rather than South Africa. Tshwane-Pretoria has been increasingly more focused on the Indian Ocean where it is set to assume, in a few years' time, chairmanship of the Indian Ocean Regional Association (IORA).

The ecological dimension of SADC cooperation in the southern South Atlantic centres on the Benguela Current Large Marine Ecosystem (BCLME) Initiative. It is one of three similar projects that have generated international backing. BCLME, as a multi-sectoral, intergovernmental initiative, is overseen by a Benguela Current Commission (BCC) comprising Angola, Namibia and South Africa.[122] From South Africa's vantage point, BCLME as a regional undertaking has to be seen in the context of its fledgling Blue Economy developmental focus revolving around Operation Phakisa launched in June 2014; this domestic undertaking aims to develop and conserve South Africa's marine resources in the interest of aiding the acceleration of the country's economic growth.[123]

The southeast African continental-maritime interface

The African littoral of the Indian Ocean has been defined as being inclusive of inland land-locked as well as coastal states.[124] However, within the context of SADC's maritime security strategy, cooperation between South Africa, Mozambique and East African Community (EAC) member Tanzania has given substance to the intent of the maritime strategy at a time

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121   See complementary treatments by Francis Kornegay: South Africa, The Indian Ocean and the IBSA-BRICS Equation: Reflections on Geopolitical and Strategic Dimensions. New Delhi, Observer Research Foundation, December 2011. 22pp. (Occasional Paper #30); "South Africa, the South Atlantic and the IBSA-BRICS Equation: The Transatlantic space in transition," in: AUSTRAL: Brazilian Journal of Strategy & International Relations, v.2 n.3, Jan.-June 2013, pp. 75-100.

122   See: Benguela Current Commission website: www.benguelacc.org/.

123   See: Operation Phakisa website: www.operationphakisa.gov.za/.

124   See: Christian Bouchard & William Crumplin, "The Indian Ocean region: The evolving context and rising significance of the African littoral," in: Journal of the Indian Ocean Region, vol. 9, Issue 2, 2013, pp. 150-172.

when a credible threat had emerged from Somali piracy in the Gulf of Aden migrating down the littoral into the Mozambique Channel.[125] At the outset of the Somali piracy crisis when the international coalition against it was mobilizing, Tshwane-Pretoria refused to be moved by calls to join in.[126] At the time, to some, this appeared an abdication of its presumed continental leadership in favour of a concentrating of its energies closer to home and within the region. The verdict remains out in the debate over whether or not South Africa should have joined the likes of China and India in the anti-piracy coalition.

However, the interplay between Somali piracy at sea and Somali instabilities on land and how they have engulfed Kenya in periodic attacks of jihad from Al-Shabab is cause for pondering in the light of South Africa's own Muslim population and its attraction of Muslim immigrants from Somalia and elsewhere in Africa and the Muslim world. Otherwise, the SADC maritime security strategy, which, unlike that of ECOWAS, remains classified, appears not to approach the level of an integrated approach as reflected in EIMS and its civil society corollary in the Abuja Declaration.

Indeed, this is where maritime security morphs into oceans governance of which the security dimension is an integral component. Yet the same human and environmental security concerns animating the ECOWAS strategy are present along the African Littoral of the Indian Ocean as well. Moreover, just as SADC members South Africa, Angola and Namibia are joined together in the Benguela Current initiative there is a similar project underway along the south-eastern continental-maritime interface: the southwest Indian Ocean Agulhas and Somali Current Large Marine Ecosystem Project (ASCLME).[127]

The northeast African continental-maritime interface

Along the northwest Indian Ocean littoral of northeast Africa, extending from the Red Sea/Gulf of Aden interface into the East African Community as far down the coast as Mombasa, there exists a similar marine initiative. Known as the Somali Current Large Marine Ecosystem Project, this initiative is an ironic counterpoint to the securitization of the northeast African continental-maritime equation emerging from the mainland/offshore reverberations of the

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125 Minister Sisulu signs Memorandum of Understanding (MOU) on Maritime Security Cooperation with Tanzania and Mozambique," Department of Defence, republic of South Africa, 7 February 2012.

126 Lisa Otto," South Africa's Engagement in Counter-Piracy," The Maritime Executive, November 8, 2014.http://www.maritime-executive.com/article-South-Africa's-Engagement-in-Counter-Piracy-2014-11-08.

127 See website: http://acslme.org/

subregionally fragmenting disintegration of Somalia.[128] However, it addresses one of the salient backdrops to the Somali piracy crisis in the depletion of fisheries off the Somali coast by foreign trawlers plying their illegal fishing trade.[129] The Somali piracy problem as an extension of Somalia's onshore disintegrative dynamics reflected to some extent how an endangering of the country's marine ecosystem contributed to the region's endemically violent destabilization.

Beyond the Somali crisis and its maritime security dimension, however, geopolitics has played a major role in shaping the northeast African/northwest Indian Ocean interface, extending into the Red Sea. Here, the prevailing dynamic has been ongoing Ethio-Eritrean hostilities. Thus, Addis Ababa has been denied access to its natural seaport trading outlet at Massawa. This has forced Addis to redirect its access to the Red Sea and Indian Ocean via Djibouti and, to some extent, the unrecognised republic of Somaliland in northern Somalia.

The other geopolitical dynamic, already mentioned, is between Ethiopia and Egypt over the Nile waters, though there is cautious hope that Egyptian President Abdel Fattah el-Sisi attending the end of January 2015 AU summit in Addis might signal Cairo's coming to terms with the regionally stabilizing imperative of sharing the Nile's water resources.[130] This is widely seen as not being the threat to Egypt's hydrological security that Egyptians have made it out to be, not to mention the need that upstream countries like Ethiopia and those in the EAC have of benefiting from it within the inter-regional multilateral framework offered in the Nile Basin Initiative.

Overshadowing northeast African geopolitics is the larger inter-regional conflict system engulfing the eastern Mediterranean. This system overlaps into the 'African Levant' centring around Egypt's aborted democratic revolution and Saudi-supported counterrevolution, linked westward into Maghrebian dynamics and eastward into the Persian Gulf and Yemen, Yemen being a virtual Arabian Peninsula extension of the Horn of Africa. Here, the violent extremist vortex of jihadism as a destabilizing force within Islam's global civil war spans this entire continental-maritime inter-regional interface. It involves different al-Qaeda franchises and affiliates like al-Shabab in Somalia, Boko Haram on the far west Afro-Atlantic as well as in the north where Libya's post-Qaddafi transition remains in turmoil. As such, in a sense, the two subsystems of the trans-Mediterranean continental-maritime equation interface into the northeast African/northwest Indian Ocean nexus, thereby rounding out the six on-land/ offshore areas of geopolitical, economic, security and environmental intercourse comprising the inter-African system overall.

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128   Ibid.

129   Ishan Tharoor, "How Somalia's fishermen became pirates," Time Magazine, April 18, 2009

130   Op.cit. New York Times, January 26, 2015.

The demographic-energy nexus

The importance of surveying this continental-maritime interface of subsystems is as a means of grasping the significance of trends unfolding throughout Africa and, in so doing, coming to grips with its security challenges – and what imperatives these pose for African governments, policy-makers and stakeholders, African and non-African alike. The connectivity within the six interfaces surveyed as factors in the continental-maritime security equation is to be found in the intersection between Africa's rapid population growth and the unlocking of its vast hydrocarbon energy potential – not to mention other potentialities contained in its hydrological endowment such as in the DRC's Grand Inga developmental prospect within the Southern African Power Pool.

A Continent's Demographic Rise

Africa's rapid demographic expansion has been one of the unsung and ignored dynamics in the contemporary world; it has constituted a major factor forcing increasingly periodic recalibrations of Africa's prospects, and by extension their global implications. In fact, it is safe to venture that these prospects have still to be fully absorbed and processed by Africans, African affairs specialists and observers of African trends. To put this in perspective, in the first decade of this century, it was projected that by 2050, Africa would reach a population of 1 billion. Africa has already reached that figure or close to it and we are only midway into the second decade of the 21st century. The projection now is that its population will reach more than 2 billion by 2050 – "almost equal the number of humans everywhere on earth in 1950, two point five billion people."[131]

The magnitude of this impressive African demography was graphically laid out in a keynote paper presented by Professor Renfrew Christie at the Institute for Global Dialogue/UNISA-Policy Research and Analysis Unit (PRAU), Department of International Relations and Cooperation November 17-19, 2014 symposium on "The Blue Economy and the Challenge of Maritime Security for South and Southern Africa" ("South Africa's Leadership Dilemmas in Promoting a Global South Dialogue on Governance in the Indian and South Atlantic Oceans"). In examining the "Implications of Demographic and Economic Change for the African Maritime Area," Professor Christie focused much of his attention on the extent to which Nigeria, at an estimated projection of 400 million, is projected to overshadow any number of major powers today: 40 million more Nigerians than Americans by 2050;

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131 Renfrew Christie, "The Implications of Demographic and Economic Change for the African Maritime Arena," Symposium: 17-19 November 2014 – Towards a South and Southern African Integrated Oceans Governance Framework, Institute for Global Dialogue-University of South Africa, Keynote Address. Pretoria, p. 12.

209 million more Nigerians than Brazilians by 2050; 176 million more Nigerians than Russians, Germans and French combined (not to mention the population declines occurring in Russia and Germany and throughout Europe overall); the fact that Nigeria in 2050 will equal the size of India in 1960 and seven times the population size of South Africa which is projected to be 63,405,000 by 2050.[132]

Impressive as this is, Nigeria's mega-state demography (in a not very large territory) must, in turn, be placed in perspective within a greater inter-African context which will be concurrently witnessing the same population dynamism as Nigeria, especially within the Comesa-SADC-EAC tripartite inter-regional GFTA aka 'Cape to Cairo.' This roughly half of the continent could easily have a population exceeding 1 billion people wherein the EAC core of the tripartite GFTA alone will have an estimated population of roughly over 342 million, approaching the Nigerian projection.[133] Other major 'Cape to Cairo' countries:[134]

Democratic Republic of Congo	155,290,000
Egypt	121,797,000
Ethiopia	278,000,000

Landlocked Ethiopia, along with the EAC, will constitute the demographic centre of gravity of a Comesa-SADC-EAC mega-market along the African littoral of the Indian Ocean. While this offers perspective on Nigeria (which leaves out the rest of ECOWAS), it also places South Africa's future in context. It underlines urgent implications for it to begin moving toward, first a SACU, then a SADC federation and perhaps an inter-regional 'integration community' (anchored in an axis with Kenya) as a means of ensuring its regional and continental influence and leadership. South Africa will have to evolve a niche for itself within this political and economic geography not unlike that of Germany within the EU.

Based on these projections, the continent's demographic expansion will mandate ever greater supranational regional and inter-regional integration as a security imperative (since the current Berlin bequeathed fragmentation of the continent will not withstand an expansion of this magnitude). Africa's demographic expansion interacting with weak and under-institutionalized governance, is a double-edged sword as a troubling decline in critical social indicators reflect. For example: 32 million children under 12 not being in school coupled

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132   Ibid., p. 12.

133   This figure is aggregated from http://www.populationpyramid.net projections for the EAC countries.

134   Ibid.

with the projection that half of the continent's children will reach adolescence unable to read![135] Pan-Africanism is a security imperative in the urgently needed shaping of a new African order. Call this new continental security order 'pan-African economic federalism' comprising a confederacy of autonomous, not sovereign, states. This African future will further shift the demographic and economic centre of the international system to the global South.

It will reflect an essentially Afro-South Asian geo-demographic axis. In the process, this concentration will accentuate the Indian Ocean as the epicentre of the global order. It will underline Robert Kaplan's dubbing this maritime region as the 'Indian Ocean World Order,' integrating Martin Walker's CHIMEA (China-India-Middle East-Africa) envisioning of how this order is and will continue taking shape.[136]

Apart from the fact that Africa is projected to have a greater overall population than either India or China individually while India is projected to outstrip China's population (which is entering an aging dynamic of decline – along with Russia) underlines the Indo-African nexus in the making. This will have implications for connectivity between the Eastern and Southern African maritime domain along with the western Indian Ocean Rim and the Indonesian-led ASEAN economic community, possibly to be bridged by a more greatly integrated South Asian Association for Regional Cooperation-cum-FTA. Welcome to the world's African-Indo-Pacific future! (In effect, reflecting human evolution's coming full circle from its African origins and 'out of Africa' aftermath of exodus into Eurasia and the Asian south-by-southwest and subsequent global dispersal.)

From an expanded global South security perspective, these prospects make all the more critical how the geopolitical-security dynamics of the eastern Mediterranean unfolds, especially in terms of how it affects that maritime region's North African-Levantine subsystem. This is important for determining the South and Southern African SADC security calculus, given how this region will need to contribute to overall African security.

The World's Minerals and Energy Province

Now it is important to revert back to Christie in terms of the energy-economic nexus and how this factors into the African continental-maritime security equation. What makes

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135   See: UNESCO Institute for Statistics. "Schooling for Millions of Children Jeopardized by Reductions in Aid," UIS Fact Sheet, June 2013, no. 25.

136   See: "The Indian Ocean world order," by Robert Kaplan, April 10, 2014," RealClearPolitics – http://www.realclearworld.com/articles/2014/04/10/… Martin Walker, "Indian Ocean Nexus," Wilson Quarterly, Spring 2008, pp. 21-28.

Christie's prescient analysis especially useful is his factoring in the declining oil price, noting that:

> "…No one is predicting an end to African oil exploration. Big oil groups still plan to spend billions of dollars in the continent over the next decade developing the recently discovered reserves, executives say. Moreover, companies have already hired rigs and drill ships for next year and, in many cases, for 2016, as well. Any shift away from exploration will therefore take time. As Irene Nafuna Muloni, oil minister of Uganda, points out: 'Africa is endowed with oil. We still have opportunities in spite of the lower [oil] price'."[137]

Moreover, between joint 'swing producers,' the US and Saudi Arabia, navigating the ebb and flow of global economic growth in arriving at pricing levels reflecting demand-supply realities, there will continue to be a market for African hydrocarbons with revenues accruing to African governments accordingly. Otherwise, it is foreseen that governments may, in the interim of investment and spending cut-backs by companies, increase taxation on royalties to compensate as they must politically manage expectations created that "a wave of petrodollars will flow into government coffers."[138] (Here, it must also be factored in that African governments and RECs will increasingly have to calibrate optimum mixes between hydrocarbons, water and renewable resource endowments as developmental inputs into the African economy both for their own use and for export.)

The bottom line Christie arrives at is that the maritime sector and its security imperatives will have to increasingly inform the calculus of policy-making and the setting of strategic priorities amongst African governmental and institutional stakeholders and non-African actors engaging in economic relationships and activities in Africa. The mobilisational resource implications of all this for SADC and Africa as a whole, including South Africa (as the seat of the BRICS regional centre for its 'new development bank'), will be taken up later in concluding this chapter. In the meantime, there is a need to revisit the fluid security context for the challenges this poses for South Africa and SADC in optimizing stable continental-maritime interfaces in the six sub-systems influencing geopolitical-economic dynamics in each of the five regional pillars of the AU. For the security context has a bearing on the concluding points Professor Christie offered in his symposium keynote presentation.

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137   Christie, op.cit.p. 15.

138   Ibid., p. 16.

The continental Security context impacting SADC

With regard to the Indian Ocean and South Atlantic continental-maritime security equations, SADC, in implementing its maritime strategy, may want to consider coordinated divisions of labour among its more capacitated member states in managing oceans governance and the marine environment. This will have to include managing their own expanded continental shelf claims amongst littoral states in the interest of fostering regional and inter-regional cooperation within and beyond SADC. Otherwise, the most pressing continental-maritime security challenges appear most concentrated within the African northern tier spanning the trans-Mediterranean interfaces extending eastward into the northeast African subregion of the northwest Indian Ocean.

This latter subregional sub-system is integral to the 'Cape to Cairo' GFTA, including the contested inland waterway of the Nile Basin. It also encompasses the Somali-Kenya security conundrum involving the spillover of Somalia's civil war with Al-Shabab jihadism into Kenya's Muslim community, including Somalis. Together with jihadist-influenced destabilization in the Maghreb which gained momentum from Libya's failure to attain political stability post-Qaddafi accompanied by and reinforcing sectional polarization in Sahelian Mali, there is the already referenced threat potential of this northern trans-regional instability to compromise maritime security. Though much of this destabilization, including Boko Haram depredations in Nigeria, are inland, the fusion of piracy, illicit trafficking and terrorism into a comprehensive threat reality has to be factored into the risks these pose to the maritime environment. This is especially so regarding the trans-Mediterranean and the implications this holds for the role of North African states in operationalizing the AU's still underdeveloped and under-capacitated 'peace and security architecture' inclusive of its maritime component.

The population-energy conflict nexus informing Christie's November 19th symposium keynote presentation assumes more of a classical threat perception of neighbouring African states warring against one another. This would unfold as he depicts as having motivated how, "in World War I, rival British, American, French and German oil interests dictated strategy in the Middle East" and, in the Second World War, how "part of Hitler's motive in attacking eastward was first to the Romanian oil fields and then those of Baku in the south-east..."[139] Although Christie envisions how "we must expect wars, coups de etat, and insurrections in Africa," citing such examples as Tunisia, Libya, Egypt, Chad, and the two Sudans as emblematic of the continent's future "if rapid population growth and oil have both tended historically to cause war," the contemporary African situation departs from European civil wars I and II.[140]

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139   Ibid., p. 17.

140   Ibid., p. 17.

They have more to do with inter and intra-state dynamics interacting with non-conventional military threats that require a strengthening of RECs. This would need to involve a softening of borders along with the pooling and sharing of sovereignty to better manage the population-oil dynamics Christie foresees as destabilizing the continent. Indeed a harbinger of potential nightmares to come in the current fragmented African security landscape is the influx of 12,000 Nigerian refugees into Chad resulting from the Boko Haram depredations in north-eastern Nigeria.

Left up to individual states presuming 'national sovereignty" in a Hobbesian African universe, the magnitude of the demographic expansion dynamic are indeed daunting in its threat potential. The Boko Haram threat in the ECOWAS-ECCAS interface is only one such example of what may be in store in the absence of deeper regional security integration. Thus, in as much as these demographics are already overwhelming sovereign capacity of already comparatively weak states, the critical and strategically important African governance transition toward supranationalism and regional integration becomes an overriding security imperative. What, in effect, must be brought into being is an African Security Community in the broadest meaning of the term as it also applies to the EU which is considered a 'security community,' its evolution and establishment motivated exactly by what Christie does not want to see unfold in Africa.

The Trans-Mediterranean and the AU's 'Missing Pillar'

SADC in its own bi-coastal economic and security interests and especially South Africa's, in its continental leadership role, must therefore recognize a stake in stabilizing northern Africa to the benefit of that region's contribution to African continental sovereignty within a strengthened AU. This implies an urgent need to turn the Arab Maghreb Union into a functioning pillar of the AU by resolving the three-way Western Sahara stalemate between Algeria, Morocco and the Saharwis with the re-inclusion of Rabat into the AU fold. Given the security challenges facing the southern Mediterranean, with impacts on its northern side in southern Europe, resolving this stalemate is in both the European as well as the African interest. Yet, this 'frozen conflict' festers like a wounded 'elephant in the room' in Africa and Euro-African relations.

It is in South Africa's interest now that this log-jam is loosened while it is its national, in the name of SADC, heading up an AU Commission which, once Nkosazana Dlamini-Zuma's tenure expires, is supposed to gravitate to a North African chair. But should this rotational protocol be honoured in the absence of a functioning REC in North Africa accompanied by an all-round lack of political and diplomatic will to bring closure to an issue resulting in an AU with a non-functional and destabilized region? This will mean a role for

Tshwane-Pretoria in contributing to a mediatory process that re-conceptualizes the terms and modalities of a three-way Western Sahara settlement.

There is no rational basis for the sovereign independence of a vast territory housing only little more than 200,000 people, thereby contributing further to Africa's Berlin-based partitioned fragmentation. Africa needs no more states – especially ones like South Sudan which were predicted to fail (with the destabilizing regional repercussions this has had). It urgently needs to build strong RECs as a defence against a future of war as envisioned by Christie due to an intersection between rapid population growth and resource exploitation. This means focusing on a resolution of the Western Sahara stalemate that prioritizes the bringing into functionality of the UMA.

Among other things, a functioning UMA would/should provide a regional governing institutional filling of the gaping security vacuum in the Maghreb and north-western Africa that festers like a cancer metastasizing into sub-Saharan Africa – and that contributes to wave upon wave of illegal migration into Europe across the Mediterranean, destabilizing EU politics and cohesion as a consequence. There, thus, is no reason why the Sahrawi 'republic' could not be constituted as an autonomous (rather than sovereign) UMA republic under a shared sovereignty arrangement involving Morocco and Algeria along with the Sahrawis. Of course there are any number of reasons having to do with problematic internal dynamics in Algeria and Morocco as well as between them and within the region as a whole, combined with lack of vision and political will within both the AU and EU, that make such a regional integration solution to the Western Sahara conundrum unlikely.

However, an empowered and functioning UMA could become the centrepiece in what may be in need of establishing between Africa and Europe: An AU-EU Permanent Joint Commission for the trans-Mediterranean. It would be for the development for the benefit of mutual security and development in North Africa and the southern EU. Only the establishment of a trans-Mediterranean security community will stabilize the situation currently obtaining between the shores of the Maghreb and Levant and the islands and shores of southern Europe, including jihadist movements in and around this transcontinental region.

South and Southern Africa and The Southern Hemispheric Commons

Closer to home within SADC, there are at least three items of priority requiring urgent policy attention:

- ¤ Establishment of a mechanism for mediating maritime domain territorial claims;
- ¤ The need for South Africa to adopt the coordinated managerial approach to its maritime sector that Indonesia has adopted in establishing an overarching body that

coordinates different ministerial, departmental and agency inputs into government's approach to the maritime sector and oceans governance;

¤ The need for South Africa, as a member of IBSA, to call for the convening of a special IBSA summit on oceans governance and maritime security that, among other things, would consider fleshing out the revisiting of a 'Zone of Peace' in the Indian Ocean into a similar structure as the South Atlantic ZoPC: a Zone of Peace and Cooperation for the Indo-Pacific; also, building upon IBSAMAR as a more robust southern hemispheric naval-maritime exercise, perhaps in linkage with ATLASUR.

GondwanaBank': Financing the African Blue Economy & Maritime Security

South and Southern Africa have a vested interest and security stake in Africa's overall geopolitical stabilization. Hence, the digression into the necessity of stabilizing the region at the opposite end of the continent. Africa's geopolitical stabilization and integration are concurrent as well as preconditional factors in advancing the objectives of AIMS which, in turn, is a necessary accompaniment to realising an African Blue Economy. In Christie's treatise on the population growth-oil exploitation war and peace conundrum, he concludes that: "Without an effective African Blue Economy, Africa cannot survive the coming population expansions or the oil booms. Equally, without strong African Navies and Maritime Air Forces, Africa will not have a Blue Economy."[141] Thus, whereas, based on his projection, "fast population growth causes war; oil causes war…strengthening the African Blue Economy, as well as building the Navies and Maritime Air Forces, which defend it, will be central to turning these potential threats into golden opportunities."[142]

The opportunity potential is informed by the fact that all around the continent's coastal perimeter and inland, there will be a need for ships and improved shipping which "will need improved ports, railways, and power networks" and the related infrastructures that go along with these. [143]Without ships and their safety at sea there will be no oil money and that to the extent that "much of the new African oil and gas lies beneath the sea, so the oil rigs will need naval defence, with maritime air cover."[144] Such defences, in turn, will benefit "African sustainable sea fisheries" which also must be expanded to feed the people.[145]Sustainable

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141   Ibid., p. 19.

142   Ibid., p. 19.

143   Ibid., p. 19.

144   Ibid., p. 19.

145   Ibid., p. 19.

fisheries connotes an agenda that must include the human security of coastal communities and those whose livelihoods are dependent on inland and offshore marine economies such as reflected in the large marine ecosystem initiatives already cited. However, this should also include protecting the environmental security and biodiversity integrity of Indian Ocean island members of SADC such as Madagascar and members of IORA such as Indonesia. Given the magnitude of this immense capacity-building agenda, is there not a need for a specialist African or African-based development financing institution (DFI) to underwrite the continent's maritime infrastructure investment andsecurity? Or, could the African Regional Centre of the BRICS New Development Bank (NDB) accommodate a special maritime infrastructure investment facility for this purpose? Furthermore, would such an African-based DFI service just Africa or address similar needs throughout the 'Gondwanan' expanse of the global South where similar investments are needed (such as in Indonesia which, under its 'global maritime axis' policy endeavours to build up its maritime infrastructure as an 'archipelagic' nation)? These questions raise important geopolitical considerations for deliberating on as well as institutional and financing investment structuring and managerial 'corporate governance' issues. From a political standpoint, to lessen realities of African dependency, priority should be given to establishing an institution that, at least at the outset, is financially controlled by African governmental and private investors putting up the initial capital. This would establish the basis for opening up shares for western and emerging powers alike – and their private financing capacities – to buy into such a specialist maritime DFI or facility. Such an African and/or Afro-global South DFI would reflect a more inclusive investment orientation compared to the BRICS New Development Bank with its bias against western share buy-in (though eventually they are to be accommodated). This should/would not preclude BRICS-NDB financing of maritime infrastructure. It would, however, expand Africa's infrastructure investment financing options overall in a manner intended to enhance Africa's control over its development in such critical strategic sectors as in the maritime sector.

If China is motivated to establish a purely Asian Infrastructure Investment Bank (AIIB) which Asian economies will dominate under its control, why should not Africa contemplate a purely African or African-led global South DFI for maritime infrastructure investment? Establishing such a comparatively independent but inclusively oriented DFI would also provide an opportunity for African stakeholders to concentrate on establishing such an institution with the accompaniment of an independent project preparation capacity. Among other things, it could build in social and environmental safeguard requirements as conditional and mandatory for financing an African-global South Blue Economy. If such a DFI is to be situated in SADC, where it is headquartered would constitute a major political consideration given South Africa's membership in BRICS while headquartering the NDB's first regional centre. Angola comes to mind as an obvious alternative venue for such an

institution although there might be other candidates like Mauritius, also a SADC member, but geographically positioned as an Indian Ocean island state at the intersection between South Asia and the Middle East as well as Africa. There is a precedent for such a specialist DFI: the American state of California's maritime infrastructure and economic development bank. [146]The due diligence required in determining the value-added niche and practicality of such an institution for Africa and the global South might include a feasibility study that, among other things, would interact with and study this California institution as a possible model and/or point of departure.

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146   See website: www.ibank.ca.gov.

Piracy in the Horn of Africa: threat or opportunity?

Kidist Mulugeta

INTRODUCTION

The Horn of Africa is one of the most unstable regions in Africa. The region has been marred by deadly intra-state and inter-state conflicts threatening regional security for decades. The incidents of piracy off the coasts of Somalia added a new dynamics to these complex regional security challenges. The region came under the international spotlight since the coasts of Somalia have become the hotspot of piracy. Since 2002, over a thousand ships were attacked by the Somali pirates and more than 3,000 seafarers were taken hostage.[147] The waters of the Western Indian Ocean and the Gulf of Aden have been designated as high-risk areas. This has caused disruption in international trade routes and caused significant costs to the international economy.

The international community responded by deploying naval ships to monitor and patrol the coasts of Somalia, the Gulf of Aden and the Western Indian Ocean.[148] Additional counter-piracy measures have been adopted by shipping companies to maximize their safety. Self-protection measures including rerouting, physical barriers (barbed wire, electrical fence etc.) and private armed security guards have been employed to deter pirates from boarding

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147 The number of seafarers killed in the incident is estimated to range between 82 to 97. Currently, over 20 seafarers are held captive by Somali pirates; some were kept for nearly five years. See New York Times, 2015. "The Somali Pirates Release 4 Thai Sailors Held for Nearly Five Years," The Associated Press; for more information, see One Earth Future, 2015. Somalia's Forgotten Hostages, News, http://oneearthfuture.org/news/somalias-forgotten-hostages.

148 Three multilateral naval missions including the European Union Naval Force Atlanta (EU NAVFOR), NATO's Operation Ocean Shield, the US-led Combined Task Force 151 were deployed to monitor the area. In addition, independent naval missions from China, Indian, Japan, Russia and Iran have participated in counter-piracy operations. These naval missions are supported by aircrafts, helicopters and UVAs.

ships.[149] Regional states contributed to the fight against piracy by prosecuting pirates apprehended by international naval missions. International and regional organisations have been building regional capacities to counter the threat. According to the World Bank, "60 countries and 20 established and ad hoc international organisations are engaged in the fight against piracy off the coast of Somalia." [150]

The combined efforts of the international and regional stakeholders have paid off as the problem of piracy has subsided substantially. There have been no successful hijackings of merchant ships since 2012.[151] Measures employed to counter piracy are, however, costing the global economy billions. The economic costs of Somali piracy are estimated to range between $2-18 billion annually. [152] The question remains, can the achievements be sustained? And, can the resurgence of piracy be prevented? There is a broad consensus that the answer to these questions lies on-shore and in the region. Hence, there is a growing call for local and regional actors to take ownership of the fight against piracy. This paper analyzes the impact of piracy and counter-piracy operations on states in the Horn of Africa to determine if these states are up to the challenge.

Drivers of Piracy

Somalia had become a hotspot of piracy since 2008. Somalis attribute the problem of piracy to illegal fishing and toxic dumping. According to this popular narrative, the livelihoods of coastal communities have been affected by these illegal activities turning them into pirates. Fishing vessels from Asia, the Middle East and Europe have in fact been infesting Somalia's waters, taking full advantage of the absence of a state authority capable

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149   Self-protection measures adopted by the maritime industry are too expensive, costing the industry up to $1.3 billion in 2014. See Oceans beyond Piracy, 2014. The State of Maritime Piracy: Assessing the Economic and Human Cost, p.5.

150   The World Bank, 2013. The Pirates of Somalia: Ending the Threat, Rebuilding the Nation, p.157.

151   According to the latest data of the International Maritime Bureau, not a single pirate attack was reported off the coast of Somalia in 2015. This is quite remarkable when compared to 237 incidents 2011. The estimated coasts of piracy, and human and economic costs have also gone down. See International Maritime Bureau, 2015 and 2011 Global Piracy Reports.

152   Oceans Beyond Piracy, 2014; The World Bank, 2013.

of protecting and making use of its rich fish resources.[153] Critics, however, argue that there is no empirical evidence regarding over-fishing or depletion of the Somali coastal waters. These critics also claim that the fishery potentials of Somalia have largely remained underutilized.[154] Assuming this argument contains a grain of truth, the presence of foreign fishing vessels within the sovereign territorial waters of Somalia and the perception of plundering by itself creates local antipathy. Somalis perceive pirates as heroes defending the coastal waters of Somalia and the ransoms collected by pirates are considered to be legitimate taxes. Foreign vessels illegally fishing in the waters of Somalia have, indeed, declined substantially after the incidents of piracy. The acts of piracy are, therefore, tolerated in Somalia.

The lucrativeness of the piracy business was, however, a prominent factor in its proliferation. Somali pirates have extracted over $300 million since 2005. Moreover, more than 90 % of pirates have gone unpunished and most pirate bosses remain untouched and unaccountable, making piracy an attractive business.[155] According to one World Bank report, local stakeholders including local authorities, clan leaders and militias also extract a portion of ransom money in exchange for allowing coastal waters to dock hijacked ships.[156]

At the bottom of it all, the absence of state authority that has been able to govern and control the entirety of the Somali territory since 1991 and subsequent decades of instability and poor economic conditions in Somalia are the main driving factors for piracy to thrive. Under such a context, it should not be hard to find recruits for piracy, launder ransom

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153   A UN monitoring Group on Somalia confirmed the presence of Yemen and Iranian vessels fishing illegally in waters of Somalia. Fishing vessels from China, Korea, Taiwan and Europe also allegedly operate illegally in the area. See Somali Report of the Monitoring Group on Somalia and Eritrea 2013, p.100. For more information, see Federal Ministry of Fisheries and Marine Resources Somalia, 2015. Report on presumed IUU fishing activities in the EEZ of Somalia.

154   The coasts of Somalia are rich in fish resources, have a "potential annual sustainable catch of 300,000 metric tons of fish" but the fishing industry is artisanal, underdeveloped and underutilized. See The World Bank, 2013:58.

155   Pirate bosses collect 30-50% of the ransom money but only a few are jailed or prosecuted. A court in Puntland sentenced a notorious pirate boss "responsible for over 25 hijackings to only 5 years imprisonment" see Somalia Report of the UN Monitoring Group on Somalia and Eritrea 2012, p.203. This is attributed to the fact that transferring pirates, investigating piracy crimes, conducting trial, prosecution and imprisonment of pirates are costly and time consuming endeavors. See Bellish, Jonathan, 2014. The Systematic Prosecution of Somali Leadership and the Primacy of Multi-Level Cooperation. Available at oneearthfuture.org; For more see UNSC, 2011. Report of the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia.

156   On average up to 20 % of the ransom money goes to local stakeholders or between "US$100,000– US$300,000 anchorage fee is paid per vessel." See The World Bank, 2013:117.

money and act with impunity.[157] The unemployment rate of the youth in Somali is estimated at 67%, meaning that there is a large readily available recruiting pool for piracy.[158] It should also not be too difficult to leverage support or entice weak local administrations and impoverished coastal communities using money and clan affiliations.[159]

Somali pirates have, in general, the luxury of using the long ungoverned territorial waters of Somalia to launch attacks on ships passing through the rather busy Gulf of Aden, to anchor hijacked ships and hold crews hostage for years.[160] The ports of Hobyo, Eyl, Dhinoodha and Harardhere in Puntland and in central parts of Somalia have served as operational bases for Somali pirates.

Window of opportunity for Somalia
Reconstruction of the State

Somalia was neglected by the international community for decades and Somalis were left on their own to deal with challenges of state collapse. The international community's engagement had been limited to either humanitarian assistance or distant financial and diplomatic support to regional peace-making initiatives. This was to change once piracy and terrorism became serious threats to international security (the scope of this paper only covers piracy). Somali pirates threatened the security of trade routes linking European and Asian economies. "Europe's economic security depends heavily on the imports and exports of energy and trade from and to Asia and the Middle East that go through the Indian Ocean."[161] Ships from Europe, particularly from Denmark, Spain, Belgium, the UK and Greece were pirated. US nationals and ships have been victims too. Measures adopted to fight piracy cost the international community billions. The cost of naval operations alone is estimated to have

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157   The absence of a state authority capable of enforcing laws made attempts to trace illegal financial flows futile. Pirate bosses are investing the ransom money into other businesses including armed smuggling and chat trading. See Somalia Report of the UN Monitoring Group on Somali and Eritrea, 2014, pp.22-26.

158   United Nations Development Programme, 2012. Somalia Human Development Report: Empowering Youth for Peace and Development, p.202.

159   The Puntland regional administration's annual budget of 2014 amounts to $30 million, while pirates have on average collected $53 million annually. See Salah M. Abdulkadir, 2014.Equity and Taxes in Puntland and Jubaland, diakonia report, p.18.

160   Somalia has the second longest coastline in the world, stretching 3,700 kilometers, and over 22,000 ships pass through the Gulf of Aden annually.

161   Susanne, Kamerling, et al, 2011. "An Overseas Naval Presence without Overseas Bases: China's Counter-piracy Operation in the Gulf of Aden," in Journal of Current Chinese Affairs, 40(4), 119-146, p134.

reached $700 million in 2014.[162] The incidents of piracy, therefore, renewed international interest in Somalia.

After two decades of state collapse, the international community started to extensively support and engage in the reconstruction of the Somali state. A more permanent and organised government has been established with its budget almost entirely covered by external funding. A Somali National Army and a standing police force have been set up and are being equipped, trained and financed by international partners. [163]The African Union deployed a peacekeeping mission to stabilize Somalia and reinforce the state building process again with the financial, logistics and political support from international stakeholders.[164] Under the EU's guidance, an initiative named the New Deal compact was launched to rebuild the state and build peace especially in the south-central parts of Somalia, which have been the most unstable areas since the state collapsed.

Piracy has also been a blessing in disguise to the northern and north-eastern parts of Somalia that have remained relatively stable over the past two decades. These two areas gained better appreciation and assistance from the international community. They benefited from increased capacity building and development assistance from the international community. The UK has been involved in training security personnel from Somaliland. These are some notable examples undertaken by the international community to stabilize Somalia and rebuild the state, the absence of which enabled piracy to thrive.

With all the assistance rendered by the international community, Somalia is still far from being stable and peaceful. The Federal Government of Somalia and its security apparatus are very weak. The progress of re-establishing state institutions and regional administration are also too slow. The success of the externally driven and supported peace-making and state-building process remains uncertain. Yet, the progress achieved so far is better and promising when compared to previous attempts. Hence, piracy has created a window of opportunity for the reconstruction of the state of Somalia.

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162   Oceans beyond Piracy, 2014:17.

163   The Somali National Army is estimated to have over 20,000 troops. The US alone is spending 1 billion on the Somali security sector (Interview with a US official, August 2015). Since 2008, the EU has committed over 1.2 billion Euro to support Somalia. See http://www.euractiv.com/development-policy/new-deal-somalia-business-usual-news-530491

164   The African Union Peacekeeping Mission in Somalia (AMISOM) was deployed in 2007 and has 22,000 forces fighting against Al-Shabbab, an extremist group that intends to establish an Islamic state governed by a strict Sharia law. Somalia's neighboring states, including Ethiopia, Kenya and Djibouti are among AMISOM troop contributing states. The international community is spending over $580 million on the AMISOM.

Maritime and law enforcement capacity

Along with peace-making and state building processes, the international community has launched a number of projects to enhance the maritime and law enforcement capabilities of Somalia. UNDOC and UNDP have built and renovated prisons in Puntland, Somaliland and Gulmudug to prop up their detention capacity and facilitate the relocation of convicted pirates from neighbouring states to Somalia. Projects are also in place to enhance the prosecution and court capacities of Somalia and conduct trials within the country. Prosecutors, judges and police officers from regional administrations received trainings in handling piracy related crimes.[165] Regional administration have also enacted anti-piracy laws under the guidance of international partners.

Reinforcing Somalia's maritime patrol and law enforcement capacity is also part of the international community's strategy to tackle piracy on land. Maritime police forces have been established in Puntland, Somaliland and Mogadishu.[166] Coast-guard personnel has received trainings and equipment from international partners. The EU, UNDOC and the UK have been involved in developing the capacity of coast guards and maritime police of regional states.[167] Turkey has provided patrol boats and trainings to the fledging coast guard of the Federal Government of Somalia.[168] There were instances where regional maritime forces have managed to intercept and destroy pirate bases. Particularly, Somaliland possesses relatively better functioning institutions, control and stability, which has served as a bulwark against piracy.

Somalia's coast guard and law enforcement capacity has generally improved, but there is no near-term capacity to exercising control over its territorial waters. Most pirates are still prosecuted outside of Somalia. Lack of political stability, institutions and capacity (resource and expertise) continue to pose challenges to Somalia in dealing with the problem of piracy.

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165 See UNDP, 2013. Bringing Justice to the Most Vulnerable, Governance and Rule of Law Programme. Available at http://www.so.undp.org/content/dam/somalia/docs/FactsSheet/Bringing%20justice%20 to%20the%20most%20vulnerable%20.pdf.

166 The UK was instrumental in the creation of the coast guard of Somaliland in 2005, while the Puntland Maritime Police Force was funded by the United Arab Emirates. The Somaliland Coast Guard "consists of twelve bases, which share five to seven working boats. The Coast Guard's annual budget is US$200,000." See Dua, SSRC; Nelson, R. "Ozzie" and Brianna Fitch, 2012. Combating Piracy: Challenges and Opportunities for Regional and Private-Sector Involvement. Center for Strategic International Studies.

167 See United Nations Office on Drugs and Crime, 2014. Maritime Crime Programme Annual Report.

168 Interview with high-level Somali Federal Government official, 22 September 2015.

[169] Prisons hosting pirates are attacked repeatedly. Local political and clan dynamics further undermine the capacity of weak regional administrations to enforce laws and prosecute pirates. Counter-piracy raids and operations often require prior negotiations with clans, local authorities or militias in charge of pirate operational bases. The Puntland administration destroyed a prominent pirate base in Eyl only after president Farole, who hailed from Eyl, came to power.[170]

The international community's approach to dealing with the problem of piracy on land is also narrow in its scope. Counter-piracy initiatives and projects carried out by the international community accorded priority to security, justice and law enforcement sectors. Only a few development projects were launched including by Norway, the UNDP and the Food and Agriculture Organisation (FAO) to improve the livelihood of coastal communities.[171] And, these projects are not well coordinated. Moreover, the resource committed to land based solutions is insignificant in comparison to the vast sums spent offshore. In 2014, about $ 2.3 billion was spent on counter-piracy measures, off which, the funding allotted to capacity building initiatives amounts to $ 53 million. [172] A significant portion of this resource is diverted to other states in the region and to operational costs. This vindicates the argument that the international community is more interested in containing the piracy problem than addressing its root causes.

Moreover, the international community has paid little attention to other maritime security priorities of Somalia including illegal fishing, armed smuggling and human trafficking. The smuggling of arms and explosives is fuelling the ongoing conflict in Somalia.[173] Foreign vessels fishing illegally within the territorial waters of Somalia act with impunity. With a declining number of pirate attacks, illegal fishing vessels are resurging off the coasts of

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169 The Somaliland Coast Guard's patrol boats are mostly out of service because of "lack of fuel, or "due to failure to maintain the vessels." See UNDOC, 2014:3.

170 Pirate bosses and pirates are often supported by their own clans. The detention of a pirate boss in Belgium triggered a local protest. See BBC Monitoring Africa, 2013. Somali Residents Protest Arrest of Ex-Pirate Kingpin in Belgium; For more information, see the World Bank, 2013:148. For more details, see Somalia Report of the UN Monitoring Group on Somali and Eritrea, 2014, pp. 24-25.

171 The FAO introduced a database system to register Somali fishers and has been rehabilitating fish markets. See UN, 2104:13. Infrastructure development projects were launched by the UNDP in piracy affected areas. See UNDP Somalia, 2013. Local Economic Development Project, annual report.

172 Oceans beyond Piracy, 2014:16

173 Explosives used by Al-Shabbab to commit deadly suicide bombings in and outside Somalia are primarily smuggled from Yemen through the coasts of Somalia. See Somalia Report of the UN Monitoring Group on Somali and Eritrea, 2014, p.33.

Somalia using fraudulent licenses and armed Somali security guards for protection.[174] Such a trend gives an alibi for Somali pirates to resume their criminal activities and for their criminal activities to be condoned by local communities. Despite discrepancies in maritime security priorities, Somalis collaborate with the international community's fight against piracy to leverage resources, political support and for recognition.

This is not to argue that piracy has not negatively affected Somalia. Over 500 Somali pirates are estimated to have died and unaccounted numbers are missing while close to a thousand pirates are languishing in prisons inside and outside Somalia. Most of the victims are young Somalis aged between 15 to 35 years.[175] Against this backdrop, traditional elders and local communities have been campaigning to create awareness about the risks involved in piracy. Such campaigns are reported to be important in deterring youngsters from becoming pirates. [176]Yet, piracy is still widely perceived as an international problem and responsibility. Compared to other threats facing Somalia including internal conflict and terrorism, the problem of piracy seems to be the least of Somalia's security concerns.

Challenges and opportunities for regional states

The Horn of Africa comprises seven states, of which five have access to the sea: Somalia, Eritrea, Kenya, Djibouti and Sudan. It remains unclear how much Somali piracy has cost the Horn of Africa's states, but its impact cannot be understated as the bulk of shipments destined to and from the region are transported through piracy infested waters of the Gulf of Aden (GOA) and the Western Indian Ocean.[177] The implications, however, vary across states in the region.

Kenya suffered most due to its geographical proximity to the coastal waters of Somalia. The port of Mombasa has been subjected to high insurance premiums increasing import and export costs. "The cost to the shipping industry in Kenya is estimated between US$

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174   In 2015, two Iranian fishing vessels were hijacked by the Somali pirates while fishing illegally within the Somali coastal waters. See Oceans beyond Piracy, 2015. Will Illegal Fishing Ignite a Preventable Resurgence of Somali Piracy? Issue Paper. For more see UN Monitoring Group, 2013:101-102.

175   Oceans Beyond Piracy, 2014:34

176   United Nations Office on Drug and Crime and Oceans beyond Piracy, 2015. Somalia Prison Survey Report: Piracy Motivations and Deterrents.

177   DemessieFantaye, 2014. Regional Approaches to Maritime Security in the Horn of Africa.FES Peace and Security Series.

300 million and US$ 400 million a year."[178] The fishing and tourism sectors of Kenya are negatively affected by the surge of piracy. The number of cruise ships destined for Kenya has declined. Kenya's vulnerability and proximity have at the same time created opportunities for it to benefit from the international community's capacity building assistance. Prisons in Kenya have been rehabilitated and police officers and prosecutors have been trained in counter-piracy techniques. Kenya's maritime and coastguard personnel has received trainings and equipment, which helped strengthening its maritime domain awareness and surveillance capacity.[179] The US has provided patrol boats to Kenya and Denmark is providing training to Kenya's maritime forces.[180]

Proximity to the coastal waters of Somalia, on the contrary, benefited Djibouti. Djibouti is hosting and serving as a logistics hub of naval missions engaged in counter-piracy operations. All the three multilateral naval missions operated by the US, the EU and NATO operate from Djibouti and other independent naval missions use its ports and logistical facilities. The US, France and Japan have established naval operational bases in Djibouti. Rents collected from these military bases amount to more than $ 100 million per annum.[181] In terms of maritime security, the presence of multilateral naval forces operating from Djibouti deters Somali pirates from threatening its coastal waters. Djibouti has also upgraded and expanded its national coastguard and maritime surveillance capacities with international assistance. Piracy has therefore boosted Djibouti's economy, maritime security capacity and its strategic importance in the Horn of Africa.

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178   Institute for Security Studies, 2012. Kenya and the Pest of Piracy: A Prospective Partner for Peace. Situation Report, p.2.for more see SAIIA, 2012. The Articulations of Maritime Piracy in Kenya's Foreign Policy. Available at: http://www.saiia.org.za/opinion-analysis/the-articulation-of-maritime-piracy-in-kenyas-foreign-policy

179   See Congressional Research Service, 2011. Piracy off the Horn of Africa, pp32-33. For more information, see United Nations Office on Drug and Crime, 2013. In-depth-Evaluation of the Counter-Piracy Program: Combating Maritime Piracy in the Horn of Africa and the Indian Ocean Increasing Regional Capacities to Deter, Detain and Prosecute Pirates.

180   The US assistance was initially motivated more by counter-terrorism than piracy. See Ploch, Lauren, 2010. Counter-Terrorism in East Africa: The US Response. Congressional Research Service Report.p.51.

181   Japan established a naval base in Djibouti after the incidents of piracy became a threat to its commercial and maritime interests. But, the US military base was established in 2002 following the 9/11 terrorist attack, with a primary task of countering terrorism. After the surge of piracy, the US counter-piracy naval mission has been using Djibouti as its operational base. France has had a military base in Djibouti since the colonial times. Japan and France pay $ 30 million each for their military bases in Djibouti, while the US spends $38 million per-annum. See Styan David, 2013. Djibouti: Changing Influence in the Horn's Strategic Hub, Chatham House Briefing Paper, pp9-13. For more information, see Patrick Ferras, 2015, Djibouti between Opportunism and Realism: Strategic Pivot in the Horn, Horn of Africa Bulletin, Volume 26, Issue 3, p.6-7.

As for the impact of piracy on the rest of the states in the Horn of Africa, the further the location of the state from the coasts of Somalia the more the benefits/threats decline. Yet, these states are vulnerable as their import and export pass through piracy infested waters and are subjected to high insurance premiums and rerouting costs.

Regional Responses

None of the states in the region have sufficient naval capacity or a capacity to muster resources to undertake counter-piracy operations for an extended period and the progress is not promising for the near future. At the national level, states like Kenya are contributing to the fight against piracy by sharing the burden of prosecuting pirates. Kenya is among states that have conducted the majority of piracy trails. The prosecution and detention of pirates are identified as crucial deterring factors.[182] An information sharing centre has also been established in Mombasa to gather and disseminate information on piracy activities. Djibouti, in addition to collaborating with international naval missions, hosts a training centre tasked to reinforce regional maritime capacities. Maritime forces from Somalia and other states in the region have been receiving trainings at the centre in tackling piracy-related crimes. To end the impunity of pirates, states in the Horn of Africa including landlocked Ethiopia have acceded to international anti-piracy conventions and adopted national legal frameworks criminalizing piracy. Regional mechanisms have also been developed to fight against piracy. IGAD responded by formulating Somali inland strategy to counter piracy.

Most of the national and regional counter-piracy measures/mechanisms are, however, initiated, driven and financed by the international community. Piracy trials and prosecutions are funded by UNDOC and other international partners. Kenya threatened to stop prosecuting pirates in 2010 because "the international community failed to provide the assistance it promised."[183] The training centre in Djibouti was initiated by the International Martine Organisation. [184]IGAD and its member states have no capacity (human and financial) to implement regional counter-piracy measures and initiatives. The IGAD maritime section has only one staff member, while the organisation is mandated to carry out an enormous task of tackling the root causes of piracy.

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182   Oceans beyond Piracy, 2015.

183   The Washington Post, 2010. A Case for Trying Pirates before a UN Tribunal.

184   The regional counter-piracy training centre in Djibouti was established after the signing of the Djibouti code of conduct Concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden and the Red Sea areas by 20 signatory states. The code of conduct was initiated by the International Maritime Organisation.

Beyond the issue of capacity, regional states have other security priorities consuming their meagre resources and demanding their political commitment. The serious political and military crisis in South Sudan, the ongoing conflict in Somalia, the unresolved boarder tension between Ethiopia and Eritrea and that of Sudan and South Sudan and the threat of terrorism are more serious and existential security challenges threaten the very existence of states in the Horn of Africa. Even within the maritime security domain, there are challenges that are equally if not more threatening to regional security such as armed smuggling, illegal fishing and human trafficking. [185]

Regional mechanisms to address broader maritime security challenges are, however, limited or non-existent. The IGAD maritime security programme is focusing primarily on piracy. This attributes to the fact that almost all IGAD security related programmes and projects are fully funded by international partners, which gives leverage for donors to indirectly influence regional security priorities. Security programs and projects that coincide with the interest of donors such as countering piracy access to financial support thereby become operational.[186] This often results in ownership dilemmas. Regional organisations like IGAD play along with donors' interests to leverage resources and stifle competitions from other RECs, while IGAD member states are competing to boost their respective maritime and law enforcement capacity rather than cooperate in countering piracy.

Beyond the Horn of Africa

Somali pirates have extended their reach beyond the coasts of Somalia and have launched attacks as far as the Mozambique Channel, the Gulf of Oman, the coasts of India, Madagascar and Seychelles.[187] This has made navigation, fishing, trade and tourism in Eastern Africa, Southern Africa and the Indian Ocean region quite risky. The production of fish in piracy-affected areas has declined by 23.8% and "the total catches of tuna in the Western Indian Ocean has dropped by 26.8 %."[188] Fishing vessels are targeted and used as mother ships by the Somali pirates to launch attacks on the high seas. States dependent on fishing and tourism like Seychelles have become vulnerable to threats of piracy. The

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185 *Demessie Fantaye, 2014. Regional Approaches to Maritime Security in the Horn of Africa.FES Peace and Security Series.*

186 *IGAD's maritime security programme received funding from the European Union to execute its Somalia inland counter-piracy strategy. The strategy has in fact not yet been implemented because of disagreements between EU and IGAD over financial disbursements (Interview with an EU source, June 2015).*

187 *A Mozambican fishing vessel Vega 5 was hijacked by Somali pirates in the Mozambique Channel in 2010 and Ships destined for Dar es Selaam port, Tanzania, declined considerably as a result of piracy.*

188 *The World Bank, 2013:1.*

discovery of vast offshore natural gas reserves in the eastern and southern coast of Africa, specifically off the coast of Mozambique and Tanzania, further made the issue of maritime insecurity alarming.

Eastern Africa, Southern Africa and the Indian Ocean Region (EAS-IO) have responded to the threat by developing a counter-piracy strategy and action plan.[189] The strategy is implemented by four regional organisations of the EAS-IO region, each having a specific mandate. IGAD is tasked to deal with the root causes of piracy in Somalia. The EAC is to improve regional legal frameworks and judicial capacities to prosecute pirates. And COMESA is to strengthen regional capacity to disrupt illicit financial networks of pirate bosses. Finally, the IOC's anti-maritime unite is mandated to enhance regional maritime security capacities and information sharing mechanisms. The development of such an inter-regional coordination mechanism/strategy is crucial to avoid duplication of activities and share the burden of countering piracy. The implementation of the EAS-IO strategy has, however, been slow mainly due to financial constraints. In practice, the strategy is also less coordinated with other counter-piracy initiatives often resulting in duplication of activities.[190]

SADC'S response

Piracy off the coast of Somalia prompted the Southern African region to formulate a regional anti-piracy strategy. The strategy primarily aims to protect Southern African waters from the scourge of Somali pirates. The region's sole naval power, South Africa, took the lead to implement the strategy by deploying a naval mission codenamed Operation Copper.[191] The mission monitors the Mozambique Channel and the southern coast of Tanzania. South

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189   The EAS-IO regional strategy and action plan was adopted by a high level regional ministerial meeting held on 7 October 2010 in Mauritius to promote maritime security in the region.

190   The International Martine Organisations' Djibouti Code of Conduct is, for instance, aimed at building regional capacity through training, facilitating information sharing and enhancing anti-piracy legislations which are more or less similar to mandates of EA-IOC regional organisations. The activities of other entities and counter piracy initiatives including the Somali contact group on counter piracy, counter-piracy projects by UNDOC and the UNDP, the EU capacity development programme, INTERPOL also overlap with EA-IOC's counter-piracy strategy. As for the issue of funding, the EU has allotted 37.5 million Euros to support the implementation of the EA-IOC strategy but securing pledged funding on time has been challenging.

191   States in the Mozambique Channel with the exception of South Africa have limited naval capacity. See Bergeron, Louis P., 2014. The forgotten Chokepoints: The Mozambique Channel's Rich Past and Bright but Insecure Future, Center for International Maritime Security. Available at http://cimsec.org/forgotten-chokepoint-mozambique-channels-rich-past-bright-insecure-future/14071; For more see Jagganath, Gerelene, 'Maritime Security Challenges for South Africa in the Indian Ocean Region (IOR): The Southern and Eastern Coast Of Africa.'Man In India, 94 (3): 399-412.

Africa's navy has been conducting maritime patrols in the area using frigates, patrol vessels and aircraft and has also been gathering intelligence on "suspicious pirate activities."[192]

Operation Copper is conducted in collaboration with Mozambique and Tanzania. In fact, the three littoral states, Tanzania, South Africa and Mozambique signed a memorandum of understanding in 2012 to facilitate their maritime cooperation through "information exchange, surveillance, joint military exercise and operations."[193] The trilateral agreement mainly allows the South African navy to conduct patrols in the waters of Tanzania and Mozambique. Though limited in number, Mozambique and Tanzania have deployed forces including divers and sea riders on South African naval ships to monitor the area.[194] Pemba, the northern port of Mozambique, served as the operational base for South Africa's maritime patrol aircraft. The Maritime Rescue and Coordination Centre in Tanzania, Dar es Salaam contributed to the mission by providing search and rescue assistance.[195] Operation Copper has further created links with the maritime information sharing centre in Mombasa, Kenya, broadening its cooperation beyond the region of the South Africa Development Community (SADC).[196]

At the national level, Tanzania, Seychelles and Mauritius are engaged in prosecuting Somalia pirates. Indeed, "of 841 pirates, 609 are imprisoned in Africa."[197] These prosecuting

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192   South Africa has 4 frigates and 11 warships and "the anti-piracy patrols are usually conducted by the SA Navy's four frigates."Szabo, Chris, 2015. 35 Squadron details Operation Copper deployments. Department of Defence of the Republic of South Africa http://www.defenceweb.co.za/index. php?option=com_content&view=article&id=39383:35-squadron-details-operation-copper-deploy ments&catid=35:Aerospace&Itemid=107.For more see Alex Vines, et al, 2015. 'Mozambique to 2018: Managers, Mediators and Magnates'Chatham House Report.

193   Tanzania Signs pact to Fight Piracy with Mozambique and South Africa, Xinhua, February 8 2012. For more see Department of Defence of the Republic of South Africa, 2012 'Minister Sisulu signs Memorandum of Understanding (MOU) on Maritime Security Cooperation with Tanzania and Mozambique', 7 February 2012. Available at http://dod.mil.za/ministry/media_statements/2012/ moutanzaniamozambique.pdf.

194   See Department of Defence of the Republic of South Africa, 2012. 'South African Navy Helps Catch Pirates.' Available at http://www.defenceweb.co.za/index.php?option=com_content&view=article &id=25142:south-african-navy-helps-catch-pirates&catid=108:maritime-security&Itemid=233. For more see Manganyi, Calvin, 2012. 'Resurrection of the Marine Capability in the South African Navy: The Maritime Reaction Squadron.' Scientia Militaria, 40(3): pp.455

195   Manganyi, Calvin, 2012. 'Resurrection of the Marine Capability in the South African Navy: The Maritime Reaction Squadron,' Scientia Militariavl, 40(3):429-471.

196   Wambua, P. M., 2009. 'Enhancing Regional Maritime Cooperation in Africa: The Planned end State,'African Security Review, 18(3): 45-59.

197   Oceans beyond Piracy, 2014:22.

states have, in turn, been beneficiaries of the capacity building assistance rendered by the international community to reinforce their criminal justice and maritime security capacity.[198]

Unlike the Horn of Africa region, SADC has a member state, South Africa, which has an actual naval capacity and will to carry out maritime security responsibilities. Operation Copper has been conducting anti-piracy missions since early 2011 and South Africa has spent millions of dollars to execute this operation.[199] The operation has had a piracy deterrent role, but, most importantly, Operation Copper gave hope and impetus that Africa could take a lead in responding to maritime security threats off the continent which apparently is heavily dependent on international actors. International naval missions deployed along the coast of Somalia can also draw useful lessons from Operation Copper in terms of involving regional actors in their missions within their means and capacities.

SADC's response has, however, been criticized for having been dominated and driven by the interests of South Africa, the Southern African region's hegemonic power. The SADC anti-piracy strategy was initiated and drafted by South Africa and still remains confidential. The failure of the strategy to address maritime security threats emanating from the SADC region including illegal fishing, human and drug trafficking has also been broadly criticized. South Africa's continued costly naval presence in the Mozambique Channel in spite of the stark reduction in piracy threat also remains controversial.[200] Such developments prompted regional observes to be sceptical about South Africa's intensions and interests. One maritime security analyst, for instance, finds the idea of "a massive South African naval intelligence-driven operation ...gathering and processing intelligence to be fed into a network ending

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198   Training has been provided to prosecutors, judges, police and coast guard officers. Prisons and courts were rehabilitated too. See UNDOC, 2014. United Nations Office On Drugs and Crime, 2013. In-depth Evaluation of the Counter Piracy Programme: Combating Maritime Piracy in the Horn of Africa and the Indian Ocean Increasing Regional Capacities to Deter, Detain and Prosecute Pirates, pp:8-9.

199   Operation Copper spentUS$56 million in 2013/2014. Martin, Guy, 2014. Operation Copper now only with SA and Mozambique. Available at http://www.defenceweb.co.za/index. php?option=com_content&view=article&id=34071:operation-copper-now-only-with-sa-and-mozambique&catid=108:maritime-security.

200   South-Africa withdrew its maritime patrol aircraft from the Pemba base but its warships and patrol vessels still remain active in the Mozambique Channel. The trilateral agreement, however, still remains effective. See Helfrich, Kim, 2015. SAAF no longer part of Operation Copper in Mozambique. http://www. defenceweb.co.za/index.php?option=com_content&view=article&id=38437:saaf-no-longer-part-of-op-copper-in-mozambique&catid=111:sa-defence&Itemid=242; For more see, Martin, Guy, 2014. Operation Copper now only with SA and Mozambique. Available at http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=34071:operation-copper-now-only-with-sa-and-mozambique&catid=108:maritime-security.

up in Snake Valley in Pretoria disturbing." [201]

There are also allegations that SADC is being instrumentalised by South Africa in the further-ance of its ambition of becoming a continental leader by showcasing its naval power projection capabilities in such international operations. South Africa, in fact, wants its presence to be felt in the African waters especially as its BRICS counterparts, China and India have deployed naval forces in the Gulf of Aden to protect their interests and strengthen their positions in the Indian Ocean.[202] The instrumentalisation of SADC might, however, be counterproductive in the long run as it would deepen mutual mistrust and suspicion in the region. Tanzania's withdrawal from Operation Copper and Mozambique's decision to buy 30 patrol boats with enhanced military capability could be understood in such a context.[203] Instead of an all dominated South African anti-piracy operation, analysts recommend the formation of smaller missions composed of all re-gional stakeholders which would conduct maritime patrols in the SADC region.

Despite all these criticisms, the SADC's anti-piracy response has improved maritime security cooperation in the region. National, bilateral, trilateral and multilateral maritime security arrangements have been developed to deal with the threat posed by piracy and also to broaden awareness in the regional maritime domain. This could serve as a springboard to build the region's maritime security capacity, deepen regional maritime cooperation and develop a comprehensive regional maritime security strategy. The number of SADC member states signing maritime agreements and cooperating with each other is in fact increasing.[204]

Private Security companies

Piracy off the coast of Somalia has created ample opportunities for private security companies specialized in maritime operations. Business off the coast of Somalia and the Gulf of Aden is

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201   Coelho, João Paul, 2013. 'Southern African Maritime Security: Problems and Prospects,' in Nieuwkerk, Anthoni and and Katharina Hofmann(eds.), Southern Africa Security Review. Maputo: Friedrich-Ebert-Stiftung, p.129

202   Mendiolaza, G. & Aitken, A, 2013. 'South Africa: National Involvement in the Indian Ocean Region', Future Direction International: Strategic Analysis Paper. For more see Kornegay, F. A., 2012. 'South Africa and SADC in the Indian Ocean Maritime Security Equation', Journal of the Indian Ocean Region, 8(1): 71-89.

203   "Mozambique is spending €200million on 30 French patrol ships" see Timothy Walker, 2015. 'From missed opportunity to oceans of prosperity,' ISS Today. Available at https://www.issafrica.org/iss-today/from-missed-opportunity-to-oceans-of-prosperity.

204   An agreement was reached in order to establish maritime domain awareness centres in Mozambique and Tanzania. Minutes of the 20th Meeting of the Standing Maritime Committee (SMC) of the Interstate Defence and Security Committee (ISDSC): Lusaka, Zambia, APRIL 2014.

attracting companies from Europe and Asia, especially from India. According to the Oceans beyond Piracy report, 35-40% of merchant vessels passing through the high-risk area use private security guards for protection.[205] In addition to providing on-board security, private security companies are used for ransom negotiations and delivery.

The maritime industry spent over $ 680 million for services rendered by private security companies in 2014.[206] Most companies are based in UK and charge on average $ 50,000 per voyage. Somali-based private security companies are flourishing, but they render services to illegal fishing vessels operating within the coastal waters of Somalia. To the merit of the maritime industry, merchant vessels employing private on-board security pay relatively low insurance premiums and are less vulnerable to piracy attacks.

International naval cooperation/competition

Somali piracy exposed the West Indian Ocean to international competition. All the major powers including the US, China, Japan and the EU have deployed naval ships to patrol the Gulf of Aden and protect their respective ships from being attacked by Somali pirates. International actors used the incident to project their naval power and enhance their "visibility as important global maritime security players."[207] China has gone out of the East Asia region and the EU launched its first international naval mission. Even an emerging African power, South Africa, deployed an expensive naval mission in the Mozambique Channel under the umbrella of SADC.[208] The advent of new players like China in the Indian Ocean has nonetheless created suspicion on the part of traditional players like India. [209]

Anti-piracy missions have at the same time created opportunities for competing powers to interact, cooperate and share information. Independent and multilateral naval missions including China's navy are operating in coordination. The monthly Shared Awareness and

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205   United Nations Office on Drugs and Crime and Oceans beyond Piracy, 2014:5.

206   Ibid:4.

207   Susanne, Kamerling, et al, 2011. "An Overseas Naval Presence without Overseas Bases: China's Counter-piracy Operation in the Gulf of Aden," in Journal of Current Chinese Affairs, 40(4), 119-146.

208   Joao Paulo B. Coelho, 2014. African Approaches to Maritime Security: Southern Africa, FES Peace and Security Series: pp14-15.

209   Van Rooyen. 2011. Africa and the Geopolitics of the Indian Ocean. Occasional Paper no 78, Emerging Powers and Global Challenges Programme, South African Institute of International Affairs (SAIIA).

Deconfliction (SHADE) mechanism is used as a vehicle to coordinate security escorts and patrols in the Internationally Recommended Transit Corridor (IRTC).

Technical cooperation between navies of various countries at the operational level is often hailed as a success and is one of the reasons for the effectiveness of counter-piracy operations. International counter-piracy missions, in addition to serving as the most crucial deterrents against piracy, are therefore serving as a vehicle to facilitate international maritime security cooperation.

CONCLUSION AND RECOMMENDATIONS

The maritime domain in the Horn of Africa is poorly governed. The maritime infrastructure and governance capacity of states in the region is weak and in some cases non-existent, creating opportunities for maritime security threats, including piracy, to thrive. The surge of piracy has threatened the security and economy of states in the Horn of Africa by increasing import/export costs and negatively affecting the fishing and tourism sectors.

The wider implications/costs of piracy on the global economy, however, has created opportunities for states in the region to receive international assistance and build their maritime force projection and law enforcement capabilities. Trainings have been given to regional maritime and law enforcement personnel, prisons have been rehabilitated and expanded, information sharing centres have been established and maritime surveillance and communication equipment has been supplied to coast guard personnel in the region. Most profoundly, Somalia has come out of decades of neglect and isolation after the incidents of piracy and terrorism became a threat to international security. The international community has been engaged in the reconstruction of the state of Somalia. Djibouti also benefited by renting military/naval bases and providing logistical services for international naval missions engaged in counter-piracy operations. Hence, states in the Horn of Africa are collaborating with international counter-piracy initiatives not only because the problem of piracy poses a major threat to their commercial and security interests, but also because it presents opportunities to leverage financial and capacity building support from international partners.

The region is, however, less likely to embrace or take ownership of anti-piracy initiatives and processes in the near future. Counter-piracy activities are costly endeavours and require an effective maritime law enforcement capability which would take years if not decades to accomplish. States in the region are often competing to solicit the benefits that could be gained by collaborating with international counter-piracy efforts to enhance their respective capacities. Secondly, states in the Horn of Africa are facing other security challenges that carry greater political priority including conflict and terrorism. Expectations from regional

actors have to therefore be realistic and the regional security dilemmas and context have to be taken into account when strategies and identifying priorities to tackle piracy are designed.

The international counter-piracy effort should primarily focus on Somalia. The context in Somalia could be less favourable to entertaining international assistance and the progress could also be too slow, but this should not be an excuse to shun from the source of the piracy problem and divert resources to build the capacity of other states in the region. Such a move might help contain the problem, but it will not be sustainable. The possibility for the resurgence of piracy is still imminent. Some fishing vessels are occasionally targeted and attacked off the coasts of Somalia. Multilateral naval missions are under pressure to reduce their presence as it is too costly. Efforts to reconstruct the state of Somalia and at the same time support the two relatively stable regional states of Somalia (Puntland and Somaliland) need to be strengthened.

It would, nonetheless, require time and a long-term commitment until Somalia develops a capacity to effectively monitor its territorial waters. Hence, in the short-medium term, the maritime industry needs to consider using Somaliland coast guard personnel for on-board security while transiting through the high-risk area. Somaliland has been serving as bulwark against pirates and its coast guards were trained by the UK. Such local actors have better knowledge of the area and can provide the service for a minimum price. The maritime industry is spending nearly $700 million annually on private security guards, while Somaliland's coast guard is functioning with approximately $200,000 per annum. The revenues that could be generated can in turn be used to strengthen land-based counter-piracy solutions.

Moreover, the international community needs to be vocal on other maritime security priorities of the region and Somalia. International naval missions are reluctant to expand their mandates to intercept illegal fishing vessels and armed smugglers operating within the Somali territorial waters, they need to make random patrols and send a strong message to offenders. Somalia authorities also need to be assisted to centralize, legalize and generate

revenues from licensing foreign fishing vessels and to enforce laws. Trainings given to regional maritime forces need to be broader in scope to address broader maritime security challenges too. Coastal community development projects (rehabilitating fish markets) need to be expanded and coordinated. Such a move would strengthen maritime security cooperation between the international community and Somalia and could discredit pirates from using illegal fishing as a justification for their action. Otherwise, continued disagreement over prioritization of maritime security challenges would likely result in ownership dilemma.

As for the regional states, capacity building support rendered by the international community needs to be enhanced but it has to mainly focus on strengthening the maritime force projection capacity of states in the Horn of Africa. In the absence of this, support

to criminal justice and information sharing capacities can only be useful in the permanent presence of international naval forces, which appears to be unsustainable. The will to tackle maritime security challenges in the region is likely to increase as states in the Horn of Africa region are discovering and developing their offshore resources.

ELECTIONS, DEMOCRACY AND STABILITY
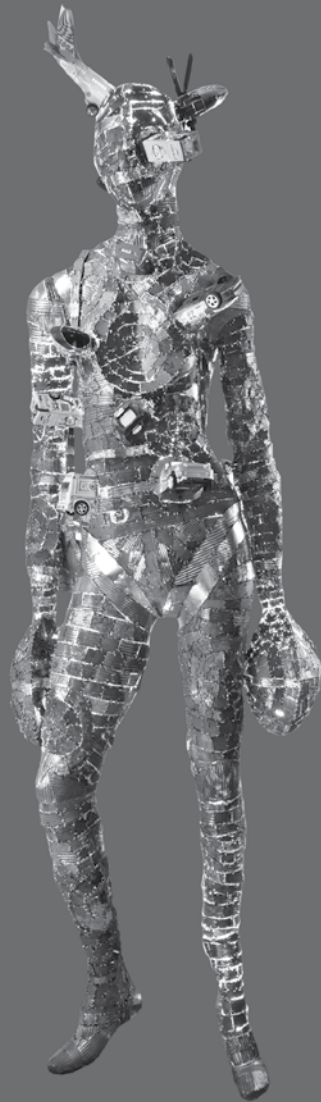
Elections and democratisation in SADC: overview and trend analysis

Motlamelle Anthony Kapa

ABSTRACT

This paper provides a general overview of some key electoral trends in the Southern African Development Community (SADC) region, since the beginning of the third wave of democratisation in the early 1990s until 2014. The trends suggest that, despite some challenges regarding the management of the electoral process (particularly issues around the quality of voters' register, equitable access to state resources by political parties, administrative capacity of elections management bodies (EMBs) and perceptions about these, acceptance of electoral outcome) the region remains on democratisation track. More importantly, regional elections are becoming competitive as opposition parties grow in strength, thereby challenging one-party-dominant systems which define regional political systems. To improve the quality of elections and electoral processes, SADC member countries should pay careful attention to and implement the many recommendations of election observer missions.

Contextual background

The supra-state institution known today as Southern African Development Community (SADC) is an offshoot of the Southern African Development Co-ordinating Conference (SADCC), which was officially formed to: reduce dependence of member states, particularly on the then apartheid South Africa, forge linkages to creating equitable regional integration, mobilise resources to promote implementation of national, interstate and regional policies, and make concerted efforts to secure international cooperation in pursuit of economic liberation (http:///www.sadc.int/). However, after the collapse of the USSR, the global order changed rapidly as the Third Wave of democratisation started. The Southern African region was also affected by this wave in that its member states had to embrace it. The region

had to rethink and redefine itself, its founding principles and objectives. Consequently, it abandoned its policy of isolating South Africa, which itself was in transition from Apartheid to democracy. SADCC changed its founding treaty and adopted a new name, the Southern African Development Community (SADC), under the 1992 Windhoek Declaration and Treaty. The objectives of the region under this new organisation were to achieve:

¤ Deeper economic cooperation and integration, on the basis of balance, equity and mutual benefit, providing for cross-border investment and trade, and freer movement of factors of production, goods and services across national borders;

¤ Common economic, political, social values and systems, enhancing enterprise competitiveness, democracy and good governance, respect for the rule of law and the guarantee of human rights, popular participation and alleviation of poverty;

¤ Strengthening regional solidarity, peace and security in order for the people of the region to live and work together in peace and harmony (Mandaza &Tostensen 1994: viii).

The signing of the SADC Treaty in 1992 signified the region's desire to promote the above economic and political values, but in particular democracy and good governance, respect for the rule of law and the guarantee of human rights, popular participation and alleviation of poverty. In August 2004, SADC member states also adopted the SADC Principles and Guidelines Governing Democratic Elections. This document notes under its introduction that:

¤ SADC region has made significant strides in the consolidation of the citizens' participation in the decision-making processes and consolidation of democratic practice and institutions. The Constitutions of all SADC member states enshrine the principles of equal opportunities and full participation of citizens in the political process (SADC 2004).

This document is crucial in that it lays down guiding principles for conducting democratic elections to which all member states have committed. These are:

¤ Full participation of the citizens in the political process;

¤ Freedom of association;

¤ Political tolerance;

¤ Regular intervals for elections as provided for by the respective National Constitutions;

¤ Equal opportunity for all political parties to access the state media;

¤ Equal opportunity to exercise the right to vote and be voted for;

¤ Independence of the Judiciary and impartiality of the electoral institutions;

¤ Voter education;

¤ Acceptance and respect of the election results by political parties proclaimed to have been free and fair by competent National Electoral Authorities in accordance with the law of the land.

The significance of the document is that it does not only lay standards for the conduct of democratic elections in the region, in line with the AU Declaration on the Principles Governing Democratic Elections in Africa and the African Union Electoral Observation and Monitoring Missions, but it also commits member states to allow elections observer missions to observe elections in all of them. The missions then lend some modicum of legitimacy to the electoral process in concerned countries and also make useful recommendations on areas needing improvement. Thus, it is fairly possible to assess quality of every election in every country using these Guidelines.

Based on the above context then, what have been the major electoral trends in the region and with what implications for democratisation? To what extent is the region on course towards consolidation of democracy? The paper broaches these questions by providing an overview on party systems and electoral systems; election management bodies; voter registration and quality of voters' roll; civic and voter education; election observation; political party funding; public media and election campaigns; acceptance of election results; and election-related conflict management in the region.

Elections and democratisation: conceptualisation

Elections and democratisation processes are inseparable and invariably proceed in tandem. None is conceivable without the other. Democratisation is a long process that takes several generations to achieve. According to Bratton and Van de Walle, democratisation:

¤ Begins with political challenges to authoritarian regimes, advances through political struggles for liberalization, requires the installation of freely elected government, and concludes when democratic rules have been firmly institutionalized as well as valued by political actors at large (Bratton and Van de Walle 1997:194).

According to Sandbrook (2000: 4) democratisation can be construed as involving two related processes of first, holding transitional elections that result in getting rid of an authoritarian regime installing a new government, which is able to provide citizens with political rights and civil liberties. Secondly, it ultimately achieves a general acceptance of and widespread support for democratic institutions and practices. When these processes

are complete, according to Sandbrook, democracy is consolidated. However, Sandbrook's definitions of the two concepts are rather brief and sacrifice some crucial details. According to some authors, democratic consolidation involves specific conditions that must be met before the process of transition from authoritarianism to democracy can be completed (Przeworski 1991; Schedler 1998; Suttner 2004). These scholars conceptualise democratic consolidation in a slightly different way. According to them, democratic consolidation transcends the holding of elections. It embraces an array of other practices. For example, Przeworski submits that democracy is consolidated:

> ¤ When under given political and economic conditions a particular institution becomes the only game in town: when no one can imagine acting outside the democratic institutions, when all losers want to do is to try again within the same institutions under which they have lost…when it becomes self-enforcing…when all the relevant political forces find it best to submit their interests and values to the uncertain interplay of the institutions (Przeworski 1991: 26).

Suttner (2004: 767-769) adds that consolidation exists when there are established rules of the political game by which everybody abides and when citizens have trust in the democratic institutions and autonomous civil society organisations. For Bratton (1998: 52) the process of consolidation requires regular elections, regime transition or leadership alternation, civil rights and due process of law, checks on arbitrary executive power, civilian control of the army, and independent press and civil society. While the concept was originally concerned with making new democracies survive and preventing them from relapsing into authoritarianism, the meaning of democratic consolidation has now been expanded to incorporate other practices and processes. Schedler defines it broadly as a system with the following features:

> ¤ Popular participation, the diffusion of democratic values, the neutralization of anti-system actors, civilian supremacy over the military, the elimination of authoritarian enclaves, party building, the organisation of functional interests, the stabilization of electoral rules, the routinisation of politics, the decentralization of state power, the introduction of mechanisms of direct democracy, judicial reforms, alleviation of poverty, and economic stabilization (Schedler 1998:91-92).

Schedler further develops a model that classifies kinds of regimes into four main types, namely authoritarian regimes, electoral democracy, liberal democracy, and advanced democracy. According to this model, the first stage demonstrates transition from an authoritarian regime to advanced democracy and the main concern is to prevent a reversal to authoritarianism or democratic erosion. The second stage depicts completing democracy through holding periodic elections and moving from electoral democracy to liberal democracy. However, the requirements of liberal democracy have not yet been met because the system does not

uphold political and civil freedoms. In the third phase, democracy is deepened, the threat of reversal to authoritarianism has been transcended and political and civil freedoms are upheld. At the last stage, the process of consolidation is complete.

While useful in its ability to classify regime types, the model is not without defects. Its limitations are that it assumes a unidirectional and teleological political development in which the regimes at the third stage cannot relapse into authoritarianism and assumes that advanced democracies are perfect and desirable end points of political development yet poverty, inequality, and other social ills still persist even in the so-called advanced democracies. The model is also silent about the role (if any) of civil society in the democratic consolidation process, yet democracy is incomplete without a vibrant civil society, which seeks to promote and protect the interests of divergent groups in societies against the potential and actual violation and marginalisation by the powerful political actors. Lastly, it assumes that it is possible to place all regimes at one particular point along the continuum. However, this is not always the case. Rather, it is possible to have huge overlaps between all the stages of political development, thereby rendering futile any attempt to clearly delineate or establish clear cut boundaries between the stages. These limitations notwithstanding, the model does help to elucidate and conceptualise democratic consolidation as adopted in this chapter.

Electoral trends in the SADC region

The Southern African region was also affected by the third wave of democratisation in the late 1980s and early 1990s. Bratton and van de Walle note:

> ¤ The first half of the 1990s saw widespread political turbulence across the African continent which can be summarized with reference to a few key political trends. Transition from one-party and military regimes started with political protest, evolved through liberalisation reforms, often culminated in competitive elections, and usually ended with the installation of new forms of regimes (Bratton and van de Walle 1997:3).

The region has not been an exception in these trends. In the edited text, Compendium of Elections in Southern Africa (2009), a comprehensive and valuable resource from which this paper draws heavily, Kadima and Booysen and their fellow contributors do a good job in providing detailed analysis of electoral trends in the region from 1989 to 2009. They cover 14 member states of SADC and observe that between 1989 and 2002, SADC had held a total of 53 elections in two decades.

Holding periodic elections is one thing, the quality of the same is quite another. This is the point well acknowledged by Kadima and Booysen (2009: ix-x) when they note that 'Southern Africa still had several highly flawed, and many somewhat flawed elections. [...] the management of elections in the region has had mixed results, with some countries conducting credible and legitimate elections while some are still performing well below expectations'. This suggests that the region still has some work to do regarding improving the quality of elections so that democracy can be consolidated. The clear observation is that SADC member states have followed a similar trend of holding elections at regular intervals in line with their respective constitutional and legal provisions and also observing the provisions of their own Guidelines.

Electoral systems

Successful and problem-free elections require proper institutional arrangements. Another trend in the SADC region has been the adoption of electoral systems, which in many cases have been bequeathed by their former colonisers. SADC member states use three main types of electoral systems. One is the First-Past-The-post (FPTP) used in Botswana, Malawi, Mauritius (Best Losers System), Swaziland (for election of individuals not political parties), Tanzania, Zambia and Zimbabwe). Another is Proportional Representation (PR) (used in Angola, Mozambique, Namibia, and South Africa) and mixed systems used in the DRC, Lesotho, Madagascar and Seychelles (Kadima 2009:10).

There have been debates in the region on the need to reform electoral systems with a view to ensuring that political systems are both stable and representative of all sections of the citizenry (see for example the special issue of African Journal on Conflict Resolution 2004 Vol.4. No.2). Reynolds notices the value of electoral systems in promoting political inclusion and stability in ethnically divided societies and notes that, while most scholars agree that the choice of an electoral system has powerful political consequences, they differ in their basic prescriptions for newly democratising states. According to Reynolds:

¤ The evidence from the emerging democracies of Southern Africa strongly suggests that divided societies need proportional representation (PR) rather than plurality elections, and a parliamentary rather than a presidential form of government. A simple parliamentary-PR system, however, is not enough: these fragile democracies are better served by a type of PR that maximizes the geographic representativeness of MPs, as well as their accountability to the voters. Although appropriate electoral laws are insufficient to ensure stability and good governance in divided societies, poorly designed laws can entrench societal divisions and exacerbate pre-existing conflict (Reynolds 1995:86).

The above observation is instructive as it prescribes useful models for not only Southern Africa but perhaps the continent as whole. Stressing the need for careful consideration in the choice of an electoral system, one author wrote nearly fifty years ago that 'the surest way to kill the idea of democracy in a plural society is to adopt the Anglo-American system of first-past-the-post' (Whidden cited in Reynolds 1995:86). No electoral model is perfect, however, and countries, especially the newly democratising ones, need to continually consider their electoral systems to ensure that they deliver, to their citizens, values of democracy prominent among which in this context are representation, inclusivity and political stability.

SADC member states have had different experiences with the consequences of their own electoral models, such that one model has worked fairly well in one context while the reverse is true in others. Consequently, calls for electoral reforms in the region have been motivated by divergent reasons, and some examples are instructive here. In Malawi, Magolowondo (2014) notes that electoral reforms are long overdue, since the FPTP system has demonstrated serious weaknesses in this except in few cases. The system 'further heightens elections stakes, as those who win get everything and those who lose have nothing to count on'. This according to Magolowondo does not 'cultivate politics of accommodation'. Most importantly, government formation in the country is not based on majority but rather on plurality vote. In the 2014 presidential elections, Peter Mutharika became president on the basis of only 36.4% of the vote (Magolowondo 2014:3).

In Tanzania the FPTP system has led to a blurred distinction between the ruling party and the state. The ruling party is accused of abusing the benefits of incumbency (Kaya 2004:168). Even in Africa's models of democracy, Botswana and Mauritius, calls have been made for electoral reforms. In Botswana, FPTP electoral system has been criticised for the following inherent flaws (1) making no provision for a directly elected president, yet the presidency enjoys executive authority, (2) exclusion of the opposition from government and lack of consensus building and (3) promotion of a predominant party system, which undermines the principle of multiparty democracy (Molomo 2004:63). Mauritius has adopted the FPTP system but made some modifications to suit its conditions. This has been by introducing the compensatory element of the Best Losers System (BLS) to broaden parliamentary representation of ethnic and religious minority groups. This innovation notwithstanding, calls have been made to improve the system along the proportional representation basis within the existing system (Matlosa 2004:46).

In Mozambique, where the PR system with a five per cent threshold is used, similar calls have been made for electoral reforms. The basis of these calls is that the five per cent threshold has exclusionary effect on small political parties (Lundin 2004:116). With its PR system as well, albeit without a threshold, the South African electoral system has also been found to

be inadequate in two senses. One is that it does not provide for accountability of members of legislatures at national and provincial levels to the voters (Nupen 2004:142) and does not provide for direct election of the president. Despite these debates and calls for electoral reforms in all SADC countries, only Lesotho has so far instituted comprehensive electoral reform from the FPTP to the Mixed Member Proportional (MMP) system, and perhaps presents a good case study for others to learn from. However, the post 2012 experience with the first ever coalition government, following a hung parliament, has demonstrated a need for further reforms to lay a solid foundation for coalition arrangements.

Election Management Bodies (EMBs)

A further pattern in the region has been the establishment of electoral commissions or elections management bodies. The idea of introducing these institutions was probably guided by the ever elusive quest for ensuring credible, free, fair and transparent elections, which would be able to produce legitimate governments. The features of these institutions portray this quest as captured by Lopez-Pintor below:

- ¤ Permanent, independent electoral authorities are emerging as preferred form of EMBs in widely different states that have undertaken electoral reform. This model is followed- though at a distance- by one in which the election is run by government, but regulated and monitored to some extent by an independent commission that also has adjudication capacity for questions of electoral conduct (Lopez-Pintor cited in Kadima 2009:11).

The main objective for the establishment of these institutions is to have permanent rather than ad hoc institutions, which are independent from powerful political forces both on the side of ruling parties and opposition. These institutions now define political systems in the SADC region. As Kadima (2009:11) notes, three key factors have an impact on the manner in which the public perceives these institutions, namely, their composition, the mode of appointment and dismissal of their key officials, and how they conduct themselves in carrying out their mandates. Kadima (2009:11) notes further that 'the success of electoral process depends largely on the independence, impartiality, professionalism, integrity and responsiveness of the EMB'. These are extremely crucial values of any EMB. They are earned through perceived and expected conduct. If these bodies conduct themselves in ways which portray (in the eyes of citizens and their political parties) these attributes, there is a huge potential for them do deliver successful and trouble-free elections. The reverse is also true.

In some countries in the region (Angola, the DRC, Malawi and Mozambique) political parties have their own nominees on their respective EMBs. This has a great propensity to undermine the cardinal principle of independence of these bodies. They may end up with partisan loyalties and internal tensions within the institutions. In the majority of other countries, the membership of the EMBs includes judges or lawyers who are also their chairs (Angola, Botswana, South Africa, Madagascar, Malawi, Mauritius, Tanzania, Zambia and Zimbabwe) (Kadima 2009:12).

In some other countries, these bodies depend on the government and/or donors for their financial resources (the DRC, Lesotho, Madagascar, Lesotho, Malawi, Tanzania and Zambia) (Kadima 2009:12). More importantly, EMBs have no powers to recruit and dismiss their staff. The general practice has been to have staff serving these institutions drawn from the general civil service. In Botswana, for example, the EMB does not have adequate staff and does not even have powers to recruit, deploy and discipline those it gets from the general civil service (Shale 2009:65). The same situation obtains in Malawi, where the staff serving the EMB consists of teachers and civil servants who are poorly remunerated (Musuva 2009:250).The EMB in Mauritius also relies on the services of civil servants but attempts have been made to inject some degree of political impartiality. The EMB ensures that:

- ¤ No civil servant can be recruited as an election officer in a constituency if he/she is directly related to a candidate in that constituency or he/she is giving assistance to a candidate or political party. All election officers are also strongly advised to be impartial at all stages of the electoral process (Kasenally 2009:291-292).

In addition to using civil servants, rather than EMBs having full powers on staffing issues, the general trend in the region has been to recruit temporary staff during the peak of the electoral period, and those with prior experience are generally given priority during the recruitment process. Despite national contextual differences in the region, the practice of relying on civil servants, who serve governments formed by political parties, which have a keen interest in the overall electoral processes, and in particular the outcome, has implications for the independence, political impartiality and credibility of EMBs.

The overall performance of these institutions in terms of managing elections seems to be generally improving. In all five countries, which held elections in 2014 (Botswana, Malawi, Mozambique, Namibia and South Africa) preliminary observer missions reports indicate general satisfaction with how the EMBs run elections. With the exception of the Malawi Electoral Commission (MEC), all EMBs of the four countries that held elections in 2014 (Botswana, Mozambique, Namibia and South Africa) are reported to have conducted elections professionally and efficiently (see AUEOM 2014; SADC 2014). However, in Mozambique, Pereira and Nhanale (2014: 12-13) raise concerns about 're-politicisation' of the EMB under the 2014 General Elections and Provincial Assembly Elections (Law

No.8/2014); a move away from earlier attempts to 'professionalise' the body under the 2009 General Elections (Law No.8/2007). The new law came as a result of negotiations between FRELIMO and RENAMO as 'requirement for the end of the politico-military tensions' through amendment to the electoral law in 2013. The effect of this new law was to increase the number of the representatives of these parties from 3 to 5 in the case of the FRELIMO and 2 to 4 in the case of RENAMO, while at the same time increasing the total number of commissioners from 13 to 17. The arrangement before these changes had attempted to professionalise this body by reducing the overall membership from 21 to 13 and also the representation of political parties. The objective was to move away from the politicised model to solve problems of 'distrust, allegations of fraud, electoral violence and ever-growing intolerance'. But with this new law, there has been an increase in the discourse about these incidents (Pereira & Nhanale 2014:13) although the actual implications of these for the 2014 elections are unclear.

The MEC, in Malawi, seems to be lacking behind other EMBs in the management of elections. It experienced some logistical challenges in terms of delivery of elections material and opening of some polling stations on time, all to which the MEC 'made good-faith efforts to ensure a fair and transparent process and responded expeditiously to remedy the situation that could compromise the integrity of the elections' (SADC 2014). The MEC has not fully implemented the recommendations made by election observer missions of the past elections (OSISA 2014:143). Overall the EMBs could arguably be generally described as doing fairly well in running elections although of course there may be some cases for further improvement.

Setting of the date of elections

The setting of an electoral date is another important but controversial issue in the SADC region. Although there are stipulated time frames within which elections should be called as per constitutional and legal provisions of respective countries, setting an election date remains the prerogative of the head of the executive arm of the state (presidents in presidential systems and hybrid systems, and prime ministers in parliamentary systems). The heads of the executive branch invariably also have vested interests both in the process and outcome of elections. Consequently, elections may be called at a time which is politically convenient to the power incumbents as it has been the case in Lesotho in 2007 snap elections. Even where the law requires that there have to be consultations between the head of government and EMBs, such consultations are not always adequate as has been the case in Botswana in 1999 and Lesotho in 2007 (Kadima 2009:12). In Botswana, the Electoral Institute of Southern Africa (EISA) has repeatedly noted this issue as a matter for concern and

recommended after the 2004 elections that a legally prescribed election date should be set and observes with concern that even during the 2009 elections the authorities there have not implemented this recommendation (EISA 2010:28). This practice results in all sorts of complications such as clean voters' roll and all other sorts of logistical challenges (Kadima 2009:12). However, these concerns should be considered carefully because even when elections dates are known and predictable this does not always necessarily improve quality of preparations of elections. Mogolowondo (2014:3) laments that even when the date of elections is predictable, since it is constitutionalised, as in Malawi, this has not made the running of elections any better. The experience with the 2014 elections in Malawi suggests that elections are still treated as a once-off event and preparations for them are not adequate. Similar problems such as 'unreliable voters' roll and logistical nightmares' have become 'chronic' even in the 2014 elections.

Voter registration and quality of voters' roll

There is a common pattern in the region of myriad challenges regarding voter registration and maintaining a clean and credible voters' roll. These have proved to be both expensive and controversial. The common challenge to the majority of SADC countries has been the registration, production, display and distribution of voter's rolls before elections. The main challenge has been registration material, inadequate time for registration, lack of identification documents for voters, cumbersome procedures, limited time for the inspection of provisional voters' roll, the registration of under aged and failure to remove the deceased from the registrar, poor quality of voters' cards, and low interest in registration by the new eligible voters etc. (Kadima 2009:12).

However, countries differ in how they handle voter registration processes and consequently in the quality of their voters' roll. Some have done fairly well in these processes while others still face stubborn challenges. In Angola, for example, the process of voter registration has been generally considered (by stakeholders) to be adequate, although concerns were raised about the delay in the display of the voters' roll and limited time for citizens to scrutinise it and cause updates as needed (Brito 2009:42). In Botswana, the EMB has procured a registration machine with capacity to process 10, 000 forms per hour. The country uses continuous registration and also updates the electoral register continuously (Shale 2009:74). For the 2014 elections, the EMB in the country has been applauded by the AU Election Observer Mission for effective preparations and conduct of the elections including ability of the institution to register high numbers of youth and women (AUEOM 2014).

Despite its massive problems of instability and armed conflict, the Democratic Republic of the Congo (DRC) has done well in registering its citizens for elections. According to Kadima

(2009:111), the citizens of the country took massive part in the voter registration process, which fortunately coincided with the identification of the country´snationals eligible to vote. Thus, the voters' card was at the same time an identity card. In addition, the voter registration process was fully computerised and used sophisticated digital procedures including fingerprint scanners, laptops, digital cameras, laser printers and generators all which made it easy to register people and issue out voters' card on the spot.

In Namibia, the voter registration process is conducted in three phases. The first is general registration, which involves providing opportunity for all eligible voters to register. It takes place after every 10 years. The EMB establishes accessible registration centres, including mobile ones. The second phase is a supplementary registration exercise intended for registration of those who may have moved from their earlier constituencies and registration centres, those who may have lost their cards, and the new voters. The last phase is continuous registration, which takes place throughout the year. The country has also computerised the registration process, which has improved quality of the voter's roll and the efficiency of the EMB (Blaauw & Letsholo 2009:362). Despite improvements that the EMB has made, there are still concerns that more work has to be done to make it more "accessible to public good time and in conformity with the Electoral Act" (EISA 2009:45). The SADC Electoral Observation Mission to the 2014 elections in Namibia also comments the country's EMB for creating a 'conducive environment' for the elections and its 'readiness and state of preparedness' (SADC 2014:5). The Malawi Electoral Commission (MEC) is also reported to have done better in voter registration in preparation for the 2014 elections compared with the 2009 polls by registering about 94.1% of eligible voters between July 2013 and December that year. This success is attributed to the use in the registration processes of an electronic biometric voter registration system, which has enabled the Commission to address earlier errors on the voters' list (OSISA 2014:125). Prior to the use of this new system, the voters' list had serious errors of multiple registrants, missing names, and misallocation of voters to polling centres (OSISA 2014:123).

Mauritius and South Africa have done remarkably well in voters' registration. In Mauritius, Africa's model of democracy, the voter registration process is conducted well by the EMB in two phases to ensure that eligible citizens are registered. The first phase is registration at home where house-to-house electoral enquiry is conducted each year for a period of three weeks. Eligible voters are identified and given a form to fill in their details. At the end of the process, a new provisional voters' list, containing the names and details of people who qualify to be voters is prepared. The second phase involves the establishment very comprehensive registration centres throughout constituencies. These include mobile registration centres. Voters whose names do not appear on the

voters' roll or those whose names have errors are able to register and to cause corrections to be made. The voters' register is published every year. To sensitise citizens about these processes, massive publicity campaigns are mounted using different media outlets. Consequently, Mauritius has been able to have the highest voter turnout in the region. This stood at 79.9 %, 80.9%, and 81.5% in 1995, 2000, and 2005 respectively (Kasenally 2009:287-288). South Africa has also been hailed for impressive record in voters' registration (EISA 2010:54), with the EMB having registered 80 per cent of qualified voters, the majority of whom being youth and women. The country has also done remarkably well in the management of the electoral process, which has been marked by regular consultations with political parties through the Party Liaison Committees, a structure established for the purpose. This positive trend seems to be continuing in that in the 2014 elections, the EMB in this country has been commented for transparency and professionalism in the management of the electoral process (SADC 2014).

In other countries, there have been concerns about voter registration processes and the quality of voters' roll. These are Madagascar, Malawi, Tanzania, Zambia, and Zimbabwe. In Madagascar, the quality of voters' roll has been poor because no census has been taken in the last decade. The voters' list excludes many voters because no revision has been consistently done. This is despite the fact that the electoral law requires annual revision of the register (Toulou 2009:206). There were concerns about the registration process in Malawi as well, involving errors on the voters' roll such as names of the under-age, aliens, multiple registration, lack of registration materials, confiscation of voters' certificates by political party agents, use of multiple voters' rolls, etc. However, efforts have been made by the EMB to rectify these errors through electronic registration, which has produced an additional voters' register to the manual one. The two rolls were use in 2009 and proved to have minimised the problems (Musuva 2009:250).

In Tanzania, the voter registration process has been confronted by problems of shortage of materials such as forms, cameras, rechargeable batteries, and voters' cards. These problems were however resolved with the establishment of permanent national register within the EMB (Masterson 2009:525). Problems relating to voter registration have been experienced in Zambia too. Although the electoral law requires that the voters' register should be complied every five years, this has not happened in practice because of limited resources and has had the effect of discouraging young potential voters to register. EMB has not been able to embark on continuous registration exercises and establish adequate registration centres. Opposition parties also complained about limited registration time and time for voters to scrutinise the voters' roll. The introduction of electronic registration has improved the situation and the EMB took firm legal steps against those attempting to register more than once (Tip, Gadin & Moloi 2009: 593).

Lesotho has adopted a continuous registration process in which newly qualifying voters can register in different registration centres at any stage during the electoral circle throughout the country. However, voters 'do not necessarily take this opportunity to register; it is always necessary to call for an election-specific voter registration exercise to remind those who are eligible to register as well as to capture those who are due to turn 18 [...] by the day of voting' (Musanhu 2009: 165). The quality of the voters' register has been one of the key challenges confronting Lesotho. Even in the 2012 elections, this was still a cause for concern not only to political parties, especially the opposition parties, but also to international observers. In their statements, the EISA and Commonwealth observer missions raised this issue. The former was concerned that the voters' roll could still cause a credibility crisis for elections in the eyes of an average voter. Seeing names of people known to have passed on, may raise unwarranted anxieties of which politicians may take advantage, especially after elections, to allege irregularities. The issue really should be to put more emphasis on registering new voters while at the same time not downplaying the need to remove the names of the deceased from the register. The Commonwealth mission also observed that 'the integrity of the current voters' register remains a concern to us´. Both missions recommend that the IEC should prioritise the cleaning of the voters' roll and produce a credible one before the next elections (EISA 2012; Commonwealth 2012). The issue remains a big challenge, which has been acknowledged by the IEC Chairperson, Justice Mahapela Lehohla, who has requested the government to provide money to engage experts to clean up the voters' list before February 28 2015 snap elections (Lesotho Times 2015).[210]

Civic and voter education

Civic and voter education are crucial processes for a successful election anywhere in emerging democracies. If voters do not have adequate understanding that it is their civic duty to participate in elections and how the electoral process works, including how they have to vote, any election would very likely be characterised by apathy and massive amounts of spoiled ballot papers. This means civic education (the process of providing knowledge to citizens about the operation of the whole political system and their rights and responsibilities within it) and voter education (the process of providing potential voters with all pertinent information about the electoral process, including how they should cast their ballot) be-

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210   These elections would be held in 2017 when the five-year term of parliament was to end but had to be moved forward because of the collapse of the coalition government of All Basotho Convention (ABC), the Lesotho Congress for Democracy (LCD) and the Basotho National Party (BNP) following serious conflict over allegations by the LCD leader and Lesotho's Deputy Prime Minister that the ABC leader and Lesotho's Prime Minister made key policy decisions without consulting him.

come critical processes to which citizens must be exposed. However, Kadima (2009:14) notes that the quality and quantity of civic and voter education in the SADC region have been insufficient due to, among other factors, conflicts in the electoral process and limited funding. These limitations notwithstanding, EMBs have been carrying out these functions as provided for respective electoral laws. It is only in Mauritius and Seychelles that EMBs are not mandated by law to provide civic and voter education (EISA African Democracy Encyclopaedia 2010). The new trend is that they are increasingly partnering with civil society organisations. Although this is a general pattern, Zimbabwe is an exception in that it has outlawed the involvement of what are regarded as 'unfriendly' CSOs to the government in these processes. In the majority of the other countries, foreign donors support these processes through funding (Kadima 2009: 14-15).

Election Observation

International election observers have grown worldwide and their statements on how elections have been conducted have gained influence (Kelley 2007:765). The main purposes of election observer missions can be conveniently summarised into three: to report on the quality of elections, uphold a shared set of electoral norms enshrined in various international instruments/laws and documents, and to agree on acceptable characteristics of elections (Kelley 2007: 767-768). Indeed such international norms of immediate relevance to the paper include the SADC Principles and Guidelines Governing Democratic Elections mentioned earlier in this paper. Thus 'national, regional Pan-African and international election observers have become a regular feature in Africa generally and the SADC region' (Kadima 2009:15). Key institutions that usually observe elections in the region at the invitation of concerned governments include the African Union (AU), the SADC, the Pan African Parliament, the Commonwealth, EISA, SADC Parliamentary Forum, and the European Union (Kadima 2009:15). The value of these observers is that they applaud what they find to be good electoral practices and make recommendations intended to address areas needing improvements. Because of the approaches they use, they assist in improving the quality of electoral processes, although their recommendations are in many cases ignored by key political actors. They are also criticised for bias towards ruling parties and for downplaying electoral flaws committed in 'friendly' countries and their silence on 'lack of democracy' in Swaziland (Kadima 2009:15). This democratically noble practice seems to be entrenched now in the Southern African region and continued in all the countries that went for elections in 2014.

Political party funding

Aware of the predicament faced by opposition political parties as they compete with the power incumbents caused by lack of resources and largely due to lack of public funding of political parties, efforts have been made in many countries in the region to provide funding to political parties to help them build administrative capacity. Countries that provide state funding of political parties are Angola, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Seychelles, South Africa and Zimbabwe. This arguably responded positively to concerns of both opposition parties and election observers in many countries in the region over the years. But other countries still do not follow this trend and leave parties on their own to raise their own finances, especially for campaign activities. These are Botswana, the Democratic Republic of the Congo, Mauritius, Tanzania and Zambia. Despite their worldwide acclaim as shining examples of democracy it is rather surprising that Botswana and Mauritius are in this group. Mauritius is however different from Botswana in that it has witnessed several power alternations between different parties, while Botswana has not had a change of power since independence. In fact Botswana is criticised for maintaining an unlevelled electoral playing field. The expectation of many would be that these two ought to lead others by making the electoral playing field more level. De Jagar and Meintjies (2013:234) argue that there are huge disparities between the ruling party and the opposition 'perpetuated through uneven access to funding' and declaring elections under conditions of one-party-dominance, such as in Botswana, is problematic. Botswana has not introduced public funding for political parties despite calls for such a move even by international election observers (EISA 2010) and the 2014 polls were held under the same conditions.

Public media and election campaigns

The tendency to exploit the benefits of incumbency, especially during elections but also in between elections, is also a common trend in the region. Kadima (2009) notes that access to state-owned media; especially electronic media has been a cause for controversy in the region. This practice, he observes, takes place in violation of legal provisions and:

    ¤   Takes different forms and manifests itself in terms of the quality, quantity and timing of coverage. Problems are often evident through the excessive coverage of the governing party, failure to cover the activities of the opposition, broadcasting of the governing parties at prime times and the opposition at odd hours, and negative coverage of the opposition (Kadima 2009:13).

The consequence of this practice is that the playing field is not level for all contestants. It adversely affects the principle of electoral fairness, which ought to underpin democratic elections and also violates the SADC Principles and Guidelines Governing Democratic Elections. Although the patterns reverberate throughout the region, examples are in order here.

In the 2009 elections in Namibia, the EISA election observer mission found that political parties access to the public media during elections tended to be skewed in favour of the incumbent party and that this situation inevitably raised concerns from other electoral stakeholders about the fairness of the electoral process (EISA 2009:45). As a result, the Mission recommended that the media regulations should be issued and enforced by an independent media authority. It further recommended that media coverage in the country should be subject to an electoral Code of Conduct to ensure fair reporting and equitable media access by all political parties. Lastly, the Mission recommends that political parties must adhere to the existing Code of Conduct. The positive development in Namibia in this regard is that there is a Code of Conduct governing electoral campaigns in Namibia. The SADC Electoral Observation Mission Draft Preliminary Statement on the 2014 elections commends the Namibian Broadcasting Corporation for 'equal coverage of all contesting parties'.

In Botswana, the EISA Election Observer Mission during the 2009 elections found that the use of state resources by the ruling party remains a challenge. Consequently, the Mission makes two recommendations in this regard. One is to avoid the practice altogether to level the playing field for political competition. The second is that it could be permitted but made equitable and conditions for such access be provided for in the law (EISA 2010:27). The mission observed that Botswana introduced the Code of Conduct before the parliamentary elections in 2009, but the Code was not implemented in the 2009 elections. As such the mission has made a recommendation that this has to be implemented.

The same concerns about the partisan use of public media have been raised in the Zambian presidential, parliamentary and local elections in 2011. The EISA observer mission indicates that 'public media was perceived to be pro-government giving preference to the campaign activities of the ruling party (EISA 2012:19). The Mission recommends that public media must be regulated through the enforcement of the Code of Conduct (EISA 2012: 60).

The study conducted by Open Society Initiative for Southern Africa (OSISA), (2012:46) finds that the law in Lesotho allows incumbent ministers unrestricted use of state vehicles. Respondents, particularly from the opposition parties, complained that the IEC has in the past dismally failed to punish the ruling party members for violating the electoral Code of Conduct. Respondents raised concern about the increasingly discriminatory use of public resources by ordinary ruling party members for their campaigns. They complained that there

was an emerging trend where some of the principal secretaries, though not legally allowed, unlike incumbent ministers, are openly using public resources to campaign for the ruling party's candidacy in their respective constituencies. Apart from vehicles, respondents from the opposition parties complained that the ruling party had unlimited access to the state media throughout the year, while their parties are only allowed a few brief slots – paid for by the IEC – on national radio and television, barely about a month before elections. The EISA Observer Mission noticed some degree of improvement in media coverage of the electoral process in Lesotho, although it notes with concern that even in the 2012 election, public media – both radio and television, did not offer equal airtime to all parties" (EISA 2012: 4).

South Africa stands out in contrast with other countries with regard to the media coverage of electoral processes. The South African Broadcasting Corporation (SABC), a more editorially independent and autonomous public broadcaster institution than anyone in the region, is commended by the EISA Election Observer Mission for having provided a platform for political parties to engage in debates on key issues of concern to voters. This practice has served as a mechanism not only to diffuse the pre-election tensions between political parties and their supporters, which could have disturbed the electoral process, but has also shifted the focus of campaigns from otherwise potentially undesirable issues (political intolerance, hate speech, obstruction and intimidation and issues such as regional ethnicity and personality oriented processes,), which had characterised the early campaign period, and shifted it to issues of concern to the voters (EISA 2010:54-56). Again in the 2014 elections, the SADC Electoral Observation Mission commended the SABC for equitable allocation of airtime to political parties and inviting parties for public debates (SADC 2014).

Acceptance of election results

In most countries in the region, the losers in the electoral contest often reject the outcome for various reasons. Others have complained about the transparency of EMBs, such as in Malawi in 1999 and 2004 and Mozambique in 1999. Although the opposition Mozambican National Resistance (RENAMO) did take its case of irregularities in the elections (including intimidation by the governing party and fraudulent activities by Mozambique Liberation Front (FRELIMO) during the counting process) to the court, the court accepted there were indeed irregularities but ruled that these 'did not significantly influence the final results' (Matsimbe 2009: 338). Others still have rejected the electoral outcome without 'substantiating their claims convincingly'. These include Angola in 1992 and 2008; Lesotho in all elections since 1965 to 2007; Malawi in 1999, 2004 and 2009; and Zambia in 2001, 2006, and 2008 (Kadima 2009:16).

Kadima seems to over generalise in Lesotho's case by saying the opposition did not make convincing claims and have rejected 'every election since 1965'. This statement is inaccurate. First, the 2002 elections under the newly introduced MMP system were accepted by all parties. Second, the losers did have a valid claim after the 2007 elections; the MMP system was abused by parties which had formed pre-election coalitions, namely the Lesotho Congress for Democracy (LCD) / National Independence Party (NIP) and the All Basotho Convention (ABC)/ Lesotho Workers Party (LWP) coalitions respectively. This is clear in the ruling of the High Court in the case, which was lodged by the Marematlou Freedom Party (MFP) when the court indicated in its judgment that: alliance formation tends to distort or subvert the principle of compensation under the PR system but this does not render the alliance-formation illegal per se and that this aspect ought to be corrected or controlled by the law (Kapa 2009:7). In Seychelles, the opposition rejected the 2011 presidential results on the grounds that the contest was not fair. The ruling party had used state resources such as the buses, boats, the army and national flag extensively during the electoral campaign period (EISA 2012: 19). In five countries that held elections in 2014, it is only in Mozambique that the opposition RENAMO still rejects the outcome alleging widespread fraud and irregularities including ballot stuffing and intimidation by the police and state media (Mucari 2014).

Election-related conflict

Election-related conflict can be disastrous if not managed effectively. The experiences in the region concerning conflict management vary. Countries such as Mauritius, Namibia and South Africa have devised electoral tribunals as conflict resolution measures in addition to the normal courts of law. With assistance from the EISA, some countries have established community-based conflict mediation panels, first in South Africa and later in other countries such as the DRC, and Zambia. Again multiparty liaison committees have been established to work closely with EMBs and civil society organisation on contentious election-related issues. These structures have largely worked in ways that are faster than say the conventional courts of law and have produced positive outcomes (Kadima 2009:16-17). The EISA election observer mission applauds the efforts of conflict management committees in the 2011 elections in Zambia and notes the expressed satisfaction with the structure by political parties (EISA 2012:20). Other than some sporadic incidents of violence in all five countries that held elections in 2014, the region has not experienced any serious election-related conflict. Few sporadic cases of violence were reported before the poll in Malawi (SADC 2014; Moyo 2014), Mozambique, (Mucari 2014), and South Africa (SADC 2014). This augurs well for the region and its democratic consolidation process.

CONCLUSION AND RECOMMENDATIONS

This paper has sought to provide a general overview of key electoral trends in the SADC region since the beginning of the third wave of democratisation in the early 1990s until 2014. These trends include periodic elections; electoral systems; election Management Bodies (EMBs); setting of the date of elections; voter registration; civic and voter education; funding of political parties; public media and election campaigns; and election-related conflict. All these trends suggest that the region remains on a democratisation track despite some remaining challenges, although it has been characterised by a one-party-dominance system for over two decades. The parties that won the first elections have been able to stay in power. However, the elections held in 2014 in Botswana, Malawi, Mozambique, Namibia and South Africa suggest that one-party-dominance faces serious challenges. Opposition parties are gaining strength, although it may be premature to think they can win elections.

With the exception of Lesotho, SADC countries have clung to their electoral systems under which they held their first elections. The continued use of such electoral systems, even when the conditions no longer favour it, poses challenges for EMBs. The EMBs do not control their resources, particularly human resources, and depend on donor funding to manage elections. Ultimately, they have serious challenges in carrying out their constitutional and legal mandate and are often criticised fairly or unfairly for ineptitude, lack of independence and political bias. They do not have much say, if any, on the setting of the date of elections; this remains the prerogative of the head of the executive and puts EMBs under tremendous pressure to prepare for elections at a time when they may not be ready. The electoral playing field remains a challenge; ruling parties benefit from the use and abuse of state resources during electoral campaign periods. Funding of political parties remains a challenge in some countries. The process of voter registration also faces challenges in most countries. Mechanisms for addressing election-related conflict in the form of legally provided for electoral code of conducts have been introduced and implemented in some countries.

Recommendations aimed at improving the quality of elections in the region depend on individual countries and their specific contexts. But more generally, SADC member states could do better in delivering to their citizens, successful, free, fair, credible and transparent elections if they could fully and truly implement all recommendations often made by local and international observer missions after every election. In many cases, these missions often provide general voices in terms of how respective countries and ultimately the region as a whole could improve the quality of elections and improve the conditions for a sustainable and consolidated democracy. The ruling parties could do more in this regard by creating a level playing field for all electoral contestants and crucially by improving the administrative capacity of EMBs through provision of adequate resources to complement the efforts

of donor nations and institutions. But opposition parties too should fight hard for these changes. On their part, EMBs could do better if they work closely and transparently with key stakeholders, particularly opposition parties and CSOs in all aspects of the electoral process.

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At tipping point: Lesotho's relations with SADC 2012 - 2016

Dimpho Motsamai

ABSTRACT

The last four years witnessed an unstable and deteriorating political and security situation in Lesotho. It ultimately put the country at loggerheads with the Southern African Development Community (SADC), which resulted in a legal battle against the SADC mission and a rejection of its recommendations by the Lesotho government. SADC's latest mission in Lesotho is the second major one in two years, since a reported coup in 2014 that cost Lesotho its Chairmanship of the SADC Organ on Politics and Security Cooperation. In January 2016, SADC's Double Troika summit threatened to disengage all activities in Lesotho and suspend its membership for failing to abide by its decisions. Had the threat, then fronted by its only neighbour South Africa, materialised, Lesotho would have been the first SADC member state in its history to be sanctioned for such an offence with potentially damaging consequences. But, the threat has had little deterrent effect on Lesotho and it could slide further into political turmoil. This paper argues that disagreements between SADC and its members persist regarding interventions in their domestic affairs, mainly because of unsettled questions over translating regional decisions into domestic systems. They also persist because of weaknesses in its interventions that leave member states to resort to their own devices. Sanctions, while useful in the medium term, are therefore not fitting to resolve an otherwise structural and institutional problem between SADC and its member states.

INTRODUCTION

Lesotho is the only SADC country that has experienced military rule. In 2015, it experienced renewed insecurity, which put it at loggerheads with the Southern African Development Community (SADC). In January 2016, its Double Troika threatened to disengage all activities in Lesotho and suspend its membership from the regional body for failing to abide by Summit decisions — thereby failing to fulfil its obligations under the SADC Treaty.[211] Had the threat materialised, Lesotho would have been the first SADC member state in its history to be sanctioned for such an offence. Disagreements between SADC members continue to persist with respect to the modalities of intervention in domestic affairs.

Also persistent are SADC interventions in Lesotho. The latest mission would be SADC's fifth major intervention in the country's history. It came at the heels of an unstable political and security situation, which dominated the course of 2014 throughout to 2015. At the heart of it was the collapse of the country's first coalition government, elected in 2012, which culminated in the prorogation or suspension of its Parliament. The country's Prime Minister then, reported a coup attempt and asked for a military intervention. The political instability of that period cost Lesotho its Chairmanship of the SADC Organ on Politics and Security Cooperation in 2014.

Lesotho's cyclical conflicts share a common heritage of economic stagnation and faltering democratic rule that have undermined state capacity and legitimacy for several years. The conflict equation also exhibits several features: it follows or is precipitated by power struggles in the military, power struggles within governing parties or a change in government.

In February 2015, there was a change of government in Lesotho after SADC recommended early elections to address a deadlock in its governing coalition among others. The early poll, recommended by SADC's facilitation mission led by South Africa's Deputy President Cyril Ramaphosa, was expected to restore political stability and security to the country after the coup attempt. The facilitation mission was also able to secure a security accord to calm tensions between the country's key security structures, the Lesotho Defence Force (LDF) and the Lesotho Mounted Police Service (LMPS).[212] Of importance too was the decision to send the country's security chiefs out of the country on a 'leave of absence' while bringing elections forward to February 2015.

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211   See SADC Threatens Lesotho with suspension over Phumaphi Report, at http://www.sundaystandard. info/sadc-threatens-lesotho-suspension-over-phumaphi-report 21 January 2016

212   SADC Facilitator's report to the SADC Summit on SADC Observer Mission to the Kingdom of Lesotho (SOMILES) 28 January 2015.

However, the 2015 polls resulted in yet another coalition government headed by the country's former opposition – the Democratic Congress (DC). The coalition was not only the second in Lesotho's history, but also the second in two years. Like the previous administration, the country was governed by a coalition that had a relatively slim majority with 54% of seats in the legislature and a strong political opposition at 46% of seats. The electoral race had been close and so was the longstanding fierce competition between Lesotho's political parties. Now on opposite sides of the fence, the antagonistic nature between the ruling DC coalition and the opposition prevailed.

Shortly after elections, a newly installed DC led coalition government announced a Coalition agreement that suggested a turn in these relations and an intention to reform its institutions. [213]But, after three months in office, it renegaded on these commitments. In a surprising and polarising move, the new government made changes to its security structures, which essentially precipitated the SADC mission in the first place. It removed Lieutenant General Maaparankoe Mahao as Commander of the LDF and replaced him with his predecessor Tlali Kamoli, discharged from this position by the previous government. [214] Tom Thabane, the prime minister at the time, accused him of an attempted coup and other violations. Kamoli thus remained a polarising figure in Lesotho politics. But, officially, no one has been held accountable for the reported coup attempt. Rather, in June 2015, Kamoli commanded the LDF to institute charges of mutiny against some 50 LDF members from the same time period. Mahao was fingered, but never charged or detained prior to his killing. The political and security situation deteriorated starkly in July when the former LDF Commander Mahao was killed in an operation to arrest him for an alleged mutiny. Several serving and retired soldiers were arrested for the same and the country's main opposition leaders fled the county fearing for their security. The opposition subsequently boycotted parliament indefinitely, demanding Kamoli's removal.

South Africa, the SADC Organ chair at the time, labelled Lesotho's security situation as 'explosive' following Mahao's killing by his military peers. It convened an extraordinary Double Troika summit in Pretoria that decided, among others, to deploy a 10-member commission of inquiry led by Botswana High Court judge, Mpaphi Phumaphi to investigate the developments and make recommendations towards the consolidation of democracy and political stability in the country.

But the SADC Commission of Inquiry and its report became a source of diplomatic tension between Lesotho and the organisation. The Lesotho government challenged the Commission

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213 See The Coalition Agreement, for Stability and Reform: Lesotho's Second Coalition Governmnet Agreement, 10 April 2015

214 Letter addressed to Lieutenant General Mahao from the Office of the Government Secretary, Lesotho, 20 April 2015

from the onset, questioning its mandate, terms of reference and jurisdiction. It later refused to accept the final report pending a court case by one of the LDF commanders to nullify the commission's findings in Lesotho. In the country, critics accused Mosisili of contriving the court case because implementing the commission's recommendations would loosen his grip on power. Plus, the Prime Minister had made it clear on several occasions in public that the Commission's recommendations would not be prosecutable in Lesotho nor binding on the government. In response, SADC warned the Lesotho government against interfering with the Commission's work and reminded it of its obligations to abide by decisions of (SADC) Summit as a member state. The commission concluded its work in October 2015 but its report had not been published after Lesotho refused to accept it pending the finalization of the court case seeking to nullify it. The Commission's report was officially handed over to the Lesotho government in January 2016 after another emergency meeting from SADC. This is where Lesotho was threatened with suspension should it refuse to receive the report and its recommendations.

While the report is now in government's hands, the standoff with SADC and also with the opposition has not boded well domestically. The country's recurrent turmoil has entailed serious setbacks for governance and development. It has arguably undermined state capacity to function effectively, especially due to the antagonistic nature between the ruling coalition and the opposition. Lesotho is classified as one of the United Nations (UN) 48 Least Developed Countries. It is ranked 162nd out of 187 countries on the United Nations Development Programme's (UNDP) 2014 Human Development Index. Lesotho has 23.6 percent HIV/AIDS prevalence rate – the second highest in the world, next to Swaziland. Approximately 360,000 people are living with HIV, 38,000 of them children. The average life expectancy in Lesotho is 48.7 years. Much of the development aid has gone into social programs.

Donor relations are thus also in jeopardy. Lesotho is one of the highest consumers of donor funding in the SADC region. Its largest bilateral donor is the United States of America, which disburses its assistance primarily through the Millennium Challenge Corporation (MCC). The second is the European Union (EU) which no longer gives general budget support to the government. Both the EU and the US have been very critical of the lack of government's compliance to democracy and rule of law – which are requirements to be eligible for their aid programs.[215] They have consistently urged the Lesotho government to undertake constitutional and security sector reforms since the resumption of SADC's mediation – although without progress. These patterns are indicative features of a state whose structures are susceptible to crisis. So Lesotho finds itself on a collision course with SADC, key donors, and its opposition, with serious consequences for its future

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215   See US Department of State, Press statement: United States Concerned About Security Sector Reform in Lesotho, 27 May 2015, at http://www.state.gov/r/pa/prs/ps/2015/05/242894.htm

stability. The country has a relatively short democratic history, typified by the entrenched politicization of state and security administration, fractious politics and violent patterns of contestation over state power. This report discusses the foregoing dynamics in historical and contemporary detail.

Historical context

Lesotho's post-colonial history has generally revolved around the contestation for power during and after elections, unresolved issues of political impunity, and periodic military intervention in the country's political processes.[216] From the onset of independence in 1966 to date there have been four military coups d'états involving changes of government as well as two attempted coups. The country's political and electoral history can be divided into six distinct periods. The first is the post-independence dispensation from 1966-1970. The Basotho National Party (BNP) won the country's first elections in 1966. The period was fraught with tensions and violent confrontations between the BNP and its rival, the Basutoland Congress Party (BCP). The country was ruled as an authoritarian one-party state. When the opposition BCP won the 1970 elections, the BNP refused to give up power, declared a State of Emergency and abolished the Constitu¬tion. The BCP leadership went into exile; mass repression, political killings and imprisonment of its members followed.

A military junta overthrew the BNP in 1986 and for the next seven years Lesotho was ruled by a military dictatorship. [217]The period from 1993 to 1998 could be considered a time of democratic consolidation, as in 1993 the country held the first democratic elections since 1970. These were won by the BCP. However, the party faced hostility from the army, as the BNP had stuffed the military with its supporters. The army, the BNP and another opposition party, the Marematlou Freedom Party, backed the dismissal of the BCP government by King Letsie in August 1994 in what was referred to as a palace coup. This ushered in SADC's first involvement in Lesotho with South Africa, Botswana and Zimbabwe facilitating the return of the BCP to office, and BCP rule lasted until 1997.[218]

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216   Institute for Security Studies, Lesotho: History and Politics, http://www.iss.co.za/af/profiles/Lesotho/Politics.html.

217   Author interview with Solomon Lethoba, LCD MP, 17 September 2014.

218   Report on the Situation in Lesotho, Joint Meeting of the Joint Standing Committee on Defence; Foreign Affairs Portfolio Committee; Security and Justice Select Committee, 2 November 1998, https://pmg.org.za/committee-meeting/6712/.

The period between 1998 – when the Lesotho Congress for Democracy (LCD) won a sweeping victory – and 2007 was comparatively more stable. It was characterised by protracted post-election contestation, but there were efforts at electoral stability. Up until 1998 all of Lesotho's elections had been run using the First Past the Post (FPTP) model. This 'winner takes all' system led to one-party dominance and severe under-representation of other contenders. The LCD's 79 out of 80 seat victory in the 1998 polls is a case in point.

The opposition, specifically the BCP and the BNP, argued the results were fraudulent. While these parties historically had antagonistic relations, they forged an alliance of convenience to contest the outcome of the 1998 election, mobilising their supporters to occupy Maseru and inhibit the LCD from governing. They called for the LCD to rather stand down and allow a government of national unity. [219] The LCD remained defiant, maintaining its right to rule. This triggered violent protests, clashes with the armed opposition and weeks of political instability.

The crisis initiated SADC mediation; a South African judge, Pius Langa, led investigations into the credibility of the results. His findings were controversial as the opposition challenged their veracity.[220] It was alleged by dissidents that his report had been doctored – that the interim report claimed that the election was invalid. The final official version concluded that while there were some irregularities, there was no clear evidence of electoral malpractice and fraud. [221]Reactions to the report and the King's refusal to dismantle the Parliament became volatile. Military mutineers seized arms and ammunition and expelled or imprisoned their commanding officers, while the Lesotho police lost control of public security. When the Langa report failed to break the impasse, SADC intervened militarily. The intervention eventually stabilised the security situation.[222] SADC subsequently brokered an agreement that restored the LCD to power, on condition that a new election was held within 18 months. Under SADC's supervision, a Multiparty Interim Political Authority (IPA) was established to review the electoral process and organise the next elections. In 2001 the

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219   R Southall and R Fox, Lesotho's General Election of 1998: Rigged or De Rigeur? The Journal of Modern African Studies, Vol 37, No 4, Dec 1999, 675.

220   N Selinyane, Lost between stability and democracy: South Africa and Lesotho's constitutional crisis of the 1990s, in R Southall (ed), South Africa's Role in Conflict Resolution and Peacemaking in Africa: Conference Proceedings, Cape Town: HSRC Press, 2006, 69-90

221   Report on the Situation in Lesotho, Joint Meeting of the Joint Standing Committee on Defence; Foreign Affairs Portfolio Committee; Security and Justice Select Committee 2 November 1998, https://pmg.org.za/committee-meeting/6712/.

222   M Malan, Leaner and meaner? The future of peacekeeping in Africa, Africa Security Review, Vol 8, No 4, 1999, www.issafrica.org/pubs/ASR/8No4/Malan.html.

parties adopted a new electoral model, the Mixed Member Parallel (MMP) – a composite of the FPTP and proportional representation (PR) electoral systems. It was envisaged that the MMP would prevent the development of a winner-take-all electoral result and promote 'consensual' politics.

Indeed since its introduction in 2002, the MMP has changed the status quo where one party [223]would win virtually all National Assembly seats. However, this did not change the violent political culture of the country, as demonstrated by the elections of 2007. That poll was induced by the defections of legislators from the ruling LCD to form a new party, the All Basotho Convention (ABC), which threatened the former's majority. In the 2007 elections ruling, the LCD took 61 of the 80 constituencies. The opposition parties cried foul, arguing that the LCD had manipulated the MMP system by creating alliances that distorted the MMP's compensatory mechanisms. The post-election environment was characterised by political instability fuelled by assassinations and alleged attempts on the lives of several party and government officials. [224] SADC mediated the impasse from 2007 to 2009. [225]The government and opposition parties finally reached an agreement on reinvigorating the MMP in March 2011. [226] This experience also partly helped change the trend of post-election violence and the contentious transfer of power. In the aftermath of the May 2012 general elections Lesotho had a peaceful change of leadership, with Pakalitha Mosisili stepping down as prime minister after 14 years in power. This was the first time since independence that Lesotho had managed to achieve a peaceful transfer of power. The country's new government was then led by the ABC, which formed a three-party coalition government – the first of its kind in the country's history ¬– with the LCD and the BNP. This three-way configuration ended the one-party dominance that had been a feature of Lesotho's democracy for decades. But it did not end inter-party feuding.[227]

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223   Before 2002, BCP won 100% and 98% of seats, while post-2007 the party that came into power had significantly fewer seats and Parliament has since been made up of around 10 parties.

224   Author interview with DC National Executive Committee member Tlohang Sekhamane, Maseru, Lesotho, 16 September 2014.

225   SADC nominated Botswana's former president, Ketumile Masire, as a mediator to the dialogue, a task he later relinquished. The mediation was finalised by the Christian Council of Lesotho (CCL) with the UNDP, Action Aid and Irish Aid, providing financial and technical support.

226   Author interview with Dr Motlaamela Kapa, Senior Lecturer and Head of the Department of Political & Administrative Studies, Maseru, National University of Lesotho, Maseru, Lesotho, 17 September 2014.

227   MA Kapa and V Shale, Alliances, Coalitions and the Political System in Lesotho 2007-2012, Special Issue - Understanding the Causes and Consequences of Political Party Alliances and Coalitions in Africa, Journal of African Elections, Vol 13, No 1, June 2014, pp 93 -96.

The legacies of these developments are threefold. The first is the limitations of the electoral system in facilitating stability in government. While the MMP broadens party representation in government, this reform has not gone in tandem with changing the fractious and violent political culture of the country. The application of the MMP system is also more challenging and more complex than FPTP and the management of election disputes and related conflict is yet to be adequately catered for.

Floor crossing has also persisted under both systems, leading to party breakaways and instability in Parliament. This situation has recurrently generated a legitimacy crisis for the government, hence the need for snap elections. The second legacy, then, is the pervasiveness of party splits preceding elections, mostly spurred by internal power struggles within the parties.[228] This was the case in 1997 when the BCP splinter, the LCD, was created.[229] Similarly, Thabane's ABC is a splinter from the then-Mosisili-led LCD. Thabane and other LCD MPs formed it in September 2006, barely four months before the 2007 general elections. Then-prime minister Mosisili formed the Democratic Congress (DC), a splinter party of the former ruling LCD, in similar fashion in 2012. It ended a two-year-long factional battle and power struggles. Prior to the 2012 elections, Mosisili resigned from the party in Parliament, together with the majority of LCD MPs, to form the DC. The new party immediately took over the administration of the country as the ruling party until Parliament was dissolved to pave the way for elections.

The third legacy is the persistence of an often-divisive ideological dichotomy among Lesotho political parties. In Lesotho, there have been two main political tribes: the 'congress' parties and the 'nationalists.'[230] The 'congress movement' is associated with the BCP from its establishment in 1952. The nationalists are members or sympathisers of the BNP, which was founded in 1959 as a BCP splinter.

There have been deep-seated ideological differences between the two political strands, and political squabbles to do with how either government politicised state institutions during their terms to sustain themselves; and disputes over electoral outcomes. There are also entrenched opinions about each party's alleged complicity in past election-related crimes, including political assassination and attempts. The LCD feels victimised by the BNP

228   K Matlosa and V Shale, Impact of Floor Crossing on Party Systems and Representative Democracy: The case of Lesotho, A paper prepared for a Workshop on Impact of Floor Crossing on Party Systems and Representative Democracy in Southern Africa, co-hosted by EISA and KAS, The Vineyard Hotel, Cape Town, South Africa, 15 November 2006.

229   FK Makoa, Beyond the electoral triumphalism: reflections on Lesotho's coalition government and challenges, Strategic Review for Southern Africa, Vol 36, No 1,100-103.

230   Author interview with Tseoue Petlane, Director of the Transformation Resource Centre, Maseru, Lesotho, 19 September 2012.

because its leadership (then BCP) was incarcerated in the 1970s and BCP members were persecuted. [231] The LCD also believes that the BNP was complicit in actions that destabilised the BCP and LCD governments between 1993 and 1998, including the palace coup of August 1994.[232]

When the ABC was formed in 2006 it adopted the 'convention' tag, to break the nationalist-congress dichotomy by creating something entirely new, untainted by old rivalries. But in spite of its attempt to bridge the ideological divide, 'congress' parties often brand the ABC as 'nationalist'. While it drew its membership from LCD defectors, more of its membership came from the BNP. The dichotomy is significant in as far as party alliances are concerned. For instance, the collapse of the 2012 coalition government is in some circles explained by the rivalry between congress and nationalists, in that a congress-nationalist amalgamation (an LCD-ABC-BNP combination) is as implausible as mixing oil and water. Future alliances and coalitions will continue to be tested by this.

Coalition governments: 2012 - 2015

Lesotho held snap elections in February 2015 two years ahead of schedule, to resolve a political and constitutional deadlock. Like in 2012, the elections produced a 'hung parliament,' where no single party had a decisive majority to constitute government. Lesotho's government is formed on a constitutional requirement of 50% + 1 of the parliamentary seats. Seven parties agreed to form a coalition with 65 seats out of a total of 120 in the National Assembly. These were: the DC, LCD, BCP, the Lesotho People's Congress (LPC), National Independent Party (NIP), Popular Front for Democracy (PFD) and the Marematlou freedom Party (MFP). The opposition —mainly the ABC, BNP and the RCL, occupied the remaining seats.

Two months after its inauguration, the coalition produced an agreement titled "the Coalition Agreement for Stability and Reform: Lesotho's Second Coalition Agreement, April, 2015". The document sets out its broad objectives, internal management processes, the division of ministries and a 15-point reform agenda. The reform agenda includes a focus on: reforms concerning the public service, parliament and the security sector; review of the constitution, the Law Reform Commission and the judicial system; poverty reduction and improvements to education and health; capacity building of

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231　Author interview with DC National Executive Committee member Tlohang Sekhamane, Maseru, Lesotho, September 2014.

232　The BNP had led an anti-government protest march to the Royal Palace in August 1994, petitioning the King to dismiss the BCP regime, and the King obliged.

local government; and constructive engagement with civil society organisations. [233]

The inauguration of the seven party governing coalition followed months of government paralysis after the acrimonious collapse of the country's initial one in June 2014.[234] It was similarly formed after the 2012 poll produced a 'hung parliament'. Then coalition partners, the ABC, LCD and BNP had 30, 26 and five seats respectively, forming a simple majority of 61 seats out of the 120 that constitute its parliament.[235] The coalition government effectively crumbled in acrimony in June 2014 when its major partner, the LCD, signed a new alliance with the DC, which had won 48 seats in the 2012 polls.

Prior to the 2012 elections, the LCD had ruled out the possibility of a coalition with the DC in the event of a failure to amass the requisite parliamentary majority. At the time of coalition negotiations between the LCD and the ABC, a group referred to as 'the Bloc' proposed an alliance with the ABC, but this was rejected.[236] The Bloc comprises neutral but government-inclined parties in the legislature and holds 10 seats. If negotiations had succeeded, the coalition could have had a stronger majority of 71 seats.[237] So, it was fragile. It was also a marriage of convenience, particularly between the LCD and the ABC, which, at the time, were hostile to working with the DC or expanding the coalition to include anyone else. [238] Furthermore, there were discernible policy differences between these parties, having mainly converged to maximize their individual chances of being in government. The arrangement was inherently unstable. The coalition faced the challenge of governing with a one-seat majority. It was difficult to pass legislation requiring a two-thirds majority, as they would need to lobby the opposition for at least 19 votes. Factional politics subsequently characterised the coalition, driven by their historically antagonistic relationship.

Between 2012 and 2014, the main issues of contention within the coalition included:

233 As elaborated in The Coalition Agreement, for Stability and Reform: Lesotho's Second Coalition Government Agreement, 10 April 2015

234 C Ramaphosa, Maseru Facilitation Declaration, www.thepresidency.gov.za/pebble.asp?relid=18118

235 This is according to Section 87(2) of the Lesotho Constitution that states that '…The King shall appoint as Prime Minister the member of the National Assembly who appears to the Council of State to be the leader of the political party or coalition of political parties that will command the support of the majority of the members of the National Assembly.'

236 Author interview with Dr Motlamelle Kapa, Senior Lecturer and Head of the Department of Political & Administrative Studies, Maseru, National University of Lesotho, Maseru, Lesotho, 17 September 2014.

237 These are the Lesotho Workers Party, National Independent Party, Maremastlou Freedom Party, and Popular Front for Democracy, Basotho Democratic National Party and the Lesotho People's Congress.

238 Author interview with Joang Molapo, Minister of Home Affairs and BNP MP, Maseru, Lesotho, 18 September 2014.

¤ **Appointments and dismissals in the civil service:** Prime Minister Thabane changed appointments in key state institutions including the Independent Electoral Commission, the justice portfolios (Office of the Attorney General, the Director of Public Prosecutions); and the public service, including government secretaries and permanent secretaries.[239] The LCD was often aggrieved by the firing of officials in LCD ministries without consultation and asserted that Thabane did not have the power to fire senior officials in ministries controlled by the LCD.

¤ **Security appointments and dismissals:** In 2012, the prime minister re-organised the security portfolios. The police portfolio, previously under Home Affairs, was moved to Defence under the prime minister's command and a new Commissioner of Police, Khothatso Tšooana, was appointed in 2013.

¤ **The most controversial decision, however**, was the dismissal of LDF Commander Tlali Kamoli on 29 August 29 2014, a move rejected by Kamoli with the tacit support of the LCD and the DC, which appointed him in 2012.[240] Following his dismissal, Kamoli, with a military group, invaded police stations and police headquarters in the capital, and carried out invasion operations at the residences of the prime minister, the BNP leader, his replacement, Lieutenant General Mahao, and many other senior government officials including the commissioner of police. Thabane fled to South Africa, claiming an attempted military coup, which the army denied. The ABC and BNP leadership fingered the LCD for compliance in the coup attempt. It was an accusation that the leadership of the LCD and many DC MPs tacitly encouraged when they did not publicly denounce the act. [241] Instead, they argued that Kamoli's removal was illegal and the prime minister had failed to follow due process. They also asserted that his replacement was ill suited for the post as he was being tried by court martial for improper behaviour. Thabane had dissolved the court martial before it reached a verdict in February 2014, although Kamoli had also defied this dissolution.

¤ **Police-military relations:** A police report in February 2014 concerned the bombing of residences of Police Commissioner Tšooana and two others – one of them belonging to a girlfriend of the prime minister. Eight members of the army were

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239 The Attorney General and the Director of Public Prosecution successfully challenged their dismissals in November 2014 and were reinstated.

240 Author interview with Popa Shamatla, National Security Services of Lesotho, 18 September 2014.

241 B Zihlangu, Metsing behind coup attempt: Maseribane, 4 September 2014, Lesotho Times, http://lestimes.com/metsing-behind-coup-attempt-maseribane/.

allegedly involved. But, despite a warrant of arrest for the soldiers from the director of public prosecutions, Kamoli refused to hand them over, arguing that they would be tortured.[242] It was also alleged that Deputy Prime Minister Metsing's[243] ministry vehicles were used in the bombing mission. The reported coup attempt also revealed tensions in relations between the two structures, as a component of the army attacked Police Headquarters and police stations in Maseru, demanding dockets investigating crimes implicating high-ranking LDF soldiers and politicians, including the then deputy prime minister Metsing.

¤ **Re-organising portfolios:** Thabane attempted to take control of the highly strategic Lesotho Highlands Water Project (LHWP) in 2013 and transfer it to his office. The LCD under the Energy, Meteorology and Water Affairs Ministry leads LHWP. The move was thwarted by protest from the LCD and both parties eventually agreed to a joint ministerial monitoring committee. But this remained a bone of contention for both sides.

¤ **Prorogation of Parliament:** While prorogation is the exclusive reserve of the prime minister, and it was done many times under Mosisili, the LCD and the opposition challenged the June 2014 exercise of this authority by Thabane. This may partly be attributed to the fact that by March 2014, tension within the coalition had escalated. Opposition MPs with tacit support from the LCD proposed a motion of no confidence in Thabane's government, proposing the reinstatement of Mosisili. The LCD also argued against prorogation, claiming that Thabane would rule without Parliament for months and flout the Constitution.

¤ **Corruption investigations:** Thabane launched an anti-corruption campaign in 2012 partly responding to a spate of unprosecuted corruption scandals involving leading politicians. However, dissidents saw it as persecution of his political rivals in the DC and the LCD. Most significant are those cases involving: his deputy Metsing — implicated for financial impropriety and mismanagement of a R50-million construction tender; the former finance minister and LCD stalwart, Timothy Thahane, fired by Thabane in 2013; and the former natural resources minister and DC deputy leader Monyane Moleleki.[244]

242   Author interview with Dr Motlaamela Kapa, Senior Lecturer and Head, of the Department of Political & Administrative Studies, Maseru, National University of Lesotho, Maseru, Lesotho, 17 September 2014.

243   Tšooana implicates Metsing in army attack, Lesotho Times, 4 September 2014, http://lestimes.com/tsooana-implicates-metsing-army-attack/.

244   Author interview with Billy Ntaote, reporter, Lesotho Times, Maseru, Lesotho, 20 September 2014.

¤ **Treason charges against the coup attempt:** In September 2014, LMPS reported that it would investigate and charge the LDF commander, the deputy prime minister and several other high-ranking LDF, LMPS and government officials with high treason and murder, over the August coup attempt. Investigations were never concluded and ultimately halted by the new government in 2014.

It is also important to discuss the power relations attributed to its failure. The tensions and major disagreements among coalition partners can be linked to three main factors – some discussed in the previous section. The first is unresolved past hostility or confrontations between the parties and their leaderships. Secondly, political interests and stakes fluctuated over time. Political power and bargaining, which became a precondition in developing and drafting the 2012 coalition agreement, characterised its duration.

This was because the agreement had some debilitating shortfalls.[245] The most glaring was a dangerous evolution or continuation of politicising state administration in the division of the ministries among parties. This was largely based on the criteria of parties and their 'weight' in the coalition, as opposed to professional criteria and party policy competencies.[246] Certain omissions and ambiguities in the agreement were also problematic. For instance such documents usually include provisions designed to ensure open communication on specific matters in advance, including 'no surprise' clauses. The agreements also always include a statement on consultation requirements. Lesotho's coalition agreement lacked such stipulations. Also important is that the Lesotho Constitution makes scant reference to 'a coalition,' and mentions it narrowly in alliance terms without a full elaboration of its mechanisms.[247] Arguably the same applies to the constitutions of the three coalition parties – thus the challenges of such an arrangement were not adequately anticipated. While such an agreement should have been swiftly elaborated following the formation of government, it was only signed six months after the election.[248] The three coalition parties had differences on the substance of the agreement. For instance the LCD insisted that 'serious decisions' needed consultation, while the ABC refused to sign the agreement because of a clause that stipulated that changes in the numbers of parliamentary seats should be reflected in the

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245   ABC, LCD, and BNP - Agreement to form a coalition government of Political Parties: subsequent to the May 26 2012 elections.

246   Author interview with Tsoeu Petlane, Director of the Transformation Resource Centre, Maseru, Lesotho, 19 September 2012.

247   Scant reference to 'a coalition' is made in the Lesotho Constitution under Sections 83, 87 and 95, concerning the prorogation and dissolution of Parliament, the ministers of government, and the Council of State.

248   Author Interview with Tlohang Sekhamane, DC MP, Maseru, Lesotho, 10 September 2014.

leadership of the coalition. [249]

In 2014, after two ABC MPs defected, the ABC lost the coalition leadership. This not only reduced the parliamentary seat tally of the three parties in government but also stood to complicate the interpretation of 'proportionality' in the allocation of key portfolios as reflected in Article V of the agreement. That provision stipulates that the allocation of ministerial positions, deputy ministerial positions, heads of foreign missions, senators and district administrators be made proportionally in line with National Assembly seats held by each party, provided that proportionality does not deprive any of the parties of a share of such allocation across the board.[250] The agreement also stipulated that the appointment of principal secretaries, in line with the principle of proportionality, is made on the recommendation of the minister concerned. [251]That provision is also important because of Thabane's firing of several principal secretaries (government officials of high seniority) and appointing new ones at his discretion. The view from the third coalition partner, BNP, is that the coalition relationship 'went wrong from day one' when the LCD came into negotiations with a list of strategic ministries it wanted to preside over if it were to join government. It reportedly threatened to 'go back to the DC' if its demands were not honored.[252] The politics of ultimatum thus characterised coalition negotiations. The coalition became personality-driven with a standoff between Thabane and Metsing over the division of spoils in the form of allocation of key ministerial and government portfolios. Figure 1 reflects the agreed allocation.

Political infighting within the coalition and government feuds can further be linked to Lesotho's power and decision-making structures. This also partly explains Thabane's firing of senior government officers in some strategic positions, including principal and government secretaries, the attorney general, the director of public prosecution, and the commissioner of police, among others, from 2014 especially. Key in this regard is an institution called the Council of State – a highly significant and influential body that advices the King on the decisions of the prime minister and in other functions conferred by the Constitution. Some of its key powers include advising on the declaration of a State of Emergency; dissolution of Parliament; and procedures when the National Assembly passes a resolution

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249   Author interview with Joang Molapo, Minister of Home Affairs and BNP MP, Maseru, Lesotho, 18 September 2014.

250   ABC, LCD, and BNP - Agreement to form a coalition government of Political Parties: subsequent to the May 26 2012 elections.

251   Ibid. As reflected in Article V of the ABC, LCD, BNP 2012 Coalition Agreement.

252   Author interview with Joang Molapo, Minister of Home Affairs and BNP MP, Maseru, Lesotho, 18 September 2014.

of no confidence in the government of the day. [253]The Council of State consists of the prime minister; the speaker of the National Assembly; two judges or former judges of the high court; the attorney general; the commander of the LDF; the commissioner of police; and a principal chief nominated by the College of Chiefs. The firing of senior government officials was thus not only a serious threat to other partners in the coalition, but it could also potentially increase Thabane's support in the Council of State. [254]So, Thabane's replacement of Kamoli, the chief justice and the attorney general, together with changes in key civil service appointments, cannot be separated from perceptions that the move was designed to reconfigure the composition of this body, making it more sympathetic to him.[255]

The SADC 2014 facilitation

Several developments preceding the alleged attempted coup in August 2014 provide the backdrop to the SADC facilitation mission in Lesotho. The first to highlight are the consultations undertaken in Lesotho by the SADC Ministerial Troika of the Organ (MCO) on 22 and 23 May 2014. These were led by the Namibian Minister of Foreign Affairs, Netumbo Nandi-Ndaitwah; and fed into the work of then SADC Organ chair, Namibian President Hifikepunye Pohamba. The MCO consultations were a response to a host of tense and violent events in Lesotho from January 2014. These included anticipated changes in the LDF command and several public declarations from Kamoli and some LDF soldiers rejecting his possible dismissal.[256] There were also reports (albeit conflicting) of LDF-linked violence, death threats levelled at politicians, attempted assassination claims from politicians and the adjournment of Parliament in April, at the peak of 'no confidence' tussles in the legislature.[257]

By May, the coalition was publicly showing severe cracks, also with disagreements over changes in the LDF command. SADC recommended that interparty peace talks be initiated in June 2014 to resolve coalition tensions. The Christian Council of Lesotho initially mediated the talks with Pohamba presiding. Notably, the leaders of some civic and church organisations made unsuccessful efforts to bring together the feuding sides as early as March

253   Constitution of Lesotho, Section 83. Prorogation and Dissolution of Parliament.

254   Author interview with Vincent Malebo, BNP MP and a member of the Council of State, Maseru, Lesotho 16 September 2014.

255   Author interview with Solomon Lethoba, LCD MP, 17 September 2014.

256   B Zihlangu and N Molomo, Soldier backs Kamoli, Lesotho Times, 20-26 February 2014.

257   Keiso Mohlobi, Maputsoe under siege: soldiers beat up residents, Lesotho Times, 3-8 January 2014.

2014.[258] There were three inter-party consultations in total, following opposition attempts at no confidence motions in Thabane and the prorogation of Parliament for nine months. The point of the talks was thus to review and amend the original June 2012 Coalition Agreement to the satisfaction of the parties and for Thabane to rescind the prorogation. The talks collapsed mainly because they were not being conducted in good faith. While the consultations were in progress, leaders of the DC and LCD signed a new alliance agreement. The agreement, signed on 11 June, a day after Thabane's decision to prorogue Parliament, established Mosisili as the prime minister and Metsing as his deputy. It also allocated ministerial posts to smaller parties in the opposition – the 'congress' parties, namely, the Basotho Batho Democratic Congress, the Basotho Congress for Democracy and the Lesotho People's Congress. [259]

Coalition parties also failed to meet their self-imposed deadlines, in particular that LCD terminate its June 2014 DC alliance and that Thabane rescind the nine-month suspension of Parliament. Following the deadlock in negotiations, Pohamba invited a delegation of the coalition government to Windhoek, Namibia on 30 and 31 July 2014 as a follow-up to the Maseru interparty meetings. Like the Maseru talks, the visit produced an agreement (referred to as the Windhoek Declaration) that failed to be implemented.[260]

It is also important to highlight the engagement of Lesotho's strategic and only neighbour, South Africa, with the coalition government in the same period.[261] Completely surrounded by South Africa and with over 90% of its imports emanating from South African dominated Southern African Customs Union (SACU), Lesotho is heavily dependent on South Africa's economy, polity, and society for its survival. South Africa too has a stake in Lesotho politics because of its economic investments particularly in the Lesotho Highlands Water Project (LHWP). This is a binational collaboration between Lesotho and South Africa meant to deliver water to South Africa, and generate hydroelectric power in Lesotho as well as other ancillary developments. The LHWP supplies water to the South Africa's Gauteng

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258   Author interview with Tseoue Petlane, Director of the Transformation Resource Centre, Maseru, Lesotho, 19 September 2012.

259   D Motsamai, Lesotho's interparty talks: more turbulence ahead? 16 July 2014, www.issafrica.org/iss-today/lesothos-interparty-talks-more-turbulence-ahead.

260   SADC press statement on the working visit to Namibia by the leaders of the coalition government of the Kingdom of Lesotho, www.sadc.int/index.php/download_file/view/2726/1195/.

261   The SADC intervention in Lesotho thus evolved from a comparatively low frequency official engagement under Namibia to 'track one diplomacy' under South Africa and SADC when Lesotho was officially placed on the regional agenda in September 2014. Track one is an official diplomatic effort, where states or official international organisations intervene and mediate in conflicts. This track relies directly on state power with high-ranking government officials, diplomats or heads of state aiming to influence political power structures.

Province which houses the country's largest city, Johannesburg and its administrative capital, Pretoria. Phase one of the LHWP, consisting of two dams, Katse and Mohale, and the construction of a hydropower station and associated tunnels, was inaugurated in 2004. In 2010, South Africa approved phase two of the water transfer project, which entails the construction of another dam (Polihali Dam) and a transfer tunnel from this to the Katse Dam.

Katse Dam is the largest dam and main reservoir of the Project and had been secured by South African soldiers before, during SADC's military incursion in 1998. [262]

So, unsurprisingly and because of its proximity, South Africa was the first to flag the seriousness of security concerns in Lesotho in June 2014, when it warned of the threat of a military coup in the country and cautioned against 'any unconstitutional change of government.' [263] This was followed by a number of working visits to Lesotho by South African President Jacob Zuma to encourage the coalition's adherence to inter-party talks and resolutions facilitated by Namibia. Zuma's visits at this time were to ascertain Lesotho's readiness to assume the chairmanship of the SADC Organ on Politics, Defence and Security in August 2014. The Organ chairmanship was given to South Africa and Lesotho was made its (otherwise ineffective) deputy due to political uncertainty at the August 2014 SADC Summit.[264] Two weeks after the summit, the prime minister fled to South Africa, citing fears of a Kamoli-led coup attempt. On 1 September, the SADC Troika convened an emergency meeting in Pretoria, South Africa, with party leaders of the coalition and Lesotho was officially placed on the SADC Organ's agenda. It is at this meeting that Thabane requested a SADC military intervention to restore order. This was rejected. Instead, SADC opted for political dialogue and bilateral measures (from South Africa) to support public security. There was also a reported lack of consensus between the coalition leaders on the causes of the political turmoil and the LCD's under-emphasis of coup claims. [265]SADC mostly deferred resolving these matters. It neither fully inquired about the allegations nor about the real drivers of confrontations between the country's security structures. The following meetings and outcomes are indicative of this. The resolutions appear to eclipse the insecurity crisis and the coup attempt in particular.

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262   O Mwangi, Hydropolitics, Ecocide and Human Security in Lesotho: A Case Study of the Lesotho Highlands, Journal of Southern African Studies, Vol. 33, No. 1 (Mar., 2007), 10-11

263   South African Government media statement on the unfolding situation in Lesotho, www.dirco.gov.za/docs/2014/leso0619.html.

264   President Zuma to undertake a working visit to the Kingdom of Lesotho, DIRCO press release, 28 July 2014, www.dirco.gov.za/docs/2014/leso0728.htm.

265   Author interview with Joang Molapo, Minister of Home Affairs and BNP MP, Maseru, Lesotho, 18 September 2014.

¤ The Pretoria Declaration - A joint statement by the SADC Troika and leaders of the Lesotho coalition, 1 September 2014: This indicated an acknowledgement by the coalition partners that the political and security situation had deteriorated and needed immediate intervention and support from SADC. A road map on the process of re-opening Parliament by 18 September was agreed but not honored. At Thabane's request, South Africa deployed [266]a contingent of the South Africa Police Service (SAPS) to Maseru in September to reinforce public security in the capital, working with the Lesotho police. The SAPS also provided Thabane and several other top officials with fulltime security protection.

¤ The double SADC Troika Summit of Heads of State and Government, 15 September 2014: South African Deputy President Ramaphosa was mandated as the Lesotho SADC facilitator to further guide the implementation of the road map. The specific mandate given to the SADC facilitator was 'to assist the country to return to constitutional normalcy, political stability and restoration of peace and security.'[267] SADC was to deploy an observer team from the Organ to Maseru, comprising police officers and military personnel from various regional states. South Africa sent an additional 140 police officers to Lesotho in November as part of the SADC observer mission.

¤ Deployment of the SADC Observer Mission to Lesotho (SOMILES): the mission was deployed from 2 September 2014 to 31 March 2015. It comprised a civilian, early warning and military component. The civilian component comprised five officers from Botswana, Namibia, and Zimbabwe; early warning had six from the same countries plus South Africa; while the military component had officers from South Africa, Botswana, Zimbabwe, Namibia and Malawi. SADC reinforcement units were later deployed in the build-up to the election. South Africa had 70 soldiers out of a total of 155.[268]

¤ The Maseru Facilitation Declaration, 2 October 2014: The agreement committed all political parties to the reconvening of Parliament on 17 October 2014; that the business of Parliament be limited to discussing the budget and all matters related to the holding of elections; and that elections would be held in February 2015.[269]

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266   The Presidency, Joint statement by the SADC Troika and the leaders of the coalition of the Kingdom of Lesotho, 1 September 2014, www.thepresidency.gov.za/pebble.asp?relid=17939.

267   C Ramaphosa, Maseru Facilitation Declaration, 2 October 2014, www.dfa.gov.za/docs/2014/leso1003.html.

268   See SADC, SADC Observer mission to the kingdom of Lesotho, Facilitator's final report, 15- September 2014 – 31 March 2015

269   This was difficult since some of the LDF soldiers involved were those that the police had opened criminal dockets against.

¤ <u>The Maseru Security Accord, 23 October 2014:</u> This was signed by Kamoli, Mahao and Tšooana, who agreed to go on special leave and be temporarily seconded to security institutions in Africa. The agreement also binds them to refrain from interfering or exercising their authority on the military or the police. The deputies at the LDF and LMPS, Kgoantle Motšomotšo and Masupha Masupha, were appointed to head the two institutions in the interim. The accord however had some loopholes. For instance it did not explicitly state the duration of the secondments and their respective roles afterwards, nor did it deal with issues of criminality associated with the coup and LDF.[270]

¤ <u>Memorandum of Understanding (MOU) on joint cooperation between the LDF and the LMPS:</u> The MOU was signed by the new interim leadership of the LDF and the LMPS to support the MSA. The two were to cooperate and establish joint operation centres during the 2015 poll.

¤ <u>Extraordinary Double Troika Summit Communiqué, 20 February 2015:</u> the mandate of the SOMILES to include co-locating SADC Police with the Lesotho Mounted Police Service for the elections was approved; and that the LDF remain in the barracks during the elections. The Status of Forces Agreement for the deployment of SADC police in Lesotho was extended to 31st March 2015. SADC also recommended that the incoming government "pay attention to security sector and constitutional reforms, post 2015 Parliamentary Elections, with the support of SADC". [271]

¤ <u>SOMILES Final Report, 30 March 2015:</u>[272] the report, handed over to Mosisili, recommended that the government develop a roadmap on the following recommendations: constitutional reforms; security sector reforms including review on the LDF and LMPS acts which overlap and appointments and removal in the security agencies; judicial review; regulation of floor crossing and the implementation of recommendations contained in the New Zealand Report regarding safeguards to coalition governments and reforms in the civil service.[273]

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270   During negotiations of the MSA, the suggestion that a time frame be put to the secondments was rejected; hence MSA does not stipulate whether the officers return to the country after elections. The rationale of such was challenged, as it would be inferring Kamoli's removal was not legal. To reinforce the legality of the previous processes as well as commitment to legality and subservience to the civil authority, a clause was added to the agreement to give it flexibility.

271   The Presidency, SADC Communiqué: Extraordinary Double Troika Summit, Pretoria, Republic of South Africa, 20 February 2015 http://www.thepresidency.gov.za/pebble.asp?relid=19065

272   SADC, SADC Facilitation Mission in Lesotho Closes Down at https://www.sadc.int/news-events/news/sadc-facilitation-mission-lesotho-closes-down/ 30 March 2015

273   SADC, Record of the Extraordinary Double Troika Summit, 3, July 2015 (SADC/DST/3/2015/1B)

Limitations of the mission

As in past interventions, SADC involvement in Lesotho stabilised the immediate and medium term political and security situation. Beyond the short term, several factors in the mediation process that could make the conflict protracted or unusually difficult to resolve were apparent. These include:

¤ The security dimensions of the mandate: While the facilitator was given an explicit mandate to intervene politically, the mandate was ambiguous when it came to addressing insecurity; and defining the SADC position on the coup allegations more clearly. The mediation additionally needed to establish the root causes of security tensions and develop a conflict prevention focus.

¤ Lack of clarity on the SAPS deployment: There was little transparency regarding the agreement under which SAPS members were deployed to Lesotho. There was a lack of information on their mandate, numbers and duration. Similarly, the mandate under which the South African Special Forces were deployed was unclear. The official response from the South African government, then, was that such information could not be divulged due to the sensitivities of the operation.[274]

¤ The lack of a regional character to the SADC mediation: The composition of the mediation was arguably 'South Africa heavy', despite it being a three-country troika mission. The numbers of South African security personnel deployed were also disproportionate to those of other countries that contributed to the SADC observer team. This fed perceptions of a conflict of interests by South Africa handling the mediation and that there was a preference for a 'quick fix' to protect its own economic interests as opposed to Lesotho's future political stability.[275]

¤ Non-partisanship: There were allegations of South African bias, and that mediators favored the LCD and prejudiced the ABC.[276]

¤ The ABC also made reservations concerning the partiality of some South African police officials in the SADC mission. Two senior officers were accused of sabotaging Thabane's security and that of other top officials.[277]

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274 Author interview with Sipho Jele, political adviser – The South African High Commission in Lesotho, Maseru, 18 September 2014.

275 Author interview with anonymous sources.

276 Author interview with anonymous sources.

277 AFP, Lesotho calls for the expulsion of SADC commanders, 19 November 2014, http://www.news24.com/Africa/News/Lesotho-calls-for-expulsion-of-2-SADC-commanders-20141119

- ¤ <u>Exclusion of non-state actors:</u> SADC resolutions on Lesotho throughout 2014 predominantly focused on the role of government officials in resolving the country's political questions. They failed to consider the role of other political parties represented in Parliament, and of civil society stakeholders. The degree to which public opinion and participation could influence the peace initiative was overlooked.

- ¤ <u>Insufficient engagement with the opposition:</u> Due to its intergovernmental nature SADC negotiations were done at state level with little interaction and inputs from an otherwise significant opposition in Lesotho. The safe return to Lesotho of the opposition leaders and members of the Security forces who are in exile remained in deadlock for several months. Also in deadlock was their boycott of parliament for close to a year.

- ¤ <u>Poor monitoring, enforcement and compliance with SADC resolutions:</u> This has been a major challenge from the initial Windhoek Declaration. It was breached because of a failure by SADC to manage the transition from negotiations to implementation. Parties in the coalition flouted many other resolutions without sanction.

- ¤ <u>SADC visibility in Maseru:</u> The SADC office in Maseru, opened in September, had very limited visibility and outreach to the public. Its presence did little to improve information and understanding of its mission. It also had no effect in deterring insecurity in the beginning of its mandate.

- ¤ <u>Undefined post-election role:</u> Beyond its recommendations that the incoming administration make reforms, SADC failed to define its post-election role in Lesotho. While South African police and SADC military officers remained in the country until after the vote, stabilising the security and political environment required longer-term engagement.

The SADC 2015 intervention

Following the death of the former LDF commander in June 2015, The SADC Organ — chaired by South Africa, sent a Ministerial Fact Finding Mission to Lesotho. On the basis of the mission's report, an Extraordinary Double Troika Summit was held in Pretoria on 3 July 2015. It made five key resolutions.[278] The first was to establish an Oversight Committee in Lesotho that would act as an early warning mechanism in the event of signs of instability. The committee was to intervene as appropriate in consultation with the SADC

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278   See, SADC, Communiqué Extraordinary Summit of the Double Troika, 3 July 2015, Pretoria, South Africa at http://www.dirco.gov.za/docs/2015/sadc0706.htm

facilitator. The second one was that an independent Commission of Inquiry on the circumstances surrounding the death of Brigadier Mahao, the mutiny investigations and broader politics in the country undermining its stability be established. Thirdly, the Summit decided that Lesotho should put the court martial processes on hold, pending the findings of the Commission of Inquiry. The Court martial was instituted by the Lesotho government in July to prosecute LDF officers charged with muting and related conspiracy. Lastly, the Lesotho government was urged to create a conducive environment for the return of the opposition leaders living in exile. The Lesotho government proceeded to domesticate the establishment of the SADC Commission of Inquiry as per Commission of Inquiry (Disturbances to National Peace and Security) Legal Notice No. 75 of 2015. The government then officially set up the commission under its law - the Public Inquiries Act of 1994.

A month later, Botswana president Seretse Khama Ian Khama took over SADC's rotating chairmanship from Zimbabwe and Mozambique took the Organs' reigns from South Africa. Within a few days of deployment, disagreements between the Lesotho government and SADC on the Commission's mandate and terms of reference emerged. There were perceptions by some SADC officials that the Lesotho government had been abusing its authority to frustrate the workings of the Commission since its inception. In a Double Troika Summit held in Botswana in August, the Summit expressed its concern that the Terms of Reference published in the Gazette by the Government of Lesotho on 28 August 2015 deviated fundamentally from those by the Pretoria Summit.[279] It noted that despite members of the Commission being sworn in on 10 August 2015, the Commission is yet to make headway. The summit concluded that the pace of the Commission is largely influenced by how quick Lesotho facilitates its work and that the government was uncooperative.

The convening of the court martial by Lesotho government, which ran parallel to the Commission's proceeding, was another point of disagreement. SADC eventually called for uplifting its suspension. The Commission also differed with the LDF. It had asked the Commission to omit its inquiry into the alleged mutiny within the LDF on the basis that it was dealing with the same matter under the Court martial. The Commission shot down the LDF's application on grounds that it was unmeritorious. Lastly, the most serious challenge undermining the Commission's work from the Lesotho government is a legal challenge to its jurisdiction. This followed the hearings it conducted in South Africa with the opposition and others in exile. The Lesotho government has since raised its objections to its extrajudicial powers in terms of the admissibility of any evidence given to the commission outside domestic jurisdiction. It has argued that the Commission was not established by SADC – but by itself. The government's lawyers argued that it was not a SADC commission but sponsored by SADC.

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279   See, Lesotho PM under fire at the SADC Summit, 18 August 2015 at http://beta.iol.co.za/news/
      africa/lesotho-pm-under-fire-at-sadc-summit-1901966

The government has highlighted that the commission was set up under its law - the Public Inquiries Act of 1994. Therefore, it should be governed by domestic law, which does not provide for extraterritorial application.

In October 2015, a commander of the LDF's special forces Hashatsi filed court challenge to declare the SADC Commission illegal. The court case became central to Lesotho's relations with SADC as well as being key to domestic political developments since the government had maintained it would not receive the Commission's report until the case had been finalised. SADC challenged the case noting, in a letter from its secretariat, that it enjoys immunity as per the SADC treaty and SADC protocol on immunities and privileges. Any court decisions taken against the commission of inquiry is of no legal effect and will not bind SADC and its institutions. Lesotho was urged to abide by the immunity provisions, yet the government's position was that it accepts SADC's final report after the outcome of the case. In essence, the message from Lesotho was threefold. Firstly, Double Troika decisions and recommendations are not binding to any SADC member state and it is only those of the SADC tribunal that binds all member states. Secondly, SADC cannot make a determination of what should and should not be legal in Lesotho. Thirdly, IESOTHO courts have jurisdiction over SADC and its institutions including the commission and its employees.The case was dismissed by the High court in January 2016. But it had thrown Lesotho into a diplomatic quagmire with SADC.

Botswana convened a SADC Double Troika Summit in its capital Gaborone on 18 January 2016. It is here where the Lesotho Prime Minister was forced to accept the SADC report or face possible suspension. Lesotho was also asked to publish the report within 14 days of receipt; prepare a road map for the implementation of SOMILES recommendations and submit a progress report to the Summit in August 2016. The report has since been made public but not without politics to the process, relating to whether it should have been circulated first to the public and later tabled in parliament. The dispatching of the report to a parliamentary portfolio committee can potentially render its recommendations null and void. Questions of its originality were also raised as Mosisili stated that he applied the Public Inquiries Act in considering its contents and removing portions that may endanger national security, individual rights to privacy and fairness. Inside the report, there are names of the LDF officers that have been omitted who were issued warrants of arrest on April 1, 2014 and September 29 for High Treason. Those ranked from positions of Brigadier, Lieutenant, Colonel and Captain.

Aside from this, key findings from the report refute the mutiny allegations.[280] It also notes that the army operation that resulted in the death of Lt-Gen Mahao was authorised by

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280   See, SADC Commission of Inquiry into the circumstances surrounding the death of Brigadier Mahao, Final Report, November 2015, as tabled by the Prime Minister of Lesotho, 57-62

Defence and National Security Minister Tšeliso Mokhosi. But according to the report, (it) lacked control and oversight mechanisms. On a balance of probabilities, says the report, the evidence shows that Brigadier Mahao did not resist arrest. The report also found deep-rooted politicisation of the security sector, the LMPS and the LDF in particular. According to it, Kamoli's reinstatement resulted in more divisions in the army and instability in the country. The report also takes note of the army chief's refusal to hand over to the police LDF members accused of committing various crimes. "This disregard for the rule of law by the LDF, is evidenced by existing warrants of arrests on some members of LDF including Lieutenant-General Kamoli charged with high treason arising from the August 30 unrests. The commission also observes that the LDF's mandate of dealing with internal disorder, maintenance of law and order as well as prevention of crime overlapped with that of the police. As a result, it notes that the investigation into Lt-Gen Mahao's death had been stopped. It further notes "… the fleeing of opposition party leaders after Lieutenant-General Kamoli's reappointment and parliamentary boycott by opposition amounts to political instability. These political challenges, if not arrested, might spiral out of control with the consequence of failing the current government."[281]

The report "strongly recommended that Lt-Gen Kamoli be relieved of his duties in the "interest of restoring trust and acceptance of the LDF to the Basotho nation". It further recommended that LFD members implicated in cases of murder, attempted murder and treason be suspended pending investigations; and that an amnesty be facilitated for mutiny suspects. Lastly, it called for the "accelerated implementation" of reforms encapsulated in the SOMILES report and that the SADC operationalizes the Lesotho oversight committee to help in the implementation of the reforms.

Lesotho is expected to prepare a road map for the implementation of the above reforms. It is to do this with the support of the Organ Troika and the Secretariat, and submit a progress report to the Summit in August 2016.

Future challenges affecting SADC decisions in Lesotho

Lesotho's position on SADC vis a vis domestic law: Arguably, Lesotho understands SADC to largely be an inter-governmental organisation without a mandate to intervene in internal issues. Its leadership has demonstrated a disdain for SADC interventions in the past, arguing that it reserves its right to sovereignty. Unsurprisingly, Lesotho also failed to implement numerous reforms suggested by the bloc to depoliticize its institutions. The decision to challenge SADC's latest mission in the country thus had a history. The court-martial case is another case in point. It was postponed notwithstanding SADC recommendations. There

281   As above.

is a further risk that the two institutions,the Commission and the Court Martial, may arrive at completely different findings.

The sensitivities around SSR: Persistent involvement of the military in the country's politics is historic and has been symptomatic of a malfunctioning political system. It also underlines the inevitability of the politicisation of security institutions because security forces have been drawn into high-level political disputes. Hence, the focus on security sector reforms in the recent past has been low priority. Governments in Lesotho, including the current one, have tended to impose control over the security forces, rather than negotiate new political arrangements. The latter might see their authority eroded.

Breaking political antagonism: the antagonism between the DC government and the opposition has remained, to the effect that the government has refuted claims of insecurity from opposition leaders and members of the security forces in exile. The DC government had also threatened to nullify the seats of opposition MPs boycotting parliament. With only 54% representation in the legislature, the government does not have the requisite two-thirds majority to institute constitutional reforms. The antagonism is set to make day to day law making problematic, if not cripple parliament altogether.

Rooting out gun culture and political violence: Lesotho has another problem pertaining to the proliferation of illegal small arms and light weapons within its borders. The problem is unique, as it is not attributed to a long-term armed conflict situation. Rather, it stems from decades of a volatile and mostly violent political history, and the fact that Lesotho is, as it were, completely surrounded by another country, which in itself went through armed struggle against apartheid. The consequences of the 1994 mutiny created a conducive environment for illegal circulation of small arms and light weapons among the civilian population. The situation was made worse by the 1998 political unrest and further mutiny within the army, as well as the attempted coup of 2014. There is a long history of military style weapons being used to commit serious crimes, including political assassinations. The victims have included ministers, parliamentarians, senior security personnel and senior businesspersons.

SADC institutional capacities: The lack of systematic monitoring of policy implementation and compliance by SADC institutions in the affairs of its member states is also longstanding and well acknowledged. SADC delayed establishing its oversight committee in Lesotho and, as such, had no visibility on the ground for many months. This limited its capacity to monitor, evaluate and ensure implementation of agreements that it had brokered in Lesotho. The oversight also casts doubt on the functioning of its regional early warning system. Were it functional or effective, there would be no need to establish an Oversight committee in Maseru performing the same functions. A national early warning centre in the country would also exist. Moreover, the question of SSR was differed and SADC failed to make a strong proposal for SSR in Lesotho's circumstances.

SADC leadership and changes: Furthermore, and as illustrated by the plethora of SADC meetings on Lesotho in the past two years, conflict resolution processes rely on SADC heads of state and government and ministerial committees. Both invariably become committed elsewhere in their political and domestic roles. The role of Botswana as a strong and pragmatic chair also helped solve the impasse between Lesotho and SADC over the report on the Commission of Inquiry. [282]But, these roles also rotate annually and strongly determine how robust the regional body insists on compliance.

CONCLUSION

The main conclusion of this report is that Lesotho's standoff with SADC has yet again exposed general perceptions harbored by member states regarding its powers. Members essentially treat domestic issues as internal matters despite them involving the organizations to resolve these matters. It also reveals the compliance problems SADC has with its member states, problems that are well acknowledged and longstanding. The Lesotho case has also revealed that action to improve compliance from SADC's side can seem uncoordinated and unsystematic. To strengthen its role in this regard, its interventions need to be embedded in a stronger institutional and policy framework that also pays attention to all elements of actions in a mediation — from problem definition to compliance monitoring. Improving SADC's performance in mediation is also important. State- centric mediation approaches no longer suit complex and recurrent crises and stronger collaboration between the organization and non-state actors is critical for strengthening its conflict prevention and mediation role. SADC also has to see mediation as a long-term process and one that is highly flexible — as opposed to an exercise of diplomacy that is not embedded in a thorough understanding of a country's contextual framework. As long as SADC is perceived to lack capacity in this regard, member states will take their chances with the regional body and test its supranational muscle. But, the approach may also force SADC to take the tough decision to suspend the mountain kingdom and in the process, Lesotho remains unable to break the cycle of volatility that has characterised its politics for many decades. The ultimate result would be continuous contestation for power, weak civil-military relations, political violence and a governing elite that places very little premium on both domestic and external accountability.

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282   Khama saves Lesotho from sanctions http://www.thepatriot.co.bw/news/item/1937-khama-saves-lesotho-from-sanctions.html, 20 January 2016

THE IMPACT
OF ORGANISED CRIME
ON SOUTHERN AFRICA

New networks of power: why organised crime is the greatest long-term threat to security in the SADC region

Mark Shaw

INTRODUCTION

Traditional definitions of organised crime, which describe a problem vis-à-vis its capacity to be regulated or constrained by the state, have struggled to prove their relevance in an African context. By contrast, this article will argue that illicit flows and criminal networks are not only a critical feature to be analysed within the economic, social and security frameworks of Africa, and Southern Africa in particular, but are in fact integral to the understanding of governance and the state itself.

Drawing parallels between organised crime and state formation is not new. In a seminal work, Charles Tilly observed that in the case of European states, organised crime and state making share a common foundation: protection is sold to those engaged in economic activity by those with the capacity to deploy and monopolise violence. Over time, the protection economy became the state, evolving into something more responsive to the needs of ordinary citizens, thereby ensuring that war making, organised crime and state formation were strands of the same process.

The appeal of applying this model to the African context is considerable, and individual ethnographic studies of countries in Southern Africa, such as Mozambique, the Democratic Republic of the Congo (DRC) or Zimbabwe, have analysed the evolution of organised crime within a continuum of state-crime networks with significant implications. However, constraining the analysis within national boundaries belies both the unique features of regional organised crime and transnational flows. Serving as critical nodes in criminal economies, a set of actors are instrumental to sourcing illicit goods, ensuring the smooth passage of transnational illicit flows and realising their monetary value in destination markets. In order to

successfully play their role, these actors must have a privileged relationship to the state, or specific institutions of the state, thereby making the state itself a defining feature of criminal networks in Southern Africa that has become essential to criminal success. Thus, these transnational flows and the networks that enable them have uniquely bound the SADC region together socially, economically and politically.

As with Tilly's theory, the capacity to wield and control violence remains central to the operations of organised crime groups and networks. This has impacted on the relationship between the state and its security institutions, whereby the provision of security has become highly politicised and serves as the gatekeeper to the criminal economy. The result, in many countries in the region, has been the creation of a state-endorsed protection economy, enabled by systemic levels of corruption and illegality across many state institutions and enterprises, which are used as a means of patronage. This in turn has implications for the capacity to study organised crime in a Southern Africa context, as the complicity between criminals and the state has often placed criminal actors beyond the reach of national law enforcement. In this environment, civil society actors and investigative journalists, rather than police, are now at the cutting edge of the struggle to expose the workings of organised crime in the region.

By examining the entry, evolution and growth of organised crime in the Southern Africa region, this article attempts to illustrate the means by which the current situation of state engagement into criminal networks of protection has developed, drawing implications for the future of the state in Southern Africa. In doing so, it challenges the ability to parallel Tilly's analysis of state formation in Europe to that of Africa, most particularly because African states were already formed, albeit in ways shaped by local conditions and histories which were very different from state formation in the West, as organised crime took root in the continent. Thus, organised crime in Southern Africa must be critically understood within the construct of the African state itself, rather than in antithesis to it, and analysed accordingly.

Organised crime: applicable concepts and definitional challenges

In any context, achieving an acceptable working definition of organised crime has proven challenging, spawning a virtual academic industry. On one count, over 180 definitions have been formulated and are in regular use (von Lampe, 2006). The point is further reinforced by the fact that, in the debates between Member States on the future of a new UN Convention on organised crime in the late 1990s, it was not possible to reach agreement on the concept of organised crime, given its unique manifestations in different contexts and precisely because it might have implicated some state´s actors. Instead, the drafters of the UN Transnational Organised Crime Convention (UNTOC) settled on defining the features of an organised crime group.

While Von Lampe warns that an uncritical transfer of concepts may unduly narrow the focus of attention and "lead to an over-interpretation or misinterpretation of findings" (ibid: 86), the UNTOC compromise, coupled with a scan of the literature drawing from various ethnographies suggests, however, that across the definitions being applied, several broad commonalities exist. First, organised crime is seen as a series of illegal activities that seek to maximise profit; secondly, these activities occur over time and are conducted by a group or connected network of people who may have some ethnic or other trust building affinity with each other; and finally, those involved may employ violence or the threat of violence, as well as other facilitating activities such as corruption.

When applied to an African context, however, a number of challenges with this definition appear to present themselves. In bounding the definition of organised crime within "illegal" activities, or in its illegitimate use of techniques such as violence or corruption, organised crime is characterised as a challenge to the legitimacy of the state. In the common understanding of the term, organised crime implies the systematic breaking of laws, but how is this applied when laws do not exist or are willfully ignored? Does this still make the activity being examined a crime? Or where the cross-border trade in illicit goods or natural resources presents a longstanding and legitimate livelihood for local populations where scarce alternatives exist, can we easily label this as "crime"? And how is organised crime distinguished from other types of criminal or unethical activity, such as elite corruption or resource diversion, which may share many of the same features?

It is because of these complex nuances, which relate fundamentally to legitimacy, livelihoods, and to the common acceptance of governance, justice and the rule of law, that organised crime has been labelled a social construct, albeit one that has now assumed wide currency (Levi, 2012). In the African context, as has been suggested and as the subsequent section of this article will show, the nature of organised crime is a phenomena bound intrinsically with the state, rather than outside of it. Indeed, recent literature examining organised crime in the African context, and in Southern Africa in particular, has highlighted that corruption, far from being a facilitating activity has become the principle objective of criminal groups, as state actors and institutions have come to serve as the primary gateway to the illicit economy (Alemika, 2013). [283]

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283   This point is made in the opening chapter of Alemika (ed.), The impact of organized crime on governance in West Africa, and it was also the conclusion of a seminar with investigative journalists and civil society analysts from Southern Africa hosted by the Global Initiative against Transnational Organized Crime in March 2014 (report of the meeting available at http://www.globalinitiative.net/unholy-alliances-organized-crime-in-southern-africa).

Crime and the State in Southern Africa

The development of cross-regional networks of organised crime in Southern Africa can be broadly divided into three phases. An initial period that was important in shaping the later direction of organised crime. This was followed by a time of rapid expansion and consolidation. Finally, and more recently, the last decade has seen the development of a strong series of political and state protection economies spun around cross-border criminal activity.

Organised crime in Southern Africa was not an issue of significant concern until the late 1980s. This was a reflection both of the degree to which the South African economy was largely isolated from the rest of the region, as well as the fact that the global illicit economy hadnot yet taken off significantly – something that was to occur to a marked extent in the early 1990s (Hübschle, 2010). While legal and illegal practices have always been intertwined, with illicit economies seen as an inevitable part of the 'normal' operation of capitalist markets, since the early 1990s, there has been a qualitative expansion in illegal activities (Hall, 2012). This is a reflection both of the expansion and deregulation of a variety of global markets, improvements in communication technology and easing in the movement of global capital flows, which has increased the share of the global economy that illicit markets and trade represents (HLP, 2015).

In the early phases, organised crime in the Southern African region was largely limited to a network of individuals who had begun to engage in cross-border crime. As in West Africa at the time, these were a small number of white businessmen, criminal entrepreneurs who engaged in what was euphemistically called the "import-export" businesses. They had made contacts with key state officials in regional governments that facilitated their access to the extractive industries, among other things, in exchange for access to capital or in some cases arms, circumventing international embargoes. Some of these figures achieved some public notoriety, think of Victor Bout and Leonid Minin, others operated under the radar and more carefully and achieved little if any public profile (Wannenburg, 2002). This period particularly favoured the Portuguese speaking whites that could move with ease between Angola's burgeoning oil economy, Mozambique and South Africa (Shaw & Reitano, 2013). Much more research is required as to the nature and operation of these networks, and while there seems to be general agreement among regional law enforcement officials that this was the case, the details of their operation and growth remain shrouded in mystery. What is important about these individuals, however, is that they established a way of doing business that would be emulated on a wider scale in later years, when the regional illicit economy expanded.

These foreign entrepreneurs required the ability to travel to and operate freely in South Africa, which was critical in both licit and illicit industries as a hub for transport and financial

infrastructure. The available evidence suggests that this regional network engaged in a series of criminal activities by linking with contacts in South Africa, sourcing goods to be delivered southwards. This included ivory, copper, cobalt and the drug mandrax, which was widely used in the Western Cape. South Africa, however, was also the source of illicit goods, most notably stolen vehicles, distributed across the rest of the region. A healthy barter trade is said to have developed between South Africa and its northern neighbours: stolen items being shipped northward in exchange for contraband that was shipped south (Hübschle, 2010).

The development of this trade inevitably became entangled in political developments in the region as the war with the apartheid state intensified. There is now strong evidence that the ANC was engaged in the trafficking of drugs and the moving of stolen vehicles to and from South Africa, both as a source of funds but also as a means to mask the movement of cadres and weapons (Ellis, 2012). For their part, South African military intelligence networks were also engaged in the movement of contraband, most notably elephant ivory from Angola. In both cases, while illegal activities may have been masked under "official" guise, the profits were reaped by individuals (Reeve & Ellis, 1995). These networks have continued to play a key role in shaping the nature of organised crime in contemporary South Africa and across the wider region (Naylor, 1995-6).

National police agencies were ill-equipped to respond to these challenges and the regional network of criminal actors expanded their activities over time. What is significant, however, is that in a phenomenon described by a recent book as "the looting machine" these activities were heavily facilitated by their state connections, in some cases managed directly by state agents, and protected by state security institutions (Burgis, 2015). To outside observers it may seem astonishing or unbelievable that state actors would behave in such a way, but at the time, this involvement was seen less as a "crime", as it was perceived as a way to secure the capital necessary to shape political outcomes.

Furthermore, the nature of clientalist African politics in the post-colonial period closely associated personal gain with supposed public goods, and "political" justifications given for criminal acts (Boyce & Ndikumana, 2014).

But even in relation to activities that took place at the heart of the criminal economy, there was a strong link with state, much stronger perhaps than previously recognised.

The latter is well illustrated by an example put forward by a prominent drug dealer active in this period, recently interviewed by the author. This individual sourced and sold drugs across clubs in one of South Africa's major cities, and regarded himself as the top drug dealer in the city at the time. While that on its own was not surprising, what was more significant was where he sourced his drugs: the South African Narcotics Bureau (SANAB), the very unit that was meant to police the activities of people like him. He insinuated that

police officers were the best placed to engage in illicit trade: they had good contacts, could bring in drugs unimpeded and could sell drugs that were seized. He also highlighted how the willingness to engage in illicit economies was affected by the on-going political transition. White police officers were, in his account, seeing the writing on the wall: the end of white rule would mean a new government and less likelihood of white officers keeping their jobs and privileged positions.[284]

While this is not to imply that everyone at the time was corrupt, some important people and parts of the system were, and understanding what was happening inside the state at the time is crucial to shaping people's understanding and experience of the rule of law, and thus the evolution of the criminal economy. Southern Africa was in flux as the apartheid state negotiated its exit, and that process created openings for cross-border criminal activities, initially benefitting a politically connected and privileged few, both in and outside state structures, who had the ability to operate across the region. This later expanding to a larger network. From the outset therefore, it is worth emphasising that criminal networks in the region were strongly shaped from the beginning by state actors, and including those who would control the state in future.

Two key events were to change the regional criminal economy significantly: the first was the ending of apartheid and the opening up of South Africa's borders, which served to integrate the country more fully into the region; the second was the global growth in illicit activities that paralleled the end of the Cold War and the rise of the internet era. The liberalisation of capital markets between 1990 and 2006 saw an eight-fold increase in cross-border financial flows, of which approximately one fifth were estimated to be illegal (Hudson, 2014). Acting together, the advent of democracy in South Africa was permeated by a growing group of criminal actors, well placed to consolidate their influence upon the foundations laid during the 1980s.

Given its comparative economic strength, South Africa remained both a hub for criminal activities, such as banking, a market for criminal commodities like drugs, and a source for stolen goods. This is well illustrated by the degree to which criminal groups sought to control major air and sea terminals. In Cape Town, a series of powerful criminal bosses rose from the fractured gangs of the Cape Flats, with a criminally connected company coming close to winning the tender to manage the city's harbour.[285] In Johannesburg, control of the airport was essential to the regional control of smuggling, most prominently in diamonds, but also in other forms of contraband, with both police on the ground and the private security company appointed to manage "security" implicated in facilitating illicit

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284   Interview, Johannesburg, November 2014.

285   Personal communication with Peter Gastrow and Irvin Kinnes, Cape Town, November 2014 and January 2015.

trade (Tham, 2014). Perhaps the most sophisticated market in this respect was for stolen cars, smuggled northwards to markets all over the region. During the 1990s the theft of motor vehicles was regarded by police organisations in the region to be the most significant threat, although this was to be overtaken by drug trafficking (Hübschle, 2010).

The opening of South Africa's borders also attracted criminal groups from further afield. The original network that formed the first connections in the region attracted a wider number of bigger players, including some with strong links to the Italian and then Serbian mafias.[286] Closer to home, Nigerian criminal networks moved with surprising rapidity and stealth across the region, occupying key places in the regional criminal economy. The rise of Nigerian immigration in Southern Africa paralleled the decline of the Nigerian state in the 1980s, and with this movement of people, including many hard working and honest individuals, came a growth in criminal activities (Ellis, 2015). Nigerian groups grew rapidly to control the drug trade in most of the region´s major cities (Shaw, 2002). In large markets like Johannesburg, they slowly subverted the established controllers of the drug markets (in this case a white "bouncer mafia") and sought new allies within the local police. Small cash payoffs to local officers soon were matched by attempts to corrupt mid-level police officials at station level (Shaw & Haysom, 2015).

An important feature of the Nigerians was that they established criminal networks across the region, and in regions – mainly South Asia and Latin America – where drugs could be sourced. Two important sets of connections developed, one along the west coast of Southern Africa and another on the eastern littoral. On the west coast, established flight connections between Brazil and Portuguese speaking Angola were exploited to traffic drugs. Cocaine brought into Luanda, by air or sea, were transshipped south to the major markets of South Africa. On the east coast, heroin from South Asia, with a significant Nigerian contingent in Pakistan, has had a significant impact on the criminal economies and drug use patterns along the coast and in the Indian Ocean islands. Zanzibar and Mauritius now have some of the highest per capita rates of heroin use in the world (Reitano et.al., 2014).

Across the region then, the period from the late 1990s until the early years of the new century saw a rapid expansion of criminal activities. Most discussions of these activities, as has already been suggested, skirt the thorny question of state involvement. The movement of people, mainly to South Africa for example, has also generated a significant market in illicit documentation. But this is a market that is not separate from the state, but rather run by state functionaries themselves. "Legitimate" documentation is purchased through a series of intermediaries and prices depend on need and quality. Corruption within the documentation

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286 Interviews with members of the Johannesburg "underworld", November 2014 to March 2015, have explored the degree to which prominent foreign criminals chose South Africa as a place to "invest" in.

issuing process has been systematically used by the state officials for private gain.[287] Yet, in almost all cases, higher or lower level state facilitation is detectable. Often described as "simple corruption" it is more accurate to argue that such activities say much about the evolving nature of states in the region, and from where new challenges from organised crime may emanate.

The expansion and consolidation of powerful criminal networks across Southern Africa peaked in the late 1990s and early 2000s. These networks did not dissolve at this point, but it can be argued that criminal operations became so sophisticated and well-resourced that an alliance evolved with key individuals and institutions within regional states themselves. This development must be seen as one of continuity, with criminals having forged links with the state from the onset. What seems significant in the contemporary period however is the degree to which the state is the "gatekeeper" of important criminal activities, and in performing this function, it has built what could be argued to be significant systems of criminal protection.

The term "protection" denotes a series of activities that both shield and benefit from those breaking the law. In such contexts criminal protection is a commodity in its own right and is priced into the market. What must be recognised is that in a particular set of circumstances protection is generally provided by those who have the greatest capacity to do so. Protection economies act in ways to sustain and strengthen themselves. In stateless societies such protection is provided by militia or other armed groups. They "tax" or demand payment for ensuring that a set of economic activities can take place, be that illicit mining or the smuggling of goods. Illicit economic interests trump political ones. As an individual involved in intelligence and mining in eastern Democratic Republic of Congo suggests:

> ¤ Formally the groups are all enemies. But when it comes to making money and mining, they cooperate pretty well. War changes, but business goes on. The actors change, but the system stays – the links between the armed groups and the mines. The conflict goes on because it has its own financing: the mines and the weapons. It has its own economy. (quoted in Burgis, 2015:41)

However, in cases where the state retains some monopoly over the use of force, criminal protection is available from state institutions themselves. Corrupting officials at any level of government is in effect buying protection, whether it is to ensure that a junior customs or border control official closes their eyes to passing contraband, or whether senior government officials or politicians illegally grant concessions, ensure the dismissal of key prosecutions, or prevent interference in criminal matters.

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287   These conclusions are drawn from an extensive set of interviews conducted in Cape Town on the issue of counterfeit migrant documentation. The results will shortly be published. The interviews were conducted in late 2014 and early 2015.

Buying protection at the top of the system prevents numerous transactions to ensure security at the bottom. It is more cost effective and is a surer way to achieve long-term security for illicit activities than seeking out a series of often changing officials at local level. Graduating higher up the spectrum of criminal protection is thus a key objective of those engaged in illicit activities and the sale of protection has rapidly become an important source of income for some political actors.

Finding cases where complex sets of criminal activities are able to operate without protection from governments or individuals and institutions within them are now the exception rather than the rule in Southern Africa. Name a prominent criminal market: drugs, endangered species, illegal mining or stolen vehicles, and there will be evidence of state support and protection. This is a critical development: it is the common feature of criminal commodity markets across the region.

Organised crime as statemaking

In this narrative, efforts made to apply the term "organised crime" in the African context often confuse as much as they enlighten, and this is most pertinently because the definition views the issue in isolation from the on-going political, economic and social processes. Instead, it is clear that the nature of organised crime in all societies is an interwoven facet of these three dynamics and in Southern Africa, as elsewhere in Africa, there are close linkages between the evolution of states and the nature of networked crime.

In the Southern African context, given that organised crime is increasingly displaying state-like features, such as a desire for territorial control and the ability to extort resources through violence or the threat thereof, it does seem appropriate to understand organised crime and its relationship to the state more comprehensively. As the previous section illustrated, any discussion of cross-border crime in Southern Africa almost invariably describes the degree to which the police or other state actors are themselves involved. Similarly, ethnographies of organised crime in individual countries inevitably comment on the degree of political patronage, including often at the highest levels of the state, that criminal networks may enjoy, in relationships form A useful body of literature describing these connections has arisen over the past number of years, one of the best being the work of Nordstrom (Nordstrom, 2007). They make the point that organised criminal and state activities are often strongly interwoven, firstly because organised crime and illicit activity is defined in antithesis to the state, and thus organised crime groups seek to protect their activities from state structures and finally because it has become increasingly the case that in Southern Africa, states have sought to draw on the power of organised crime groups, either through its capacity to generate resources, or its ability to wield violence, or to compromise with criminal activities as a result of their own weaknesses.

It could therefore be concluded that organised crime can only exist and be defined in relationship to the state. At its most simple, if there is no state structure, any group seeking to acquire illegal profits and to deploy violence to protect them, is more likely to be labelled "an armed group" led by what can be referred to as a "warlord". Such a group may take on state-like functions aimed at building community support at local level through the provision of social and other resources. By contrast, when organised criminal groups emerge in regions where there are state structures present, and to the degree that they are able either to rival state power or penetrate state formations so that they subvert them, it may become hard to distinguish where organised crime ends and state begins, or visa versa (Ellis & Shaw, 2015).

Nevertheless, even where the established literature has described the relationships between states and criminal actors along a spectrum from basic forms of corruption to fully criminalised states, these individual ethnographies do not adequately describe the complex interaction between state and external actors in the contemporary African context (Ellis & Shaw, 2015). The body of literature reduces interactions between criminal and state actors to a set of transactions in single national contexts without taking into account that such relationships may be taking place, to varying degrees, across almost all states within a specific region.

Focusing the study of organised crime within national boundaries belies some of the most important characteristics of both organised crime groups and the illicit flows that enable them in any context. While I argue that organised crime must be defined by its relationship to the state, and it manifests in uniquely local forms of control, it is nonetheless not bounded within the parameters of nation states. Illicit flows are transnational and facilitating their transit requires those groups who can operate across borders and bridge geographic divides. To realise the monetary value of illicit commodities also requires the capacity to bring those commodities to market, which has required connections to foreign actors and entrepreneurs who will often operate in multiple jurisdictions where specific commodities are sourced or must transit. These characteristics of transnational organised crime tie states together at a variety of levels, creating economic, social and security-related interdependencies. Thereby the traditional forms of study of organised crime, either following a commodity flow, or examining its interaction only in a national context actually undermine one of the most important features of the phenomenon.

Therein is the challenge of analysis of organised crime in Southern Africa. Here, as elsewhere, we can increasingly only understand organised crime in relationship to the state and in turn the wider region— that is, not so much in analysing the state responses to organised crime, but to undertake a deeper, granular analysis of the role of state institutions or actors within it, and seen through the lens of their cross-border connections. And to emphasise, such a description is not limited to one state, but may be the norm in many, with these forming

a wider regional network. That raises important questions of definition and analysis in the Southern African context: if there is such widespread state involvement can we adequately use the concept "organised crime" at all? The term was essentially coined in relation to a North American and European context, which arguably describes a limited phenomenon of criminal groups, dangerous, but confinable through the action of relatively strong set states. Can it have meaningful utility when translated to an African context, where states are interwoven with criminal networks, often with aligned goals and objectives, and where states are drawing on illicit economies to ensure their own survival and to expand their strength?

An alternative interpretation is to view this as an integral part of the formation of the African state itself. To take this interpretation would be consistent, as indicated in the introduction, with a line of argument made two decades ago in a seminal article by Charles Tilly, who suggested that in the case of European states, processes of state making and organised crime shared several features. Tilly argued that in war time, those engaged in economic activity had funds extorted from them to fund a growing protection economy – a form of "protection rackets" developed to accumulate resources to in turn deploy violence. According to Tilly, this form of "coercive exploitation" played a large part in the creation of the European states, and, critically to the formation of states, "coercive exploitation forced would-be power holders to concede protection and constraints [on their power] on their own action" (Tilly, 1985:169-170). Essentially, over time, and as wars resolved and dominant territorial groups consolidated their capacity to control, protection economy became the state, evolving into something more responsive to the needs of ordinary citizens in order to justify its continued taxation. The key point here was that war making, organised crime and state formation were strands of the same process.

The application of this argument to state formation in Southern Africa is one that easily seduces. It suggests that the progress of evolution and the eventual outcome for African states will emulate the positive trajectory of their European equivalents, thereby making some of its present disturbing manifestations of violent resource driven conflict and highly corrupt and kleptocratic states of lesser concern.

But Africa's parallel to Europe does not hold true to Tilly's model. Organised crime has not transformed from original violent structures of power into the state providing services to the people. This is not a perverse form of state construction, the accumulation of resources to strengthen a nation building elite. Quite the contrary, in Southern Africa, external foreign criminal entrepreneurs have combined with the state to capture illicit economies for their own self-serving interests, with little attention paid to the security or needs of the populations. Thus, while the classic terminology of "organised crime" may not be adequate to describe the complex processes now underway where widespread corruption and criminality facilitate illicit trade, or the consolidation and entrenchment of criminal networks with strong linkages

to the state, the phenomena itself constitutes a real and present danger both to state formation and the life chances of ordinary citizens in Southern Africa. This is an important distinction, and one that makes it unlikely that this is a phase that the region will pass through, emerging stronger on the other side: the baseline assumption of Charles Tilly's famous dictum.

The practical implications of definitional challenges

A question worthy of consideration, is why the preoccupation with defining organised crime at all? Is this merely a semantic question that diverts attention from the crafting of effective responses, to which a pragmatist could say, "if it looks like a duck, and quacks like a duck, it is probably a duck." (Allum & Kostakos, 2010:3) [288] In the context of Southern Africa, however, the lack of acceptable definition has considerable consequences.

Leaving definitions open for broad interpretation allows those lawmakers to establish a state-centric definition of crime that renders selective acts as legal or illegal depending on their provenance. For example, the Strategic Commodities Act of Liberia, enacted by the Taylor government in 2000 stated that:

> ¤ Designates all mineral resources, especially gold, diamonds, all natural forest resources including logs and timber, unique and rare species of vegetation and wildlife as strategic commodities and grants the president the sole power to execute, negotiate and conclude all commercial contracts or agreements with any foreign and domestic investors for the exploitation of any of these commodities (Global Witness, 2002:26).

In effect, this law legalised state and, specifically, presidential looting of the state's environmental resources, allowing the state to act contrary to the public good for private enrichment in a manner that would otherwise be termed criminal. It further created a top-down imposition of impunity that undermines any hope of creating a rule of law framework for ordinary citizens. Whilst the Taylor example of state sanctioned crime is extreme and overt in a period of conflict, there are many comparable examples of state engagement and endorsement in illicit business that highlight the ways in which protection economies have been created by state institution and have closed off the opportunity for investigation.

The absence of a definition is also a longstanding challenge that applies to and constrains law enforcement responses. A review of the approaches adopted by the South African

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288   In fact the editors of a 2010 compendium, *Defining and Defying Organised Crime: Discourse, Perceptions and Reality*, settled on exactly that conclusion in their introduction (Allum & Kostakos, 2010).

Development Community (SADC) police agencies to respond to organised crime in 2000 noted that, while the challenge had been clearly recognised, five of the nine countries had no definition of what constitutes organised crime (Gastrow, 2011). By 2010 this was reported not to have changed significantly, with police officials from the region indicating that there remain significant barriers to cooperation (Hübschle, 2010). If the crime cannot be defined, it cannot be investigated, and it cannot be prosecuted. As a senior officer from an organised crime unit in an important Southern African country informed the author: "We know which cases we can touch and which we need to leave alone – some just are beyond our or anybody's reach".[289] Understanding state involvement in organised crime then is often as much about what is not said, than what is.

That is well captured in a reflective article produced by the former head of an Institute for Security Studies – Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) – a project that sought to present a "regional organised crime threat assessment". The researchers´ engagements with regional police chiefs appeared to focus less on the substance of the report then how and when it should be released, including that it did not "point fingers at" or "embarrass" any police agency. The project leader also noted the "paucity and poor quality of data available to police agencies" but concluded that one of the core issues at stake was less the data then:

Political sensitivities about, and collusion with, organised crime networks…Doing research on illicit economies and organised crime networks is fraught with risk. Such risks increase in contexts such as those prevailing within the Southern African region, where the interests of organised crime and others located in the state or private sector converge rather than conflict (Hübschle & van der Spuy, 2012:334)

It remains therefore a key challenge to provide an accurate picture of the evolution of organised crime in the region – and the conceptual foundation for doings so must rest on exploring the connections between organised crime and the state. As Manuel Castells has argued, the difficulties of definition and measurement as well as of collecting accurate empirical data should not stand in the way of seeking to understand relations between the legal and the illegal (Castells, 2010).

Similarly, one of the reasons why a fuller picture of organised crime does not exist for the Southern African region is that the phenomenon is notoriously difficult to research. The actors and transactions that make up the networks of organised crime are of course, with some exceptions, unwilling to describe their business to researchers. Official state actors are also often nervous to provide information on "real" organised crime, because that is almost always very close to political power. That reality is seldom conveyed through standard pro-

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289   Personal communication, Rome, July 2012.

cesses of data collection – particularly if official accounts of organised crime are reviewed. Much of the academic or think tank literature on organised crime in Southern Africa focuses on the identification of specific flows: drugs, weapons, cigarettes, cars. They too often ignore one of the key factors underpinning its growth in the region. As one of the most comprehensive reports on organised crime in Southern Africa concluded: "Political clout, interference and direct [state] involvement numb even the best enforcement strategies and intentions" (Hübschle, 2010:95).

With the capacity of state security institutions hampered to respond, civil society actors and investigative journalists, rather than police, are now the cutting edge of the struggle to expose the workings of organised crime in the region. At a workshop of civil society and journalists from across Southern Africa held in Johannesburg in November 2014 to discuss the evolving challenge of organised crime in the region, participants spoke of the real obstacles to addressing high-level criminal networks (Global Initiative, 2014). Without fail, representatives from each Southern African country suggested that state involvement was a key defining factor in the success of criminal activities. States may not have much capacity, but a linkage with the state was essential to (criminal) success – it opened doors, provided cover and kept law enforcement officials away.

For example, take the case of counterfeit cigarettes, now stated as a top priority of SARPCCO. The problem has two dimensions: higher quality cigarettes are smuggled across the borders in the region to avoid customs and excise duties; and on the other hand, illicitly produced and counterfeit cigarettes are flooded into local markets. While evidence is hard to come by, there is enough to suggest that in a number of countries, including in Zimbabwe and South Africa, suppliers and smugglers have close links to senior officials within the government security establishment (Global Initiative, 2014). They provide protection at a price and the illicit trade generates enough revenues to ensure that those engaged in it can pay. Regional police officials are reluctant to discuss the issue because of the "sensitive issues involved" – code that their investigations would be quickly hampered should they delve too deeply. This is not to suggest that across the region all senior government officials or politicians are involved. But enough are to ensure that protection economies are often in a position to subvert the public interest, and while arguably there is greater agreement about what exactly constitutes organised crime, it remains unstated that a significant component of such crimes cannot be investigated.[290]

Once a protection economy is in place with state endorsement, it creates the structure by which a range of illicit trades can be enacted. The heroin economy has had a significant impact on Mozambique, laying the foundation of high-level state corruption that has

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290   Interviews with senior police officials at the Regional Bureau for Interpol, Harare, 2008.

facilitated the transit of drug consignments to the markets of South Africa. By the time that expanding markets in Asia, mainly Vietnam and China, began to exert a powerful pull on natural resources in Southern Africa, the Mozambican state had turned into a "facilitator" of these activities too. The illicit trafficking in rhino horn poached from animals in South Africa's Kruger Park ensured a constant stream over the border and onwards to Asia. The increase in the phenomena has been astonishing: from 10 animals in 2007 to 827 in 2014, and increase of over 8000 %.[291] Rhino horn, used as a medicine and aphrodisiac in Asia, is now worth more per kilo than cocaine. High-level involvement is evidenced by the fact that the most significant seizures of rhino horn in 2015 in Maputo, stored in a government facility, rapidly went missing.[292]

The disappearance of seized contraband is a good proxy indicator for serious state involvement or connections to organised crime. It indicates that even a basic function of guarding and preserving evidence – much more straight-forward then complex investigations or politically sensitive arrests – is relatively easily compromised. So, in a similar example in 2006, a seizure of cocaine stored in the "captured" state of Guinea-Bissau rapidly went missing within hours from a locked box in the Ministry of Finance.

The subversion of the Mozambican state by criminal interests remains an instructive example of what we may see in future in the region. Outwardly, Mozambique retains all the attributes of a state, but inwardly corruption has taken a significant toll on state institutions (Goredema, 2013). In the case of the poaching of rhinos and the sale of their horn, the longer-term interest of all Southern Africans is to ensure sustainable populations to promote tourism and bio-diversity; the short-term interest of criminal networks and officials is to make money. Without official forms of collusion, the illegal trade in rhino trade may not be entirely impossible to pursue, but would certainly be significantly harder.

The future of criminalised states

The role of systems of protection that evidence high levels of state involvement in the region are often dismissed as the corruption of a few bad apples. Those who raise it are accused of being unpatriotic or out of touch with the efforts that are being made to stem illegal

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291   Presentation by Major-General (rtd) Johan Jooste, Chief of Enforcement, Kruger National Park, University of Cape Town, 18 May 2015.

292   http://www.theguardian.com/environment/2015/may/27/thieves-steal-ivory-rhino-horn-mozambique-police (accessed 19 June 2015). There was a similar theft from parks authorities in South Africa in the previous month. See http://www.dailymaverick.co.za/opinionista/2014-04-25-52-million-rhino-horn-theft-where-to-now/#.VYPGlutnWfQ.

commerce. In reality, however, across Southern Africa the problem is now systemic: unless it is addressed organised criminal interests will continue to subvert the operation of states, and most notably their security apparatus.

The loss of police independence and the politicisation of security is a phenomena that is becoming increasingly evident across the region. In South Africa, despite all efforts during the post-apartheid transition to create a set of working security institutions under civilian authority and outside of the framework of political interference and abuse, the position is now arguably reversed. The independence of the police is under serious threat and there is strong evidence of criminal penetration. The most sensitive instruments of the police, those responsible for the collection of crime intelligence, have now, as Jonny Steinberg has shown in a seminal article, been politically compromised (Steinberg, 2014). That compromise involves not only the use of policing for political purpose, but by implication, given how intertwined economic and political objectives have become, defends broader sets of interests. Infighting within the police is also closely linked to support for various political "factions", a sure sign that economic (and criminal interests) are at play. In Zimbabwe, the state intelligence system operates an independent budget under the exclusive authority of the president, and systematic corruption and illegality across many state enterprises is used by the ZANU-PF government as a means of patronage. Evidence of illegality is equally used as a reason for ridding people of their positions when they are no longer deemed "loyal". [293] Furthermore, when Zimbabwe enters the inevitable period of rapid transition following the death of President Robert Mugabe, such patronage systems are likely to fragment, and this might herald a period of what might be termed "criminal instability" as different protection networks, linked to different political factions, fight for their share of the pie. And from this instability, the greatest costs will be borne by the people of Zimbabwe.

It is clear that the implications of this process of state criminalisation, should it be allowed to continue are severe, both for state stability and human security. Given that protection economies by definition place private interests over public ones, they benefit only the few and seldom bring the wide spread dispersal of resources, particularly to the poor. They also ensure the breakdown of effective state institutions while retaining the fiction that they exist to serve the public interest. In extreme cases, where the treasury can no longer support the security apparatus, illegal activities provide the mainstay of their "budgets", ensuring that their interests may lie less with legitimate political consolidation at the centre, and more with the maintenance of illicit activities.

In short, it is not per se the presence of organised crime — however defined — that is of concern in Southern Africa; rather it is state involvement in these activities that is most likely

293   Interviews, civil society actors, Harare, November 2014.

to erode the possibility of future prosperity and development for the people of the region. Defining organised crime may be semantics, but at the same time, questioning the assumptions behind that label reveals important limitations of applying an issue that is quintessentially a social construct to jurisdictions with very different histories and current realities. To continue to view or analyse organised crime without fully appreciating the agency of the state in inciting, protecting and controlling illicit trade is to potentially undermine one of the most important challenges facing the future of the SADC region today.

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Overview of research on organised crime in Southern Africa

Catherine Moat

Curbing organised criminal activity remains elusive. In the last twenty plus years, efforts to curb the innovation, scope, and frequency of organised crime (OC) in the region have been limited. Studies indicate that responses in the Southern African region are uneven in their application within countries and as a region. The opening up of markets in the 1990s provided hitherto untapped opportunities for the flow of goods and money — legal and illegal. Organised crime actors have been quick to take advantage of these opportunities in the region. This expanding area of criminal activity now includes cyber-based and terrorist activities. These illicit activities are further complicated as they intersect with state corruption and collusion. The chapter provides an overview of this research undertaken and draws on this to highlight common findings and proposed solutions that may find currency among regional decision makers.

INTRODUCTION

The world of transnational organised crime is hidden and lives by its own rules, with players, services, relationships and goods operating in parallel to the licit world, as well as intersecting with it. We are afforded a view into this world when it interacts with the police and courts; and when it is exposed in the media.[294]

Research provides deeper insight, often through focused study across time, regions, or specific and intersecting issues. From transactions and power wielded along the value chain of organised crime conclusive evidence emerges: organised crime is harmful, it hurts people and communities, and damages economies.[295] In post-conflict, transitional or autocratic

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294 WWF / Dalberg. 2012. Fighting illicit wildlife trafficking: A consultation with governments. WWF International, Gland, Switzerland

295 Van Dijk, J, Mafia Markers: assessing organized crime and its impact on society, Trends in Organized Crime, 2007, 10:39-56, Springer

contexts these perpetuate and deepen the divide between elites and 'have nots'. Thus elite interests and power over resources dominate efforts to nurture sustainable and capable states. Thus, as researchers investigate the phenomenon, the intersection between development, social control, and organised crime shows itself to be dynamic and core components of a wider system.

Organised crime activities continue apace globally with the profits far outweighing the risks of being caught and convicted.[296] Estimates are staggering; some $870 billion was generated through illicit means in 2009. This is equal to 1.5% of the global GDP. Drug related business is still making up the lion's share of this.[297] New types and means, and actors emerging globally are echoed in the development regionally. The response architecture to deal with current and emerging challenges are a key focus of the more recent research.

The global body of research is vast and shows the complex and continually adapting nature of OC. Africa has emerged in the last twenty five years as an integral part of a global growth market of OC. Over this period there has been a shift from source and transhipment to the current situation where Southern Africa is also a demand market. Factors that can be attributed to this trend are the opening of markets; the relaxation of financial regulations; working infrastructure and banking systems; and the availability of able bodied individuals (former security officials among others) to serve in a variety of roles; corruptible officials; and porous borders.[298]

The research shows that the law follows the trail that organised crimes blazes.[299][300] The long history of the mutually beneficial relationship between criminals and politicians is a noose around the neck of efforts to prevent and control OC. Several research studies indicate that this is often amplified in transition contexts where the rule of law has yet to be effectively entrenched as part of a nation's values and practice.[301] Further studies unravel misconceptions of organised crime, for example that it is a victimless crime, or that it does not really harm communities and may even bring benefits; or that solutions lie in

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296   www.unodc.org.za/OC/en/crimes/organized-crime.html on 20 August 2015

297   Ibid.

298   Shaw, M., 2003, Organised Crime and State Responses in Southern Africa, Crime and Justice International Volume:19 Issue: 73, pp:11 to 14

299   Shaw, M. 1998, Organised Crime in Post-Apartheid South Africa, ISS Paper 28, Pretoria

300   Goredema, C., 2001, Organised Crime in Southern Africa, Assessing Legislation, ISS, Pretoria

301   Rademeyer, J, 2012, Killing for Profit, Exposing the Illegal Rhino Horn Trade, Random House Struik, Cape Town

strengthening law enforcement to 'fight crime'. [302]Still other studies deepen insight into the perceptions of police, links to poverty and inequality, the networked nature of OC, and review the impact of certain responses to OC.[303]

More recently research on the impact of certain approaches to respond to OC are building evidence in favour of a broader developmental approach, rather than a default law-enforcement response.[304_305_306]

Empirical research on the continent seeks to understand what, how, why, and with whom this is occurring; and what the responses are, and what they could or should be.

Before considering this research at a more detailed level, the next section provides a contextual overview of the definition of OC in the region and the current crime and response situation, and a summary of the institutional arrangements in the region that are mandated to respond to OC.

Defining transnational organised crime

The definition of organised crime and OC is unresolved as decision makers have struggled to reconcile the multi-faceted and dynamic nature of the criminal activity (poaching, money laundering, illegal mining etc.) and the organised and networked nature thereof.[307]

The United Nations Convention against Transnational Organised Crime (2000) defines terms that include:

302   Midgley, T., Briscoe, I., and Bertoli, D. 2014, Identifying approaches and measuring impacts of programmes focused on Transnational Organised Crime, Saferworld, London

303   Salcedo-Albaran E., Goga, K. and Goredema, C., 2014, Cape Town's underworld Mapping a protection racket in the central business district, ISS Papers 270-2, November 2014, Pretoria.

304   Midgley, T., Briscoe, I., and Bertoli, D. 2014, Identifying approaches and measuring impacts of programmes focused on Transnational Organised Crime, Saferworld, London

305   Global Initiative Against Transnational Organized Crime, 2015, Organized Crime: A Cross-Cutting Threat to Sustainable Development, Measuring and Monitoring Transnational Organized Crime within the framework of Sustainable Development for the Post-2015 Development Agenda: Goals, Targets and Indicators, http://www.globalinitiative.net/download/global-initiative as on 15-08-2015.

306   Kavanaugh, C. (ed), 2013, Getting Smart and Scaling Up, Responding to the Impact of Organized Crime on Governance in Developing Countries, http://cic.nyu.edu/sites/default/files/ kavanagh_crime_ developing_countries_report.pdf, accessed on 07-04-2015

307   Von Lampe, K. 2008. Organized Crime in Europe: Conceptions and Realities, Policing, Oxford University Press

¤ Organised criminal group" shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit. [308]

Variations of this description are found in almost every state and while there is limited consensus there are conceptual overlaps. These are that the crime is as a result of the coordinated, deliberate action of three or more persons; and that the crime is 'serious'.[309] The Convention describes serious as "conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty." [310]

In the region, in Gastrow's review of police perceptions of organised crime in the SADC region in 2001 he submits that there is limited agreement as to the definition of OC in the region; and uses a generic definition:

¤ Organised crime consists of those serious criminal offences committed by a criminal organisation, which is based on a structured association of more than two persons acting in concert over a prolonged period of time in pursuit of both their criminal objectives and profits.[311]

A decade after Gastrow's survey, in the ISS research project – the Annual Review of Organised Crime in Southern Africa - internal definitions of OC remained varied to undeveloped in member states. However, this research project drew together the permanent secretaries of police in SADC, who agreed to a working definition for the purposes of data collection for the Ensuring a Response to Organised Crime (EROC) project in Lusaka in 2010, which is that

¤ Organised crime is committed by two or more perpetrators who are aware of each other's existence and general role, and are acting in concert, are of a serious nature, are committed repeatedly, and are motivated by the pursuit of material or financial gain.[312]

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308   The United Nations Convention against Transnational and Organised Crime and the Protocols Thereto, Annex 1, p 5, http://www.unodc.org/unodc/treaties/COC as on 11 March 2015

309   Roth, M, 2010, Global organized crime: a reference handbook, ABC-CLIO, LLC, Santa Barbara

310   The United Nations Convention against Transnational and Organised Crime and the ProOCols Thereto, Annex 1, p 5, http://www.unodc.org/unodc/treaties/COC as on 11 March 2015

311   Gastrow, P, 2001, Organised Crime in the SADC Region: Police Perception, Institute of Security Studies Monograph No. 60, August 2001, ISS, Pretoria.

312   Hübschle, A. 2010, p9, Organised Crime in Southern Africa, First Annual Review, Institute for Security Studies, Pretoria

A more recent iteration confirms this definition in the main:

¤ OC is widely understood to refer to the structured and durable association of people who commit serious crimes involving activities in more than one country. The aim of a group involved in OC is primarily to make a financial profit, or generate other material benefits, and those involved are ready to at least use the threat of violence to achieve their goals.[313]

In addition to this, "there is increasing evidence of a smaller, more network-orientated approach by organised criminals with more fluid networks, providing criminal organisations with "diversity, flexibility, low visibility, and longevity."[314] Defining the mutating, flexible, multi-locational and group-individual nature is slippery.

Context: Crime types and law-enforcement responses in SADC

In keeping with global trends, the region is now a combination of source, transhipment and demand markets. Research, particularly by Peter Gastrow (2001) and Annette Hübschle (2010), shows that organised crimes do vary in type across countries in Southern Africa. A large proportion of these include cross-border activities between countries in the region, and extending other parts of the continent and then further afield. Organised groups are involved in dealing in counterfeit goods such as medicine, cigarettes, luxury goods, and clothing, smuggling of firearms, vehicle hijacking and theft, drug-trafficking, money laundering and forgery, human trafficking, and the smuggling of rhino horn and ivory.[315]

The high and changing demand for goods, along with limited enforcement operations, and ease-of-transit are among the factors that create a viable environment for OC activities. The fluidity and resilience of actors, goods and routes indicate a responsive continually adapting system. It is this dynamism that allows the chain of actions from source to consumer to operate with minimal risks and compelling profits. These profits are not easily obtained through legal activity.

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313 Midgley, T., Briscoe, I., and Bertoli, D. 2014, Identifying approaches and measuring impacts of programmes focused on Transnational Organised Crime, Saferworld, London

314 The Globalisation of Crime, United Nations Office on Drugs and Crime, 2010, http://www.unodc.org,

315 Hübschle, A., 2010, Organised Crime in Southern Africa, First Annual Review, Institute for Security Studies, Pretoria

In places where people have limited economic options, the opportunity presented in OC is persuasive.[316]

For example, Hübschle found that trading in counterfeit goods, particularly cigarettes, is driven by the avoidance of "government taxation, quotas, lack of enforcement, free trade zones, the fact that cigarettes are a victimless crime, low penalties, internet selling of cigarettes and the globalisation of brands." [317] Controls at borders, as well as unofficial border crossings lubricate such trade. The levels of corruption are not easily quantified among customs officials, although they are often noted as a group of officials vulnerable to becoming involved in facilitating [318]the movement of smuggled and illegal goods and people. A common conclusion is that these activities, in their many guises, have a detrimental effect on local populations and the development of the state in general.[319]

The formation and disbanding of groups for specific 'projects' indicates the networked nature of organised crime that has overtaken the hierarchical structures that used to organise the activities. This trend poses further challenges to the command and control structures of policing and law-enforcement. A common finding is that law enforcement and other state agencies are not able to keep track of developments, nor combat and control them. The inability to develop coherent responses to this seems to indicate a deeper malaise at the executive, policy and action levels in the region.[320]

The combinations of goods and trades are also continually changing as criminal groups follow opportunities and respond to risk. The trend is that no one network will focus on one set of products or activities; and territoriality and focus on single products, which was a hallmark of earlier activity, has all but ceased. In addition local organised groups serve as the source and intermediaries for international groups that seek to supply international demand

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316   WWF / Dalberg. 2012. Fighting illicit wildlife trafficking: A consultation with governments. WWF International, Gland, Switzerland

317   Hübschle, A., 2010, Organised Crime in Southern Africa, First Annual Review, Institute for Security Studies, Pretoria, p15.

318   Ibid.

319   Global Initiative Against Transnational Organized Crime, 2015, Organized Crime: A Cross-Cutting Threat to Sustainable Development, Measuring and Monitoring Transnational Organized Crime within the framework of Sustainable Development for the Post-2015 Development Agenda: Goals, Targets and Indicators, http://www.globalinitiative.net/download/global-initiative as on 15-08-2015.

320   Salcedo-Albaran E., Goga, K. and Goredema, C., 2014, Cape Town's underworld Mapping a protection racket in the central business district, ISS Paper 270,| November 2014, Pretoria.

for illegal goods such as abalone,[321 - 322 - 323] rare animals, ivory and rhino horn. Added to this, technology is a lever that facilitates connections and flows of people, money, and goods at 'the click of a button'. This again indicates the perpetual mutation of organised and networked crime activity and groupings.[324]

At the national level, the poor record-keeping prevents accurate levels of information to inform analysis and operations, nationally or as part of regional cooperation.[325] Again, this shapes the type of response from law-enforcement officials and may prevent useful analysis and appropriate strategies. Technology however offers opportunities to increase the menu of responses in order to curb organised crime. The skills of analysis to understand the new and changing trends are essential. So too a broader set of responses becomes necessary. At present the research indicates several stumbling blocks to attaining this. It appears that rather than coherent, well-resourced strategies current responses focus on narrowly determined operations-based activities. In addition there is an almost complete reliance on law-enforcement responses. The caveat here is that a lot of information on responses may not be publicly available. It is also worth noting that, globally, research findings highlight that the lack of coherence is extremely common.[326]

Research findings from the past two decades should therefore serve as evidence of what needs to be done differently in the region; rather than creating similar versions of the current structure and expectations. Certainly these should address a broader set of governance and development concerns. Considering the increased urgency for such responses, it is useful to look at the current set of arrangements in place at the regional level.

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321   Lambrechts, D., 2014, The Growth of Environmental Organised Crime in South Africa: The Case of Chinese Cartels and Abalone Poaching in South Africa, Paper to be presented at the International Political Science Association World Congress, 19 – 24 July 2014, Montreal, Canada

322   Goga, K., The illegal abalone trade in the Western Cape, ISS Paper 261, Pretoria

323   Rademeyer, J, 2012, Killing for Profit, Exposing the Illegal Rhino Horn Trade, Random House Struik, Cape Tow

324   McCusker, R., 2006, 'Transnational organised cyber crime: distinguishing threat from reality', Crime, Law and Social Change, 46 (4-5), pp.257-273

325   Van der Spuy, E, and Hübschle, A. 2012, Organised Crime and Law Enforcement in Southern Africa: The challenges confronting research. SADC Law Journal, 2 (2), pp319 - 334

326   Midgley, T., Briscoe, I., and Bertoli, D. 2014, Identifying approaches and measuring impacts of programmes focused on Transnational Organised Crime, Saferworld, London.

Institutional arrangements

The international and regional conventions, treaties, laws and regulations are the manifestations of states' attempts to curb and control transnational organised crime – to break the groups and their activities, to follow the money and to protect vulnerable people. They symbolise the seriousness with which the international community views OC and are mechanisms for accountability. Translating these agreements into a roll-back of OC is the challenge facing diligent politicians, law-enforcement agencies, and social development practitioners and communities.

The November 2000 Convention against TOC serves as a statement on the problem, the agreement of the need to respond, and intent to hold government signatories to account to respond within the requirements of the convention and its protocols. The progress of the UNCOC's protocols on human trafficking, migrant smuggling and illegal firearm manufacturing and trafficking is reviewed regularly.

"States that ratify this instrument commit themselves to taking a series of measures against transnational organised crime, including the creation of domestic criminal offences (participation in an organised criminal group, money laundering, corruption and obstruction of justice); the adoption of new and sweeping frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities."[327]

All SADC states have ratified the Convention, and bar Zambia, all are signatories. This signifies the seriousness with which OC is viewed regionally. Prior to this, the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) had been established.

Regional institutional arrangements

Regulatory frameworks to support response efforts to prevent, control, and prosecute OC activities exist regionally in the Southern African Development Community; and are complemented by national level legislative frameworks and arrangements. Coordinated efforts are desired in principle. However, practical application remains difficult for a range of reasons. The realities of conceiving, resourcing, planning and implementing joint operations rub up against the different and sometimes contradictory legislative regimes, limited clarity on information flows and how to manage these in light of national interests; and varying resource capabilities. This disconnection between desire and action is a critical impediment to the role and function of regional approaches to cross-border crime.[328]

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327   http://www.unodc.org/unodc/treaties/COC as on 11 March 2015

328   S Tait, personal conversation, 19 August 2015

Since the mid-90s, the SADC member states have a number of official protocols in place that are intended to facilitate cooperation between states on specific security matters that are of common interest. These include the Protocols on Combating Illicit Drug Trafficking (1996), Firearms, Ammunition and Other Related Materials (2001), Extradition (2002), and Against Corruption (2001).[329]

The operational hub for the coordination of the protocols, specifically with regard to cross-border security, remains the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) based in Harare. This body was constituted as a sub-committee of the Police Chiefs that falls under the Inter State, Defence and Security Committee of the SADC Organ on Politics, Defence and Security Cooperation, commonly known as SIPO. In the almost two decades since the establishment of the SARPCCO in 1997, the types, variety, scope, networks, and actors in OC have grown and are more complex.

The SARPCCO Agreement in Respect of Cooperation and Mutual Assistance in the Field of Crime Combating is the basis of regional police cooperation. It provides for police officers to travel across borders in the region to undertake investigations or seize exhibits, and question witnesses in connection with any such offence. Nevertheless, the local police force/service maintains authority in effecting the relevant police actions in each country.

Apart from information from independent research, there appears to be insubstantial official, regular documentation on the activities of the SARPCCO as they relate to organised crime in the region. With a focus on cross-border or OC several joint operations have been undertaken, these include a focus on smuggling stolen vehicles and illegal small arms, cannabis production and smuggling. Research on these appears to be limited to those that took place in the 1990s.

Functional areas of responsibility have been allocated to liaison officers seconded to SARPCCO. At present, the organisation consists of seven functional areas together with substructures such as the head office and SARPCCO projects offices.

SARPCCO functional areas

- Administration;
- Vehicle theft;
- Drugs;
- Commercial and economic crimes;
- Endangered species and firearms;
- Fraudulent documents and illegal immigrants; and
- Lusophone countries

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329   www.sadc.int, accessed 12 June 2015

A 1999 Monograph from the ISS provides summaries of the joint operations undertaken by the SARPCCO and highlights the successes of such joint operations. Much of the joint activities appear to focus on law-enforcement training. At present the SIPO, including a focus on Policing, and within that SARPCCO, is overdue for review. It is likely that part of this will be to consider the policing and public safety focus areas in light of the regional policy and operations challenges.

In a 2003 paper, Mark Shaw notes "that regional attempts at controlling crime in Southern Africa have been surprisingly successful"[330] and that the organisation has been operations focused. He highlights examples of these related to weapons destruction and vehicle theft. This is similar to the optimism that Gastrow (2001) shares regarding the potential of the SARPCCO in his survey of police perceptions. Shaw does note that the body has some challenges related to "capacity, resources, logistics, and lack of technology" and contributes this to "the unevenly developed nature of the region's police agencies. The sharing of intelligence, as in all efforts of law enforcement co-operation, also requires improvement."[331] Shaw concludes this article with suggestions for joint actions to respond to the regional challenges, which includes further research to understand the phenomenon and link this to the highest impact law-enforcement responses, "joint law enforcement unit; ... joint capacity in the area of logistics…, planning, …and training". [332]The next section provides a more detailed overview research undertaken over the past twenty years in the region.

Overview of research in Southern Africa

In many cases it is investigative journalists who lead the way in digging deep into the activities of organised crime. Mandy Weiner is well known in South Africa for her work, Killing Kebble, An underworld exposed, [333]on Brett Kebble – a mining magnate, and the networks of legal and illegal operators in the shady world he inhabited. Weiner continues to focus her journalistic investigations on key figures involved in organised crime. Julian Rademayer, another investigative journalist, plumbed the depths of the illegal rhino horn trade from Zimbabwe and Mozambique to Thailand and back to South Africa in his book,

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330   Shaw, M., 2003, Organised Crime and State Responses in Southern Africa, Crime and Justice International Volume:19 Issue: 73, pp:11 to 14

331   Ibid.

332   Ibid.

333   Weiner, M., 2011, Killing Kebble, An Underworld Exposed, Pan Macmillan, Johannesburg

Killing for Profit.[334] Rademeyer continues to research and provide information on rhino and wildlife poaching and runs a website: http://killingforprofit.com/

In describing the first modern wave of OC, researchers such as Gastrow (2001), Shaw (2003) and Hübschle (2010) describe an influx of foreign nationals from several Middle Eastern and European countries arriving in several Southern African countries in the late 1970s and early 1980s. As Hübschle explains, these foreigners set up small businesses that served as the legitimate front for illegal activities. Next, local criminals and traders were enticed to explore opportunities, both legal and illegal. Here too, security forces formed an integral part of these operations and they were used to fund military activities. [335] This opened up a network of contacts, and through these networks, goods — metals, gems, drugs - were obtained. Local suppliers were paid either in hard currency or in arms. Goods were smuggled to South Africa or international markets, usually along well-worn smuggling routes that dated to the liberation struggles of the region.[336]

A comprehensive picture of transnational and organised crime in Southern African is not readily available through official channels. This applies to both the region, as well the different countries. While practitioners at senior levels emphasise that good work is ongoing,[337] the SARPCCO website reveals little by way of updated and relevant information. Most research is focused on South Africa.

The sections below are a very loose grouping of certain types of research. Although in most studies the intersecting nature of organised crime is apparent, it is in the focus of the findings and recommendations that one finds the most distinction.

Governance, development and state responses

A paper by Mark Shaw in 1998 pioneered the mapping of the organised crime context during the early years of South Africa's transition. South Africa was then categorised as a transhipment location; and "syndicated crime" was the term used to describe organised criminal activity with links to international organised crime groups. At that time the known

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334   Rademeyer, J, 2012, Killing for Profit, Exposing the Illegal Rhino Horn Trade, Random House Struik, Cape Town

335   Shaw, M., 2003, Organised Crime and State Responses in Southern Africa, Crime and Justice International Volume:19 Issue: 73, pp:11 to 14

336   Rademeyer, J, 2012, Killing for Profit, Exposing the Illegal Rhino Horn Trade, Random House Struik, Cape Town

337   SAPS official in South Africa at a closed ISS meeting in 2015.

syndicates numbered 192, of these 32 operated internationally, "while 150 of these syndicates are at present restricted to sub-Saharan Africa". [338] Shaw also described activities as "relatively fragmented and high levels of state structures relatively unpenetrated." In contrast, Southern Africa now serves as both a transhipment location as well as consumer destination for illicit goods: drugs, counterfeit goods, and trafficked persons. [339]

Peter Gastrow's survey on the Police Perceptions of Organised Crime in Southern Africa was conducted across the region and gathered senior police officials' views on organised crime. This survey provides perceptual details from nine of the fourteen police agencies in the region on the kinds of criminal activity happening in each of the countries of the region, made up of indigenous groups, the nationalities of those involved, and the efforts to curb these among the law enforcement agencies. The survey also provides for the legislation needed in each country to respond.

The tone of description of the institutional arrangements is buoyant, reflecting optimism about the potential of the region to respond. Gastrow notes that "Thorough training, the effective use of crime intelligence, proper equipment, and a determination to focus on organised crime can enable even an otherwise overstretched police agency to make significant inroads into organised crime."[340] As noted in the section on Regional Arrangements, Shaw shares this optimism. However, subsequent research findings move away from this with more sober accounts of the challenges in the region.

The most complete study of OC was undertaken in 2010 by the ISS.[341] The Enhanced Response to Organised Crime (EROC) project was led by Charles Goredema and coordinated by Annette Hübschle. Her team of country-based researchers provided a detailed per-crime area view of OC in the region. The review was initially conceived as an annual review to track OC in the region using locally-based researchers and drawing on records of the police agencies. The information was based on interviews with law enforcement officials at the country level, along with civil society organisations, incarcerated

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338   Shaw, M., 1998, Organised crime in post-apartheid South Africa, Paper 23, Institute for Security Studies, Pretoria

339   Hübschle, A. 2010, Organised Crime in Southern Africa, First Annual Review, Institute for Security Studies, Pretoria

340   Gastrow, P, 2001, Organised Crime in the SADC Region: Police Perception, Institute of Security Studies Monograph No. 60, August 2001, ISS, Pretoria

341   Van der Spuy, E, and Hübschle, A. 2012, Organised Crime and Law Enforcement in Southern Africa: The challenges confronting research. SADC Law Journal, 2 (2), pp319 - 334

prisoners, gang members, and 'informal' sources. [342]This created a picture of crime types, prevalence of each in the different countries in the region, intersections of types of crime, and the national and regional players.

Global links and the connections to corruption and collusion are also described. More detailed descriptions of abalone poaching, drugs, illegal alcohol and more showed how and where groupings are involved and how legislative inconsistencies in the region serve to facilitate the movement of goods. These are invaluable in painting a complex picture of what happens.

In the same vignette, on cannabis production in Lesotho, it describes ways communities thwart law enforcement efforts, how goods are distribution and financial flows are facilitated, and vulnerabilities at border crossings, thus highlighting the complex and dynamic trade of illicit goods in the region.

The Review also provided insight into the levels of frustration that law enforcement officials are experiencing daily as they attempt to mete out responses, with constrained resources, to the criminal groups whose influence and 'untouchability' are linked to corrupt politicians and law-enforcement counterparts. The report concludes with a wide range of recommendations that seek to address the many aspects of organised criminal activity including a long list of vulnerabilities, areas of capacity building for citizens and officials, greater and more coherent regulations, information sharing and dealing with the obstacles to achieving these.[343_344]

Subsequent to this research, in the Evolution of Organised Crime in Africa, Shaw and Reitano propose macro-reasons for the limited response to transnational organised crime on the continent. They argue that this may be due to the idea that OC was "not a phenomenon that had relevance on the continent".[345] They note that the perspectives are typically from a law-enforcement paradigm and that "the need to stabilise conflicts, rebuild fragile states and demobilise armed groups took precedence over addressing the presence of criminal actors."[346] The final reason for the limited research in OC on the continent that Shaw and Reitano put forward is that this area of criminal activity has grown at such a rapid pace "that policy makers and analysts have been slow to recognise its impact and even slower to bring it into the ongoing discourses on stability, security and development."[347]

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342   Hübschle, A. 2010, Organised Crime in Southern Africa, First Annual Review, Institute for Security Studies, Pretoria

343   Ibid, p23-24

344   Ibid, pp93-98

345   Shaw, M. and Reitano, T. 2013, The evolution of organised crime in Africa, Towards a new response, Paper 244, Institute for Security Studies, Pretoria

346   Ibid.

347   Ibid.

This final idea is emphasised in a 2014 Global Initiative Conference Report on Organised Crime in Southern Africa.[348] The report highlights the negative role of organised crime in creating instability. The key themes that are highlighted include the merge between legitimate and illegitimate activities; the interaction between foreign and domestic criminal groups, and limited opportunities to engage and respond. The conference proposed several steps to address these issues which focused on the expansion of opportunities to bring stakeholders together to create a wider range of solutions to meet the current and future challenges of organised crime.

The stated intention of most of this research is to provide information to support policy. Interweaving issues such as social control (Lambrechts, 2014), state capture (Shaw, 2014, 2015), state fragility, corruption and collusion (Salcedo-Albaran et.al. 2014) and the extent of penetrability of state agencies highlight the embedded nature of the state in the organised crime. This embeddedness is a necessary condition for both the capture of the state as part of the criminal activities, and also as the chief driver of meaningful responses.

Lambrechts' PhD study on The impact of organised crime on social control by the state: a study of Manenberg in Cape Town, South Africa supports Standing's initial findings that show the complex set of interests among communities, criminal gangs and state, which balance each other in a perpetual game of managing tensions for a level of functionality. "If a state lacks extensive social control and a rival authority has claimed a level of social control, this will not necessarily lead to the further weakening of the state, as a result of a system of power dynamics in place."[349] She argues further that there is an ongoing exchange of power as the players attempt to assert and reassert power; often for different motives, however with the same aim of being the authority.[350]

Standing and Lambrechts' findings provide evidence that erodes ideas about the victims and the perpetrators along the organised crime value chain. However in the recently released GITOC report, Results-Based Approaches to Organised Crime and Development: Input into the Post-2015 Development Agenda, the authors indicate that the provision of welfare and pervasive state capture has long term detrimental effects on communities and sustainable states.

"Organized crime threats to state institutions, governance and the rule of law including and beyond corruption, may heavily obstruct efforts to develop effective, accountable

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348   Mbiyoza, A., and Reitano, T., 2014, Organized Crime in Southern Africa, The Global Initiative Against Transnational Organized Crime, Rosa Luxemburg Stiftung, Geneva

349   Lambrechts, D., 2013, The impact of organised crime on social control by the state : a study of Manenberg in Cape Town, South Africa, PhD Thesis, Stellenbosch University, 2013.

350   Ibid.

and transparent institutions at all levels and promote the rule of law at the national and international levels and ensure equal access to justice for all."[351]

Legislation criminalising organised crime has also received the attention of researchers. Charles Goredema's 2001 edited volume provides an overview of the legislative controls and challenges in the context of a growing organised crime threat. The concluding chapter, on the harmonisation of legislation, notes that the Palermo Convention is the agreed-to international "benchmark against which to determine the steps that need to be taken and measures to be implemented in updating SADC legislation."[352] Goredema notes several challenges in this regard. These include the economic vulnerability and high levels of inequality, and "brittle"[353] financial services sectors that are hard to police. He also notes the tendency to centralise power, which limits opportunities for wider stakeholder groupings to have an input in legislative development and increases the opportunity for penetration by criminal groups. "There are states in which legislation with the potential to tackle corruption and organised crime has been passed, but never brought into effect."[354] This in turn impedes rigorous containment of organised crime activities and groups.

Goredema emphasises that "for a state to be able to co-operate with other states against transnational organised crime, it must have a legal system that is conducive to such cooperation…The challenge for SADC states is to harmonise laws in these spheres."[355] He argues that along with the Convention, and an oft-repeated SADC commitment, all states have mutual assistance legislation in their legal systems, a common feature of which is extradition legislation. He urges that these legislative obligations be matched by political reforms in the region. In 2001, he sounded a note of caution for defaulting to more autocratic governance and the negative impact this is likely to have on combatting cross-border organised crime.[356]

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351   Global Initiative Against Transnational Organized Crime, 2015, Organized Crime: A Cross-Cutting Threat to Sustainable Development, Measuring and Monitoring Transnational Organized Crime within the framework of Sustainable Development for the Post-2015 Development Agenda: Goals, Targets and Indicators, http://www.globalinitiative.net/download/global-initiative as on 15-08-2015, p63

352   Goredema, C., 2001, Organised Crime in Southern Africa, Assessing Legislation, ISS, Pretoria, p150

353   Ibid.

354   Ibid. p145

355   Ibid. 147

356   Ibid. p149-150

Structures: gangs and networks

A key feature of modern transnational organised crime is its networked nature. Research to understand this shift from the previous hierarchical structures and relations is necessary to ensure efforts to address OC are aligned to the network of operations. In the region a lion's share of the research looks at the gangs of the Western Cape as they intersect with and have become synonymous with organised crime. Gangs are a feature of the Cape Flats, although the area of operations is much wider. Several perspectives have been explored in understanding how the gangs are intersecting with communities, with foreign criminals, with the state, and with legal services providers. The most recent in depth work has been conducted at the Institute for Security Studies by Khalil Goga, Charles Goredema and others.

Research conducted earlier by André Standing in 2003 focuses on the complex relationships between organised crime actors and community members. He notes that the social benefits to communities "contradicts the orthodox depiction of organised crime as being an anti-social and loathsome phenomenon". He argues that "traditional analysis of the social impact of organised crime has a tendency to be simplistic…[however] it is no longer a fringe activity perpetrated by outsiders".[357] This study finds that on the Cape Flats the criminal economy is substantial, its various boundaries blur with other economic and social activities and it involves thousands of people. It is therefore a core dimension of the community."[358]

Standing also provides a critique of the intended anti-gang policy that has been adopted by the authorities in the Western Cape. Standing argues that a punitive response to gangs favoured in 2005 by government is "unlikely to be successful on their own terms (reducing gangsterism and gang related crime) and they are also problematic from an ethical point of view".[359] He challenges the logic that the removal of gangs will create a better place for people to live. He notes that this assumes that criminal gang activity is a surface level disruption rather than at the cultural, social, historical core of a community. He concludes that "The gang is an interesting concept worthy of much more discussion and research. Yet it does not seem to be a concept that should be criminalised or dealt with through dedicated courts, specialised laws and a photographic database. To do so may only exacerbate many of the problems facing those communities that have become infamous for gangsterism."[360]

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357   Standing, A., 2003, The social contradictions of organised crime on the Cape Flats, Institute for Security Studies, ISS Paper 74, Pretoria

358   Ibid.

359   Standing, A., 2005, The threat of gangs and anti-gangs policy, ISS Policy discussion paper, Paper 116, pp26-27, Pretoria

360   Ibid.

Almost a decade later, Khalil Goga, together with Eduardo Salcedo-Albaran and Goredema, uses a network modelling to provide information that tracks relational flows, both legal and illegal, and how these ebb and flow given the context and requirements along the business supply chain, as well as where and how frequently violence occurs.

The research is presented in the series of three papers that explore key facets of the nature of gangs and how they operate in the Western Cape. The researchers employ social network analysis to compile a comprehensive and detailed picture of the "structure, actors involved, types of interactions and institutional effects of a criminal network."[361] This research illustrates how criminal networks work: "a highly sophisticated criminal network in which the lawful procedures of economic institutions were co-opted to achieve criminal purposes. As a result of this level of sophistication, breaking up the network poses serious obstacles for the authorities and law enforcement agencies responsible for this task."[362] In the conclusion of the second study, Using social network analysis to understand the interactions of a Cape Town gang the authors point out that "the power of the network lay primarily with a single individual and was mainly directed by this node/agent".[363] The research also indicates that the greater the decentralisation of the network, the more resilient it is to rebuffing law enforcement actions that remove critical players[364]. Thus understanding networks, their operations and players, including legitimate ones makes excellent crime intelligence a necessary condition in any law-enforcement response.

GOODS AND SERVICES

International attention on the rapid increase of poaching, particularly rhino horn, since 2000 has resulted in several research studies being produced in recent years. In addition to Hübschle's Annual Review, the Dalberg study on Illicit Wildlife Trafficking paints a grim picture of states' self-acknowledged failure to respond adequately to the growing threat of illegal wildlife trade; which may be applicable to other crime types.[365] Adding to this specific area of work, Moses Montesh's work on poaching along the Mozambican — South African border provides detailed qualitative analysis through interviews with

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361   Salcedo-Albaran E., Goga, K. and Goredema, C., 2014, Cape Town's underworld Mapping a protection racket in the central business district, ISS Paper 270,| November 2014, Pretoria, p1

362   Ibid., p15

363   Salcedo-Albaran E., Goga, K. and Goredema, C., 2014, Using social network analysis to understand the interactions of a Cape Town gang, ISS Paper 272, Pretoria, p29

364   Ibid.

365   WWF / Dalberg. 2012. Fighting illicit wildlife trafficking: A consultation with governments. WWF International, Gland, Switzerland

officials and conservationists in both countries. [366]As mentioned previously, researching the intersection of interests, actors, and the trade routes is not complete without also reviewing the state responses. Findings indicate that responses lack urgency and coherence with few exceptions.[367] Julian Rademeyer's book and ongoing investigation covers the breadth of the 'industry', historically and in terms of its international scope – particularly Vietnam, Thailand, Loas and China.

MONEY LAUNDERING

Charles Goredema's large body of work on money laundering and fraud in South Africa provides the most comprehensive collation of the methods, actors, flows and results of illegal funds, which is consistent with the collusion that Shaw and Reitano and others describe. In a 2005 study he criticises Southern Africa member states for the woeful success rate to prosecute a meaningful number of cases of racketeering and money laundering in the region. Two years later, in 2007, Goredema produced an analysis on the frameworks in place regionally to deal with the proceeds of crime.[368] In this assessment he points out that "Measures to prevent money laundering are premised on the idea that a distinction can be drawn between lawful income and 'dirty' income. Dirty income can mix with lawful income".[369] His review finds this a dominant faultline as he shows that it is corrupt action, facilitating laundering, and also the non-reporting of crimes that "undermines any political efforts or legal measures to punish and discourage such criminal offences."[370]

RESEARCHING ORGANISED CRIME

There has been a dominance of research from South Africa in the region. Empirical research is not common from other countries in the region. Charles Goredema though has provided insights into realities in Mozambique and West Africa and the specificities at play in those contexts. In the main, where information on organised crime exists for the region, it is often

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366   Montesh, M., 2013, Rhino Poaching: A new Form of Organised Crime, Symposium notes, Unisa

367   Rademeyer, J, 2012, Killing for Profit, Exposing the Illegal Rhino Horn Trade, Random House Struik, Cape Town

368   Goredema, C., 2007, Confronting the proceeds of crime in Southern Africa, an Introspection, ISS Monograph 132, Pretoria

369   Ibid., pxi

370   Ibid., p138

presented through a regional and institutional lens. These include the UNODC, World Wildlife Foundation, even the Small Arms Survey studies, along with the Global Initiative on OC, the World Customs Organisation, among others.

This gap in regional information may be attributed to challenges in the research environment for a range of technical and political reasons. The level of openness for researchers and information gatherers is constrained. So developing deeper understandings of the terrain of organised crime within countries and between countries operates at a deficit. Shaw and Reitano argue that the limited research output may also be linked to the perception of the crime being outside of Africa, the rapid growth of OC on the continent, and the concentration at the national level at the risk of ignoring the international nature of the crime.[371] Van der Spuy and Hübschle point out that the erratic and limited record-keeping by law-enforcement and criminal justice agencies is another hindrance. They also note that the categorisation of crimes across the region does not specifically distinguish OC to its fullest extent. In other words, while seizing a shipment of abalone, or rhino horn, or fake medicines would fall under the OC legislation, the associated assault, even murder, intimidation, falsification of documents or bribery are not necessarily clustered together with the seizure.[372] This partitioning of crimes creates a skewed picture of OC in countries in the region and the region as a whole. This influences how law-enforcement agencies, and others, develop strategic analysis and responses to the complexities of OC.

It may be argued that in contexts where information is poorly maintained and hidden, policy and decision making will necessarily be the weaker for it. When decision-makers and officials impede useful research through withholding information or intimidation, there is a negative trajectory of poorly conceptualised policy, weak action and results. As noted above, where citizen-responsive governance and stability are undermined through these limitations the consequences are high: reduced trust between state and citizens; high vulnerability; endemic corruption and protection rackets, to mention a few.

So too, policy makers are compelled to integrate the international nature of OC and the alliances that persist outside the confines of their state borders if it is to be optimally applied. Signing conventions should not be correlated with such integration. In Shaw and Reitano's review in The evolution of Organised Crime in Africa the authors describe the history of organised crime in the region and the key trends that make Africa fertile OC territory: the preoccupation of fragile states with more urgent problems; high levels of

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371   Shaw, M. and Reitano, T. 2013, The evolution of organised crime in Africa, Towards a new response, Paper 244, Institute for Security Studies, Pretoria

372   Van der Spuy, E, and Hübschle, A. 2012. Organised Crime and Law Enforcement in Southern Africa: The challenges confronting research. SADC Law Journal, 2 (2), pp319 - 334

systemic corruption, and at times state capture; the negative pull-down influence of weak 'node' states on regions; and "increasing pro-activity among African criminal groups engaging in transnational organised crime, new and emerging forms of crime."[373] Thus including a "broader discourse on governance, the rule of law and development across the continent as well as internationally",[374] is emphasised.

There are newer themes in research that are emerging. The field of cyber crime and organised crime is growing. As violent extremism grows, the intersections with organised crime as an area to examine grows too. A gap, identified by Annette Hübschle, is considering the varied and powerful roles that women in Southern Africa play in organised crime. Further country level work is necessary in the region to ensure a more balanced picture of the value chain of who is part of it, how, what they are doing, where, with whom and how they are using the profits.

Drawing lessons from researching organised crime

The research consistently shows that responding to OC's fluid set of arrangements, cyberspace activities, and increasing violent extremism is becoming more difficult and complex. Agencies that are bound by rigid operating regimes; and who experience resource and capacity constraints are mismatched to deal with the complexity of the OC operations on a grand (comprehensive) scale.

In the study on the networked nature of organised crime, Goga emphasises that "the level of sophistication of the network, reflected in the fact that lawful economic interactions were the most relevant form of interaction, illustrates vulnerabilities in legislation that governs economic institutions and poses serious challenges for the authorities responsible for prosecuting domestic and transnational criminal networks."[375]

The uncomfortable and well-documented evidence from researchers is that willingness and openness among officials to share information is low. While fear may be a contributing factor, levels of complicity and corruption are likely factors that limit information flow. This impediment undercuts the possibilities of developing coherent, evidence-based actions to reduce OC at its roots and all along the value chain.

373   Shaw, M. and Reitano, T. 2013, The evolution of organised crime in Africa, Towards a new response, Paper 244, Institute for Security Studies, Pretoria

374   Ibid.

375   Salcedo-Albaran E., Goga, K. and Goredema, C., 2014, Cape Town's underworld Mapping a protection racket in the central business district, ISS Paper 270,| November 2014, Pretoria, p15

Taking this into account, the findings from these studies highlight several key themes both from the region and other parts of the world. These include the need for greater cooperation in practice among governance and civil society actors in the region and beyond; the increased and diversified capacity to curb OC regionally; and a balanced focus on the broader context and drivers of OC.

CONCLUSION

The conventions and the protocols that provide the means for responding to organised crime are, by their nature, out of step with the world of organised crime. They are bulky and structural; they are often confined and rigid and bound by competing regional interests. Some research even indicates that conventions and law enforcement responses exacerbate the incidence of organised crime.[376]

For criminals, the businesses and networks are complex and continually changing to ensure the continuation of the system and increase the profitability thereof. These complexities may include the shifting demands, changing influence and leadership, increasing risk, emerging opportunities and new network formations. For authorities mandated at the national and regional levels to control and prevent this moving target, criminal access to the best defence lawyers, protection by political principals, and changing tactics, frustrate their efforts, which are still largely focused on the legislative prescripts to track, investigate, and arrest perpetrators.

Policy makers striving to promote sophisticated, broad-based responses, along with consistent cross-border cooperation, alignment of leadership interests, and compatible legislation have a very tough environment to navigate. The first option for these committed officials may be to work on ensuring that researchers are able to research — timeously, effectively and without harassment -, so that even more comprehensive information may surface on this growing phenomenon.

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376 Naim, M, 2005, Illicit: How smugglers, traffickers and copycats are hijacking the global economy, William Heinemann, London

SOUTHERN AFRICAN
SECURITY REVIEW 2015

Security in Southern Africa is not a singular perspective or set of ideas. The chapters of this book reveal the diversity of thinking, decisions and strategies for creating security and responding to threats in the countries of the region.

The first chapter of this volume positions the security trends within the philosophy of regional integration and the idea that any new strategy to address peace and security ought to look beyond conventional "threat assessment" approaches to incorporate insights from a broad universe of data and information, using the human security paradigm as an ordering device. The next eight chapters of the Southern African Security Review are then focused on three themes that are pertinent to the current security context: the diplomacy of regional security; elections, democracy and stability; and the impact of organized crime in Southern Africa.

The contributors are linked to the Southern African Defence and Security Management (SADSEM) network, an association of 11 tertiary institutions which seeks to contribute to peace and security in the region by strengthening the democratic management of its defence forces and other security organs.

SADSEM and the Mozambique Office of the Friedrich-Ebert-Stiftung (FES) host the Maputo Dialogue, an annual workshop on regional security. FES has co-ordinated security-related research and dialogue in the region for several years, as part of its global efforts to enhance human security and conflict prevention.

This volume provides policy makers and academics with insights and thinking into current security trends and challenges. The intention is that these chapters will serve to deepen and broaden ideas that contribute to building greater stability to security challenges in the region.