



Southern African Regional Assessment Mission Reports

October 2007 – December 2008



**UNIVERSITY
OF OSLO**

Norwegian Centre for Human Rights



Irish Aid

Government of Ireland
Rialtas na hÉireann

Contents Page

<i>Executive Summary</i>	4
<i>Angola</i>	11
Executive Summary	11
Introduction	12
Methodology	13
Historical background	13
Economic background	15
Legacies of the conflict	18
The Transitional Justice Landscape	22
Recommendations	29
Challenges	31
Appendix 1: Members of the Mission to Angola	31
<i>Mozambique</i>	32
Executive Summary	32
Introduction	33
Background to the Mozambique Assessment Mission	34
Mozambique's Transitional Justice Landscape	36
Challenges in the Transitional Justice Landscape	44
Opportunities in the Transitional Justice Landscape	45
Recommendations	46
<i>Namibia</i>	50
Executive Summary	50
Introduction and Methodology	50
The Transitional Justice landscape	51
Transitional Justice Approaches	56
Challenges to Transitional Justice	60
Opportunities in the Transitional Justice Landscape	61
Recommendations	61
<i>Zimbabwe</i>	63
Executive summary	63
Introduction	64
Composition of mission	65
Methodology	64
Background to Country Assessment Mission	66
The Transitional Justice Landscape	68
Challenges in the Transitional Justice Landscape	75
Opportunities in the Transitional Justice Landscape	76
Potential partners	77

Recommendations	78
<i>South Africa</i>	84
Executive summary	84
Introduction	85
An overview of South African destabilisation in Southern Africa	88
The TRC's focus on violations in the Southern African region	94
Conclusion	103

Executive Summary

South Africa, Zimbabwe, Angola, Mozambique and Namibia have all experienced massive violations of human rights in the recent past. Apart from Zimbabwe, where a political crisis continues, all of these states have further seen the end of major conflicts within the last two decades. The need to come to terms with past violations, however, remains. Only in South Africa have formal transitional justice mechanisms played a visible role, and even there, those mechanisms have left many issues unaddressed.

In an effort to understand the challenges in these countries and evaluate the options for future action, the ICTJ Cape Town office, in collaboration with the Center for the Study of Violence and Reconciliation (CSV), the Institute for Democracy in South Africa (IDASA), the Institute for Justice and Reconciliation (IJR) and the South Africa History Archive (SAHA), as well as the Legal Assistance Center of Namibia, PROPАЗ in Mozambique, Development Workshop in Angola and the Research and Advocacy Unit (RAU) in Zimbabwe, has been engaged in an assessment of the transitional justice landscape in the Southern African sub-region since October 2007. The assessments culminated in a workshop from 30 September to 1 October 2008 in which partners, along with civil society actors from the region, deliberated over the findings and recommendations from the missions, and finally the production of this five-country report. While the individual reports concentrate on transitional justice in each country, the discussions at the workshop allowed the authors of each study to exchange information and compare results. This comparative perspective informs the reports, which show transformation in each country has faced several common hurdles, but also show that each country has had unique experiences.

In all five cases, there are some commonalities: the devastation of conflict on livelihood; inherent lack of transparency as a key aspect of the political culture; transition as a betrayal of ideals; extreme socio-economic inequality and high rates of gender based violence. In South Africa, for example, the extreme economic inequality between rich and poor reflects the failure to address the economic crimes of apartheid and the absence of adequate reparations. In Angola, meanwhile, transitional justice mechanisms such as truth-seeking are often relegated to the second tier of priorities, and “reconciliation as reconstruction” has become a national mantra. Throughout the reports, the interface between justice and development is an overwhelming concern.

Other common threads run through the diverse cases. For example, several reports note the existence of and possible advantages of informal and traditional transitional justice mechanisms; evaluate the necessity and feasibility of anti-corruption measures; identify possible reforms of veterans’ pension schemes; identify gender-based crimes, inequalities and poor access to justice; consider community reparations schemes; propose healing programs and transitional justice education; suggest research on victims’ views; and call for the coordination of civil society initiatives.

Yet the differences between the cases are as compelling as their similarities. The political crisis in Zimbabwe makes any preparation for transitional justice mechanisms uncertain, while the end of devastating conflicts in Angola and Mozambique means that discussions of transitional justice take place in the context of extreme war-weariness. In Namibia the continued dominance of

SWAPO, the liberation movement and current ruling party, has prevented official investigation of the past. In South Africa, finally, the much-publicised Truth and Reconciliation Commission (TRC) exposed the truth behind many individual violations of rights under apartheid, but produced an incomplete record of abuses and failed to gain the cooperation of many former high-level officials, who have nonetheless not been prosecuted.

Below are brief summaries of findings for each country, along with each assessment's chief recommendations.

Mozambique Assessment

Findings

The assessment found that while no formal transitional justice mechanisms have been implemented in Mozambique, a wide range of transitional justice mechanisms have operated in the country since the first post-conflict elections in 1994. These had often been overlooked because they were not institutionalised as part of a "national" project. Informal transitional justice mechanisms initiated through both the churches and traditional leaders were critical through performing cleansing and reintegration ceremonies for ex-combatants in the immediate aftermath of the conflict. Nonetheless, a critical mass of those affected by the conflict was not included in these processes and the assessment heard that this failure is reflected in some of the current challenges facing the country. The growing economic disparities in the country and socio-economic injustice concerns as well as the increasing dominance of the ruling party FRELIMO are increasingly jeopardizing Mozambique's peaceful transition.

Recommendations

The report calls for:

- Support for human rights education
- Research into the reach and efficacy of traditional African transitional structures as reintegration mechanisms
- Empirical research to examine the reintegration of children used during the conflict and track their journey from the bush to the present
- An oral history documenting the role and experiences of women in the conflict in order to create a more inclusive historical record
- The impact of international aid requirements such as structural adjustment programs to be researched
- Examination of how restitution and reparations could be achieved for South Africa's destabilisation of Mozambique during the apartheid era.

Zimbabwe Assessment

Findings

The transitional justice situation in Zimbabwe remains uncertain because of the fragile nature of the 15 September 2008 power-sharing agreement. If the agreement holds, there are opportunities for transitional justice, although justice and accountability have been given minimal space. While the agreement makes no explicit reference to amnesty, political commitment presupposes an

understanding between all signatories of a de facto amnesty. There is no sunset clause, but it is vague on issues of institutional reform.

The assessment was postponed on several occasions due to the deteriorating security climate in the aftermath of the 29 March electoral violence. While the Mission was unable to travel outside of Harare, the in-country partner RAU received over 500 responses to a victim survey which informed the report. The assessment found a relatively low awareness and understanding of transitional justice mechanisms. Education on transitional justice is a clear priority: victims expressed a desire for justice, but often had little knowledge of possible mechanisms. In response to questions about transitional justice measures, however, victims and civil society emphasized justice, especially prosecutions and reparations, and showed little enthusiasm for more reconciliatory options. Even church-based groups, while discussing the need for reconciliation, emphasized that crimes should not be forgotten, and that victims should receive compensation. Overall, the most urgent desire of respondents was for reparations and mechanisms to address economic crimes.

Recommendations

The report calls for:

- Increased transitional justice education. A broad-based training effort could counter the knowledge gap on transitional justice
- A national healing process. Many victims and perpetrators continue to live side by side, and healing is urgently necessary. The approach to healing must be bottom-up rather than top-down. In this regard, the Mission found that the work by the Tree of Life offers a possible model, but such programmes need to cover a much wider area
- Research on victims' views and models of transitional justice. By coupling transitional justice training with a survey effort, it would be possible to document violations and get victim feedback on transitional justice options. While NGOs are already documenting violations, these efforts suffer from a lack of coordination: organisations often compete for resources, resulting in wasteful duplication of efforts. The assessment recommended that a donors' conference be convened to discuss coordination

Angola Assessment

Findings

The assessment found that Angola's government-led discourse of reconciliation holds little meaning for the majority of the population. To the extent that it has occurred, reconciliation in Angola has taken three forms: by means of pacts among political elites, through repetition of a national mantra of reconciliation as reconstruction, and by means of small scale intra-community reconciliation efforts. The national government's emphasis on reconstruction is primarily rhetorical: extreme poverty and inequality persists in Angola, with notably little reconstruction in most parts of the country. In the aftermath of the war, there are over 70,000 amputees in Angola, and 8 to 10 million land mines remain. Women and children are particularly vulnerable; it is

estimated that more than half of all children from the most war-torn regions have been shot at, and sexual-based violence was endemic during the conflict.

Even human rights activists tend to believe that the breadth and complexity of violations in Angola's past make transitional justice mechanisms difficult. Interviewees favored efforts at social peace, economic development, and political competition. The MPLA government has organised disarmament, demobilisation and reintegration (DDR) in Angola, and a wide array of reintegration procedures has been in place in rural areas, but current policies have been poorly administered and also exclude many women, former child soldiers, and veterans who either laid down their arms after previous peace agreements or have already taken part in non-governmental reintegration programs. There has been no official accounting of South Africa's crimes in Angola.

The assessment found a worrying lack of space for political discussion in Angola. Widespread fear accompanied the 5 September elections, in which the MPLA won a landslide victory. The national narrative of the conflict is drastically incomplete; only with the opening up of political space with a more comprehensive narrative be possible.

Recommendations

The report recommends:

- Working with the Ministry of Family and Women Promotion to promote truth-seeking, and to establish education programs on gender-based violence
- Working with local organisations to evaluate grassroots and traditional conflict resolution mechanisms
- Improving data-gathering capacity; reliable development statistics are not available

Namibia Assessment

Findings

Namibia has a legacy of unresolved human rights abuses: the massacre of Herero and Nama people in 1904-07, the apartheid regime era crimes and the atrocities of the Liberation Movement SWAPO; nearly four thousand detainees in SWAPO camps in neighboring countries are still unaccounted for. Public discussion of violations, however, has been greeted by official silence. The political context in Namibia seems not to be conducive to any official investigation of the past. The SWAPO ruling party has demonstrated its unwillingness to allow any impartial interrogation of the past. The regime only tolerates debates around the Herero and Nama massacres and the South African occupation. It seems that former president Sam Nujoma's book, *Where Others Wavered: The Autobiography of Sam Nujoma on - My Life in SWAPO and My Participation in the Liberation Struggle of Namibia*, is to be made part of the compulsory school history curriculum. Several motions in Parliament to address past abuses within the ranks of SWAPO have been rejected. The spectrum of abuses and violations continues after independence: further disappearances took place in 1994-96, entitlements to war veterans' benefits discriminate against those accused (often unjustly) of collaborating with South Africa during the liberation struggle. The Namibian government rejected the offer of the South African Truth and Reconciliation Commission to investigate further the abuses perpetrated by the Apartheid Regime and the South African Defense Force in South West Africa. The National

Society for Human Rights (NSHR) informed the workshop of their submission before the ICC against Sam Nujoma and three other Namibians, in their personal capacity (*ratione personae*) for disappearances of members of the People Liberation Army of Namibia and many other Namibians at the hands of apartheid South African forces. Due to the provisions of Article 140 of the Namibian Constitution, on the principle of State succession, disappearances at the hands of apartheid South African forces are *ipso facto* deemed, by NSHR, to have been perpetrated by Nujoma and the three others. The NSHR submission also extends to the disappearances that occurred in Kavango and Caprivi Regions between 1994 and 2003, including those perpetrated in the aftermath of the armed attack in the Caprivi Region in 1999.

Recommendations

The report recommends that Namibian civil society actors:

- initiate a research project to comprehensively and impartially document the past
- explore the options of a constitutional challenge to the new war veterans' law as it does not address victims' needs and it discriminates between former combatants
- Assist in the establishment of a resource center (a center for collective memory) which can serve as a repository of documents and information dealing with the past and a place where victims can come forward to tell their stories, network, help each other and plan activities for the healing of the wound of the past
- Seek legal advice on various national and international options for redress of gross human rights violations

South Africa Assessment

Findings

The South Africa report provides an overview and details the shortcomings in the South Africa's Truth and Reconciliation Commission (TRC) as it relates to its engagement with the apartheid regime's destabilisation of neighboring countries in Southern Africa. South Africa devoted extensive effort to the destabilisation of neighboring countries in order to undermine the anti-apartheid movement's support abroad and to reinforce its international position as a bulwark against Soviet-backed movements. Militarisation in South Africa from the 1960s to the 1980s coincided with increasing military activity in neighboring states, with devastating humanitarian results, especially in Angola and Mozambique.

Yet South Africa's TRC received few submissions from neighboring countries or from victims of the apartheid regime's destabilisation in those countries. In addition, there is still limited access to government documents on South Africa's role in the region, and very little has been done to assess the socio-economic impact of South Africa's interventions. The TRC received no comprehensive overview of South Africa's activity in neighboring countries, relying on few testimonies, and limited testimony from the military: direct submissions from the military and the National Party on the topic were very weak. Military intelligence withheld 95 percent of documents from the TRC. In addition, the TRC gave virtually no attention to abuses by the liberation movement abroad, with only one in camera session on abuses in training camps. Nonetheless, the TRC did make several findings on South African human rights violations in neighboring countries, writing that the South African government was responsible

for tens of thousands of deaths in nine neighboring countries, and that the wars were fought not mostly against communism but in order to maintain white minority power.

Recommendations

The assessment calls for further research to map the history of the apartheid regime's interference with South Africa's neighbors and develop a comprehensive overview of the regime's human rights violations abroad. Such research should include a detailed timeline of South Africa's incursions, an account of the socio-economic effects of South African interference, and an investigation of the thorny issues of collaboration and resistance to South African occupation.

Conclusion and the Way Forward

In each of the reports, a combination of local and international actors have attempted to identify salient transitional justice issues and recommend immediate steps toward truth-seeking, accountability, and institutional reform. They unanimously note, however, that the issues they identify are complex and merit further research. Indeed, with the exception of the South Africa assessment, each report is the result of a very brief (five to seven day) assessment mission. Clearly, such a mission can only outline issues in broad strokes. The results, although rich in detail and analysis, only provide preliminary insights into complex issues around truth, accountability, reconciliation, reparations and institutional reform.

A principal recommendation of every assessment is therefore a need for more research and deliberation on a number of issues including what is meant by transitional justice in various settings; when does a country decide to start telling the truth; how does a country re-visit its past; how do we know what transitional justice mechanisms work and when; at what point do victims demand justice and what are the indicators of a successful transitional justice process? In addition, partners observed the need to look beyond human rights violations and the victim/survivor paradigm and to explore how contemporary issues, in particular corruption and poverty, as well as socio-economic inequalities are linked to conflicts of the past. Further study of victims' views appears necessary in every case, and the Mozambique and Angola assessment teams note that traditional justice mechanisms merit special attention. Research can often be wedded to transitional justice education; a victims' survey, for example, may not only gather the opinions of victims but also educate them on transitional justice options. Finally, partners agreed that there is need to focus discussion on the capacities, both human and financial, for civil society to deliberate and advocate for transitional justice issues.

By identifying areas for further research and outreach, the Southern African Regional Assessment reports provide a useful platform to enhance research and dialogue around certain issues aimed at pursuing transformative agendas in the sub-region.

In conclusion however, it is important, as partners noted in the workshop, to ensure that the assessment exercise leads to the development and support of home grown initiatives and not (regional) imposed models of transitional justice. Indeed, it is in this spirit that partners agreed that the debate and knowledge gained through this exercise is disseminated in the various countries assessed. In particular, partners emphasized a series of critical steps that needed to be

undertaken to achieve this objective, including the need to ensure that the findings are shared and discussed with mass-based organisations and victim/survivor groups rather than allowing for an “elite” discourse between well-established and formal civil society groups. Finally, to augment the report, partners should test the findings and recommendations with those civil society actors already engaged in related areas on the ground.

Angola

Executive Summary

It is not possible to understand the meaning of, or the need for, transitional justice in Angola without understanding the country's broader socio-economic and political landscape. In contrast with other countries in the region, such as Namibia, South Africa and Mozambique – where peace came through negotiated settlement – Angola's transition from war to 'peace' was the result of a clear and definitive military victory by the Popular Movement for the Liberation of Angola (MPLA) and the government of Angola. The military victory of the MPLA, which had effectively been the ruling party since 1975, meant that the 2002 peace agreement did not result in a regime change. The ultimate cessation of conflict was marked by the signing of the Luena Memorandum of Understanding (MoU) in 2002, itself built on the foundation of two previous attempts at negotiated settlements in the post-independence period; namely the Bicesse Accords of 1991, and the Lusaka Protocol of 1994. The Luena MoU devotes a single paragraph to 'national reconciliation', framing it solely in terms of a global and general amnesty for crimes and human rights violations committed during the armed conflict.

General amnesty was accepted as the only viable option, given the intensity and duration of the conflict, as well as the perception that the majority of Angolans had in some way participated in or supported the war. Given this perception of deep and widespread involvement of the population in the conflict, the question many interviewees asked was, 'Who would then testify at something like a TRC?' As a result of this confluence of factors, the ruling party has not engaged in a formal recognition of or inquiry into past human rights atrocities, whether committed by the opposition or by its own forces; in other words, there has been a conscious decision not to pursue the route of a public truth and reconciliation process. Across the spectrum of people interviewed, there was an overwhelming expression of war fatigue; the opposition to any form of truth commission seemed to stem not only from not wanting to talk about the past, but also not wanting to open up old wounds.

There is a national discourse on reconciliation that takes many different forms; however, it seems to hold little meaning for the majority of Angolans. At the political level, reconciliation is articulated through election propaganda as part of the ruling party's broader reconstruction agenda. However, there is little evidence of either reconciliation or reconstruction occurring in urban or rural areas. The rhetoric of reconciliation has been limited to political reconciliation: that is, the consensus agenda between MPLA and the Union for the Total Independence of Angola (UNITA), a pact of the political elite.

Yet the promise of reconstruction remains unfulfilled. Luanda appears to be a city in rapid decay, with extraordinary levels of poverty and inequality, and serious structural and social injustice, particularly with regard to people's access to health and education. Thus, while there is an attempt by the ruling party to create consensus that reconstruction is happening, in reality the worsening economy, poverty, inequality and the notable absence of reconstruction and development has further undermined prospects for reconciliation. The development of strategic socio-economic plans for the provinces (within a national strategy) and the strengthening of

efforts to create basic conditions at local level are regarded as fundamental, if the current situation of extreme poverty, social exclusion and marginalisation are to be appropriately tackled.

Although the political rhetoric of reconciliation is largely meaningless, the discourse about reconciliation occurring at the community level across the country is organic and spontaneous, with community structures and religious and traditional leaders playing a key role in the process. The state appears to be largely absent at this level, with no funds allocated for these purposes. Further challenges faced by community-based reconciliation efforts include the fact that many of these communities are being reconstituted for the first time after many years; as such, they are 'proto-communities', or communities in the making. Returnees, refugees, demobilised ex-combatants and the very few remaining residents are now, for the first time in years, learning how to live with one another.

It would also appear that community level reconciliation is not occurring *between* communities, but rather *within* them, even down to the cleavages that happened within a family, as when, for instance, two brothers took opposing sides as UNITA and MPLA soldiers.

Another factor is that large parts of the country are only now experiencing the extension of state administrative support and intervention. The state is largely absent from the lives of people, especially in the provinces; meanwhile, the state security apparatus remains ever-watchful in the form of police and military presence. While this keeps household and other forms of localised violence contained, it also leads to the psychological suppression of the multiple traumas suffered by the population.

Introduction

'... the country's experiences in conflict resolution and post-conflict peace building ... provide valuable lessons for the rest of the world.'¹

Ibrahim Gambari, United Nations Under-Secretary of African Affairs and Special Representative to the UN Secretary-General in Angola (2003)

The assessment mission to Angola in June 2008 was part of a broader enquiry into the transitional justice landscape in the Southern African region. This was driven by four broad objectives:

- to map and assess the current status (or lack thereof) of transitional justice initiatives in Angola, Mozambique, Namibia and Zimbabwe, as well as in South Africa;
- to identify and understand local priorities in the transitional justice area;
- to ascertain the capacity of civil society organisations to play a role in any future transitional justice initiatives; and
- to make recommendations on how to address transitional justice in each country.

The key objectives of this particular mission were threefold:

- to identify the major transitional justice issues in Angola;
- to map and assess the current status of transitional justice initiatives in Angola; and

- to identify the capacity of civil society organisations that are playing or have the potential to play a leading role in any future transitional justice initiatives.

Methodology

The in-country assessment took place from 15–21 June 2008. For details of those interviewed, including the organisations they represent, please contact the author. The choice of interviews was based on the need to obtain a variety of perspectives across a spectrum of government, civil society, international institutions and community organisations, in order to understand the issues of transitional justice within the broader framework of the current socio-economic and political landscape. Because of the language barrier, the research team was supported by a translator, who was present at all meetings.

Background to country assessment mission

Several key themes emerged with regard to understanding the challenges facing transitional justice practitioners in Angola:

- the long and protracted duration of the civil war, lasting from independence in 1975 until 2002;
- the internationalisation of the conflict, including the intervention of South Africa and Cuba, as well as the superpowers – the United States and the then-Soviet Union – in pursuit of their Cold War policy agendas;
- the intensity and scope of the war, with most Angolans both affected as victims of the conflict and implicated as participants in it;
- the strong internal causes of the war, including ideology and class, regional disparities and colonial-era grievances, the cosmopolitan and interracial coastline cities versus the rural African hinterland, race and ethno-linguistic affiliations, control of natural resources and government;
- the cycles of war and displacement that contributed to the development of very large informal settlements in peri-urban areas around all urban centres of the country, but particularly Luanda;
- the failed attempts at negotiated peace settlements through the Bicesse Accords in 1991 and the Lusaka Protocol in 1994;
- the pact of the political elite after the 2002 peace agreement, with the co-option of UNITA’s elite into the new government; and
- the use of amnesty as the strategy for reconciliation in each peace agreement, resulting in a popularised national discourse of ‘forgive and forget’ towards the atrocities of the war period – and which is now preserved, at least in part, through a sense of fear of what reopening the wounds of the past might do to the country.

Historical background

The Angolan conflict was rooted in a local power struggle that began even before independence, and which was seized on and perpetuated by superpower rivalries in the post-independence period. The Alvor Agreement, signed in 1975, granted Angola independence from Portugal, and handed over power to a coalition of the three largest independence movements: the MPLA,

UNITA, and the National Front for the Liberation of Angola (FNLA). The coalition government quickly broke down as each movement's doubts grew about its partners' commitment to the peace process, and the country descended into civil war. The ensuing chaos provided international players with an opening through which to intervene in the conflict in pursuit of Cold War objectives.

Zaire and South Africa intervened militarily, with support from the United States, in favour of the FNLA and UNITA, with the intention of taking the capital city of Luanda before the declaration of independence. In response, Cuba intervened on the side of the MPLA, which successfully held Luanda and declared independence on 11 November 1975, the day the Portuguese left the country. The FNLA and UNITA both proclaimed their own short-lived republics (the Democratic Republic of Angola and the Social Democratic Republic of Angola) for the zones they controlled on 24 November 1975, with Holden Roberto and Jonas Savimbi as co-presidents. However, by the end of January 1976, the Angolan Army, the People's Armed Forces for the Liberation of Angola (FAPLA) and the Cubans had all but crushed FNLA, the Zairians and UNITA, and the South African forces withdrew.

Nevertheless, the proxy war continued. The (MPLA-controlled) government of Angola requested that Cuban forces remain in the country, while continuing to receive support from the USSR and eastern bloc countries. UNITA received more or less clandestine support from the US, and took up activities in the south-east of the country. South Africa soon established bases in southern Angola and increased support to UNITA, which gained control of more and more territory. In 1987, FAPLA, with Soviet support, launched an offensive in an effort to deliver a final blow to UNITA and to drive South Africa out of the country.

Despite the campaign's early failures and defeats, the Cubans successfully intervened to stop UNITA and South African advances, culminating in the battle of Cuito Cuanavale, from 13 January to 23 March 1988, the biggest battle in African history since the Second World War. Meanwhile, Angola and the United States had been in negotiations for a peaceful solution since June 1987. Following the turning point at Cuito Cuanavale, the United States agreed to include Cuba in direct talks, which it joined on 28 January 1988; South Africa joined on 9 March. Angola, Cuba and South Africa signed the New York Accords on 22 December 1988, in which the withdrawal of Cuban troops from Angola was linked to the retreat of South African soldiers from Angola and Namibia.

Angola went through several cycles of failed negotiated peace settlements following the withdrawal of international forces. The 1991 Bicesse Accords spelled out an electoral process for a democratic Angola under the supervision of the United Nations. The MPLA won the first round with 49 per cent of the votes, against 40 per cent for UNITA. UNITA leader Savimbi refused to accept the results, and initiated another cycle of war. On 20 November 1994 a second peace accord, the Lusaka Protocol, was brokered in Lusaka, Zambia. The peace accord between the government and UNITA provided for the integration of former UNITA insurgents into the armed forces, as well as the inclusion of UNITA professionals and members of the political elite into public sector positions in the new government. However, in 1995 localised fighting resumed. A 'Government of National Unity and Reconciliation' was installed in April 1997, but serious fighting resumed in late 1998 when Savimbi renewed the war for a third time, claiming

that the MPLA was not fulfilling its obligations. The UN Security Council voted on 28 August 1997 to impose sanctions on UNITA.

This third cycle of the war was even more brutal than its predecessors, and was characterised by violence aimed directly at the civilian population. Whole cities were reduced to ruins, hundreds of thousands of people were killed or died from war-related deprivation and disease, and millions were displaced, some for the second or even the third time.² Complete villages were moved and emptied, crops burned and populations forcibly displaced in areas controlled by the government, as the government sought to cut off all potential sources of support for UNITA in a scorched-earth and counter-insurrection strategy.³ The Angolan military launched a massive offensive in 1999 that destroyed UNITA's conventional capacity and recaptured all major cities previously held by Savimbi's forces, forcing UNITA to revert to guerrilla tactics.

The death of UNITA leader Savimbi on 22 February 2002 transformed Angola's prospects for peace. Immediately following Savimbi's death, the government announced it would halt all military actions by 13 March 2002. Military commanders for UNITA and FAPLA agreed to a ceasefire, and on 4 April they signed a Memorandum of Understanding (MoU) in Luena as an addendum to the Lusaka Protocol. UNITA forces were incorporated into the new Angolan Armed Forces (FAA) and the National Police, and UNITA's political elite was incorporated into a new Government of Unity and National Reconciliation.

It is estimated that almost one million Angolans died during the 27-year civil war, with more than four million being internally displaced. The war devastated the country's infrastructure in rural areas, hampered government's capacity to deliver basic services, and severely disrupted family and community networks.

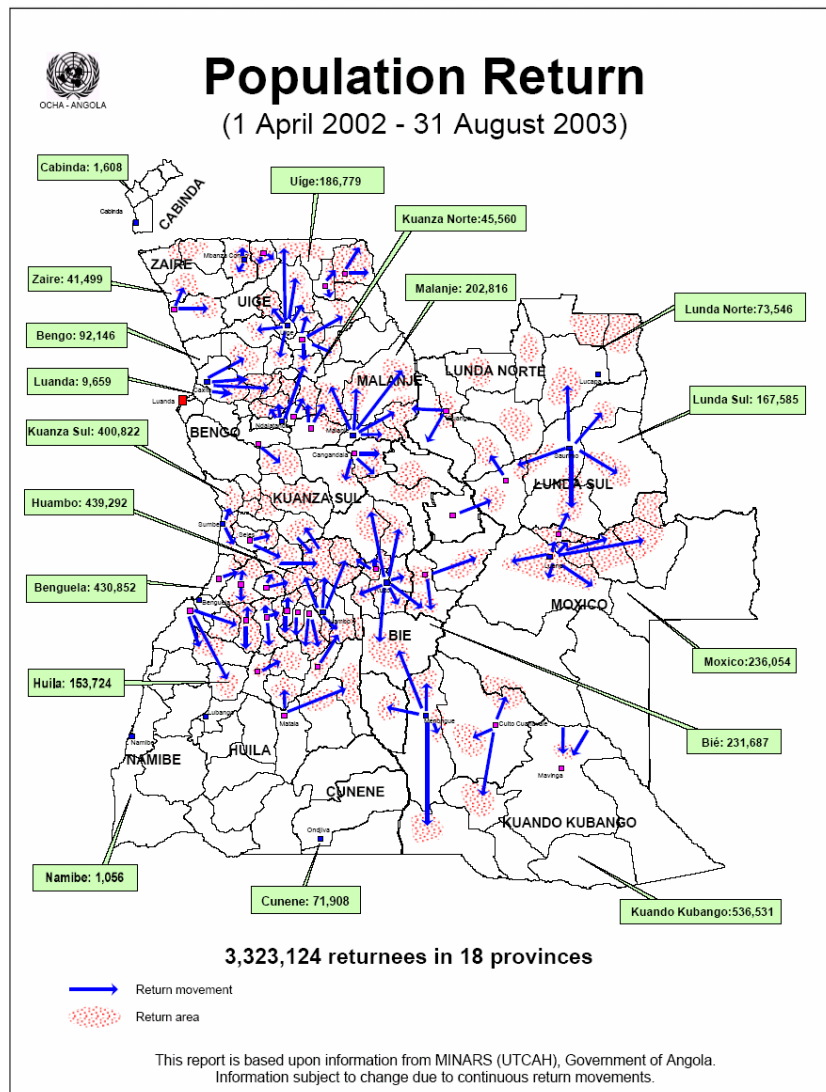
Economic background

Angola is exceptionally rich in resources. It is sub-Saharan Africa's largest oil producer, with output currently running at 1.9 million barrels a day, almost entirely from offshore oil fields along the northern coast.⁴ It is also the world's fourth-largest producer of diamonds (by value), accounting in 2000 for about 15 per cent of the world's production of rough diamonds.⁵ Yet despite its rich endowments of diamonds and oil resources, Angola is one of the world's poorest countries; mismanagement and the squandering of natural resources as a means to bankroll the war have led to the poor performance of the economy.⁶

Nevertheless, Angola's economy has undergone a vast transformation in recent years, moving from the disarray caused by a quarter-century of war to being the second-fastest-growing economy in Africa, and one of the fastest globally. Rapidly rising production and revenues from the oil sector have been the main driving forces behind the improvements in overall economic activity. Control of the oil industry is consolidated in Sonangol Group, a conglomerate owned by the Angolan government. In December 2006, Angola was admitted as a member of OPEC. The economy grew 18 per cent in 2005, 26 per cent in 2006 and 17.6 per cent in 2007; and it is expected to stay above 10 per cent for the rest of the decade.⁷

These indicators of a booming economy contrasted sharply with the widespread and deepening poverty in Luanda observed by the in-country assessment team. The economy's growth strategy is based on the non-labour-intensive diamond and oil industries; meanwhile, the results of capital-intensive growth in the form of roads and infrastructure have not trickled down fast enough to meet the basic needs of millions of people. As one respondent noted, 'growth can bring hardship to the poor.' In addition, Transparency International's Corruption Perceptions Index rated Angola one of the most corrupt countries in the world in 2008.⁸ Basic service provision is still the privilege of only a few Angolans – and millions live without access to basic water, sanitation and electricity. While Angola has a small population of only 14 million, a 2001 national poverty study showed that 66 per cent of the population lived on less than \$1.70 a day, and 25 per cent on less than \$1.00 a day.⁹ The country also has one of the highest infant mortality rates in the world, at 154 out of 1 000 live births.

From the perspective of the assessment team, Luanda appeared to be a city in rapid decay, with a noticeable increase in the number of informal peri-urban settlements since one team-member's last visit in 2005. During the war, economic links between the coastal cities and the agrarian hinterland virtually disappeared. The cities, especially Luanda, survived on imported food paid for by oil royalties rather than on home produce from the countryside. Meanwhile, the countryside was neglected and left to its own subsistence strategies. The lack of opportunities in the rural areas made prospects in the urban centres seem more attractive, despite the poverty of the great slums.¹⁰ Over the years, many people fleeing the war migrated to the towns, and the city of Luanda grew to an estimated population of four million by the war's end.¹¹ The assessment team noted that slums, called *musseques*, stretch for miles beyond Luanda's former city limits. The evidence that these settlements had not only failed to disappear in the aftermath of the war, but have in fact grown, was a striking illustration of the failure of the government's post-war 'rural resettlement' strategy, and its inability to manage the rapid movement into the cities. The map below provides a visible measure of the scale of resettlement and return movements in the immediate post-war period.



This map illustrates the large numbers of people that were considered ‘resettled’ in rural areas a little more than a year after the end of the war. The blue arrows highlight the typical movement of IDPs from urban and peri-urban areas, which were considered safe havens during the war, to rural areas where people had lived prior to the conflict. However, in-country interviews revealed that a large number of these people did not stay in the rural areas, because of a lack of infrastructure, services such as health care or education, or opportunities for economic livelihood. This large-scale return to urban areas has important implications not only for reconstruction, but also for reconciliation and transitional justice. As more and more people from different sides of the conflict and from different ethno-linguistic groups concentrate around urban areas in extremely poor conditions, while simultaneously competing for survival in the informal economy, fault-lines for violence become more pronounced, and reconciliation and community-level conflict resolution becomes critical.

Legacies of the conflict

The transition initiated by the 2002 military victory of the MPLA against UNITA is characterised by a state-led national reconciliation discourse, local reconciliation initiatives led by community organisations, reconstitutions of families and villages, and re-integration of ex-combatants. Although organised violence has ended and there is an official ‘reconciliation’ narrative – in reality, more a ‘forgive and forget’ narrative – for many, this has not translated into meaningful social, psychological or economic benefits.¹² There is a disconnect between the official government narrative and the reality of people’s daily lives – whether in the cities or the rural areas. The narrative omits the full truth of what transpired during the conflict, and there is a reluctance to revisit the past. As one interviewee said, ‘Let’s think of the future, not the past.’ It is important to note that while the government has attempted to build the perception that there is one truth and one national historical narrative, each individual and community continues to understand the conflict in terms of their own experience. The lack of space to share these experiences or reflect on the past may in fact act as an obstacle to the rebuilding of relationships among citizens.

The impact of the conflict itself on the country as a whole was devastating, and this was further aggravated by the accompanying years of neglect and bad governance. By 2002, large areas of the country were inaccessible. This meant that there were large areas of the country where government had been absent for many years, and where post-conflict humanitarian conditions were largely unknown.

Violence and trauma

Twenty-seven years of war have normalised violence in Angolan society; however, the visible presence of the security apparatus prevents the violence from spilling over – ‘containing’ it instead at the community or household level. Interviewees shared a pervasive perception of violence that has been shaped and influenced by people’s experience of the war and its authoritarian nature. All interviewees agreed that there are high levels of ‘household violence’, especially against women and children. They also identified other forms of violence, such as street fights, community struggles, and gangs of young men terrorising communities in Lubango. Some respondents indicated that the high levels of household violence were considered to be a manifestation of the collective and individual multiple traumas suffered by Angolans.

Perhaps more than any other indicator, the disruption and separation of families and communities stands as evidence of the traumatic and widespread nature of this conflict. Government officials interviewed by the assessment team emphasised the accomplishments of the family reunification programme, which was initiated nationwide shortly after the end of the war. Thousands of people were reunited with their families during the two-year programme. But the in-country assessment team learned that the ministry charged with implementing this programme, as well as all programmes aimed at the family and household level, had the smallest budget allocation in government. This has inevitably placed huge constraints on the ministry’s ability to address the emerging violence and traumas experienced at the household and community levels.

Interviews in Angola also revealed that little has been done with regard to the ‘reconstruction of minds’ as a result of violence; in other words, in implementing practical activities towards national reconciliation, particularly at a socio-psychological level. Interviewees explained that Angolans are still considered to be affected by multiple traumas resulting from ‘a history marked by fighting’, a history in which most Angolans were themselves party to the conflict. To a large extent, the ‘amnesia’ approach to dealing with the past is a consequence of these multiple traumas, of an inability to address issues of restorative justice, and in fact of a fear of the consequences of addressing these issues. This is an area where intervention seems to be critical. The Ministry of Family and Women Promotion emphasised the need for psycho-social and trauma healing work to be done across the country, but it currently lacks the resources to undertake this. There is space, therefore, for the transitional justice sector to begin to fill this gap.

Children

The legacy of the conflict has also left a visible impact on the social and educational development of children. All of Angola’s children are direct or indirect victims of the war, because they have been the most disadvantaged by the conflict, and remain the most vulnerable in post-conflict society. According to UNICEF, more than 100 000 children were orphaned or separated from their families during the course of the war, and currently 43 000 children remain separated from their families. Thousands of children were maimed by landmines and subjected to different forms of abuse and violence.¹³ Countrywide, there are thought to be over 10 000 street children in Angola, of whom an estimated 5 000 are in Luanda, driven to the urban areas by both poverty and the civil war.¹⁴ Separated from their families and unable to rely on kinship networks, they become victims of child labour, trafficking and sexual exploitation, all of which have arisen in Angola. School violence, delinquency and the availability of weapons also contribute to a potentially explosive and hostile environment for children.

Thousands of children are also struggling to make the transition to normal lives after being forced to serve as soldiers in the conflict. The Coalition to Stop the Use of Child Soldiers estimates that 7 000 children served with UNITA and government forces in the last round of fighting between 1998 and 2002. Child protection workers in Angola have suggested that as many as 11 000 from the two sides may have lived and worked in combat conditions.¹⁵ While some children may have willingly worked for UNITA, others were abducted while walking to schools, markets and their homes. Children captured in these raids served as ‘apprentice-soldiers’ or ‘auxiliaries’. Given menial tasks at first, some of these soldiers-in-training were later given arms and weapons training, and became fighters. Abducted girls were used as cooks, domestic workers and porters in roles similar to that of boys. Women and girls were also ‘given’ to UNITA commanders and soldiers, and forced into sexual relations and ‘marriages’. Refusals were met with severe punishment, and attempts to escape often meant death. Access to girls held in UNITA areas after the war was difficult. A child rights expert working in Luanda estimated that the number of underage wives married to UNITA soldiers was somewhere between 5 000 and 8 000.¹⁶

Developmentally, adolescents are at the psychological phase where they are forming their identity and making key decisions with regard to their future and their relationship to society. Affected by war trauma and growing up amid normalised violence, many child soldiers cannot conceptualise that peace is the rule rather than the exception, and are at risk of perpetuating these

cycles of violence.¹⁷ For these reasons, child soldiers in particular need rehabilitation programmes tailored to their specific experiences. Without assistance, they are at risk for future manipulation, and are vulnerable to the lure of criminal or violent activities.

The war also destroyed many of the institutions necessary for the rehabilitation of children, particularly schools. Since 1998, 80 per cent of the schools in Angola have been destroyed or abandoned. Some teaching at under-staffed and under-equipped schools takes place in the provinces, though most of these schools are in an advanced state of disrepair. There is a general scarcity of teachers.¹⁸ It is only in Luanda that children stand a chance of getting an adequate education, but here too there are severe constraints – fewer than half of the teachers are adequately trained, there is a severe lack of classroom space, and teacher/pupil ratios can be as high as 1:80. Failure rates are high, and few children enter high school. Only 5 to 10 per cent of children are registered at birth, and this lack of documentation limits access to education, health facilities and employment. Aside from this, in a country that has an official poverty rate of 67 per cent, few parents can afford schooling. The government has reported that 70 per cent of children between six and fourteen years old are likely to remain illiterate.¹⁹ The government has consistently spent below 15 per cent of its budget on the social sector (and in some years, below 10 per cent); and most of this spending simply goes to salaries and administration in the health and education sectors.

The field research team learned that Save the Children has developed a child-protection programme that focuses on the creation of child-protection committees at the community level to address the problem of school violence. The same actors who are part of these committees also appear to be actors in other arenas, such as local reconciliation efforts and conflict resolution processes. They include traditional healers, teachers, catechists, activists (especially women) and local administrators. This is a model that with the potential to be replicated and expanded to provide increased psycho-social services and support for orphaned or homeless children struggling to adapt to a post-war existence. Save the Children has also emphasised the importance of education programmes with a focus on reconciliation, and the development of curricula around ‘cultures of peace’. The organisation is also deeply involved in trauma counseling for children.

Landmines

Angola continues to be one of the most heavily mined countries in the world. Exact figures of the number of landmine casualties remain unknown, but hundreds have died and nearly 80 000 have been injured, many of them women and children. Access to services for victims of mine-related injuries is limited; since the end of conflict in 2002, economic and political resources have been dedicated to reconstruction, demobilisation of ex-combatants, and resettlement of refugees and displaced people, which has delayed programmes for mine survivors and people with disabilities as a result of their injuries. Rehabilitation services are located far from mine-affected areas, and lack staff and equipment. In addition, limited transport and financial resources hinder access to services for rural survivors. It is estimated that only 25 per cent of needs are being met by existing facilities.

Most people with disabilities face physical and social barriers that hinder their full participation in society. Psycho-social support programmes for this population are limited and exist only at the

community level. Staff lack the expertise to ensure the comprehensive re-integration of survivors, and disability awareness among the general public is low. Many survivors do not have access to education, and few are able to earn a living. This situation is further aggravated by high general unemployment, illiteracy and large numbers of disabled persons of working age. Some vocational training programmes are provided by the government and NGOs, but most services are in Luanda or provincial capitals.²⁰

Gender-based violence

Former combatants returning home have found the conditions and structure of family life drastically changed. As with conflict situations elsewhere, male combatants have returned to find traditionally male family roles now occupied by women. These include providing for the household, disciplining male children, building and repairing houses, dealing with community leaders and government officials, and fulfilling religious and social obligations. In Angola, some women have continued to perform these tasks in peacetime, in particular where husbands have died or deserted the household.²¹

Women's earnings in the informal sector of the economy have also started to pose a serious cultural challenge to men's traditional income-earning role and, as a result, to gender relations in the family. These changes may partly explain the upsurge of domestic violence against women and children since the early 1990s, as men returning from war have sought to reassert their authority in the household.

Angolan gender specialist Henda Ducados (2004) has written that economic problems stemming from the conflict were at the root of the issue. Ducados emphasises that 'Because of the war, a lot of men are unemployed and unable to contribute to the household on a regular basis. It seems many feel undermined by the fact that women are bringing home the earnings. Their frustrations have often led to greater drug and alcohol consumption and violence against women. Men feel a sense of frustration from their economic condition, also the fact that many have come back from the war and haven't been re-integrated into society.'²² Interviewees in Angola emphasised men's frustration at not being recognised by society for their efforts as combatants, high levels of substance abuse among males, and the fact that many men are 'absent fathers' and refuse to legally recognise paternity, as sources of domestic disputes.

Women also suffered the direct effects of war in distinct ways. In addition to the large number of women who died as a result of combat operations, many were raped by fighters on both sides. While soldiers were supposed to protect the population, many used their position to exploit women instead. The interaction of thousands of soldiers with the destitute population in front-line regions had also had tremendous long-term gendered impacts. For instance, young women who engaged in prostitution for survival during the conflict may suffer from serious health problems, poor self-esteem, and social exclusion, especially if they become pregnant and/or contract sexually-transmitted diseases such as HIV/AIDS. At the household level, the long years of conflict have also created situations in which women find it difficult to marry and remarry, especially if they have suffered sexual abuse. Women have also suffered disproportionately from landmine explosions, because they are responsible for the task of gathering food. Many have lost their husbands and sons because of the war, thus increasing the number of female-headed households.²³

There is a legal framework in Angola that protects women's rights to own property, to engage in contracts and run businesses, to have access to free family-planning resources, and to have only consensual unions recognised as marriage. However, in practice this framework goes unenforced because traditional norms favour men over women. Thus, in practice, the majority of Angolan women are still fighting for their rights to be acknowledged and respected.²⁴

The in-country assessment team encountered little or no discourse regarding the gendered effects of the conflict or gender-based violence. This conspicuous absence of discussion of the issue – in contrast to the evidence of rising levels of gender-based violence – revealed that neither NGOs nor the general population are sensitised to the issue, which is conceptualised only under the rubric of 'household violence'. This limited understanding of the gendered dimensions of the conflict has resulted in a dearth of programming addressing these issues. However, the assessment team did learn that the Ministry of Family and the Promotion of Women has engaged in several activities to support women, including the creation of women's associations for micro-credit, education and capacity-building; strengthening the Organizacao da Mulher Angolana, which defends women's and children's rights; and continuing with the sensitisation work against domestic violence. A 'Family Code' is also currently being debated in parliament, and respondents believe that this will contribute to strengthening protection for women and children. However, the Ministry expressed a strong willingness to provide more extensive services, and is in need of further support and sensitisation.

The Transitional Justice Landscape

Understanding and defining transitional justice in Angola

The in-country assessment revealed that Angola poses a unique and challenging context to dealing with the legacy of its past conflict. In part, this is because the country lived through such a long period in which there were two relatively clearly defined social and political structures, supported by rival ideologies. Both sides built their internal mobilisation and support through the formation of an exclusive political or even national identity, each claiming to be the more authentic voice. The transitional justice landscape is also complicated by the very nature of Angola's post-war transition. The end of war was abrupt, and for most, unexpected. Angola's 27 years of war produced winners and losers, although the government has refrained from displaying a victorious mood, and has adopted a forgiving attitude, pre-empting the notion of prosecution and punishment for all. Reconciliation has largely been synonymous with a blanket amnesty for crimes committed in the context of war; indeed, the amnesty provisions were continuously updated within each subsequent peace agreement, beginning with the 1991 Bicesse Accords, to include the next phase of conflict. The in-country assessment team learned that this has created a long association in the minds of Angolans between reconciliation and amnesty.

This approach to transitional justice is reflected in Article 6 of the Lusaka Protocol, which states that 'In the spirit of National Reconciliation, all Angolans should forgive and forget the offences resulting from the Angolan conflict and face the future with tolerance and trust.'²⁵ In 2002, when the Luena MoU was signed between the MPLA and UNITA, the priority of the winning party, the MPLA, was to integrate the armed forces into a united Angolan fighting force. The agreement's sole reference to 'peace and national reconciliation' is couched as a general amnesty

for all those who had committed crimes during the 27-year-long war.²⁶ Interviews revealed that for many Angolans, this has been interpreted as taking any recourse to the courts out of their hands.

Political actors continually invoke the concept of reconciliation as an important aspect of consolidating peace in Angola, but in practice, reconciliation has been limited to the warring parties putting aside all past differences, without exploring the causes of the conflict. Little attention has been paid to the social processes that enable individuals and communities to address and overcome the distrust, polarisation and pain caused by the conflict. In the shadow of these arrangements between political elites, ordinary Angolans were told to forget the past and look forward to the future. Such an effort to move on is not without danger, as injuries are not so much forgiven as simply publicly ignored.

Yet the complexity of the wounds suffered by the Angolan people has made even some civil society activists in Angola believe that an institutionalised response to human rights abuses would not be a favourable option today. Interviewees shared the view that, because of its specificity, a South African-style Truth and Reconciliation Commission is not suitable for Angola. The interviewees noted that although the TRC model was suited to the South African context, where it was perceived that the conflict was clear-cut and there were easy categories to be distinguished, between perpetrators and victims, this is not the case in Angola, where virtually the entire country was involved in the conflict. One respondent asked, 'Should we (Angolans) all sit at an Angolan TRC? How can we expect Angolans, exhausted from years and years of conflict, to even entertain such an idea?' The struggle of day-to-day existence leaves very little time for any other issues, including reconciliation. Moreover, concerns were raised that a TRC would taint the government's record as liberators, compromising the 'liberation discourse' so cherished by government since the end of the war. It could also compromise the so-called political reconciliation with UNITA.

Rather than suggest public truth hearings, several respondents indicated that national reconciliation was more closely linked to socio-economic justice and human rights, with the focus being on increasing the pace of service delivery and poverty alleviation. The discourse is also much more about the necessity of having a 'social peace', a settlement that goes beyond a military agreement to include 'transparent political competition'. As one interviewee said, 'It is more important that people are lifted out of poverty, and have access to opportunities. Maybe, much later, through a national debate, we can look at the political side to try to understand the lessons that caused the conflict to last for so long.'

However, there are signs that even 'transparent political competition' remains elusive. The assessment mission to Angola was conducted just three months before the country's first general election in sixteen years. In discussions with civil society actors and opposition party members, it appeared that there had been deliberate manipulation of the electoral process, such as making it impossible for opposition parties to register according to the rules; manipulation of the youth; and disruption of opposition party rallies. At the same time, respondents indicated that there were attempts to manipulate and control what happened at the community level, with the government trying to reinforce the view that it has been the main protagonist in the reconstruction agenda. The ruling party has almost absolute control of the media in the provinces, especially radio and

TV, which are mobilised for these purposes. Five million dollars have been allocated to 68 municipalities for capital-intensive reconstruction development, such as the building of community centres, health clinics and roads – most of these in key rural and urban constituencies. As one interviewee said, ‘This is buying the negative peace.’

Most interviewees spoke about the forthcoming elections, usually without being prompted, and most expressed high levels of fear. For many of those interviewed, the fear is multi-layered, and includes the fear of a return to war if the MPLA loses the elections (in people’s memory, losing an election means a return to war) despite the fact that UNITA no longer has its own military power. This fear is rooted in memories of the 1992 MPLA witch hunt of UNITA supporters after Savimbi went back to war, conducted in large part by MPLA-armed civilians. Millions of small arms remain in civilian hands, raising the possibility that such reprisals could happen again. Luanda was a critical pre-election battleground for the political machinations of the major parties, with no side able to predict how the 8.2 million registered voters, 40 per cent of whom were said to be between 18 and 24 years of age, were likely to vote. Levels of localised conflict were reported to have increased in the lead-up to the election, related to politics, but also related to forced evictions and other property issues. Respondents also expressed fear that the current economic conditions would not improve; fear of authority and informants, attesting to a pattern of authority in the country that has been marked by violence, including violence at the hands of the security forces and the ruling party; and a deep fear that the unpredictability of the past will continue – whether related to elections or not. There was also a sense of powerlessness, an inability to alter or influence the events leading up to the election, and therefore its outcome.

The Angolan government calls itself the Government of Unity and National Reconciliation (including UNITA as ministers and deputies, UNITA teachers and nurses in public services, and so forth), a term derived from the 1994 Lusaka Protocol. National reconciliation has become the mantra of government, as well as a motto for private sector activities – a motto ever-present on the government-controlled media. However, the ‘national reconciliation’ discourse in Angola has up until now been void of any real meaning or practical expression; it has been limited to the building of political consensus between the two parties, as evidenced by the conferring of economic advantages among political elites. Moreover, reconciliation has not extended down to the grassroots level. While the political elites exchange economic favours, Angola faces a severe humanitarian crisis, with the number of unemployed, displaced, and poor growing exponentially, limiting the benefits of ‘peace’ and posing a threat to the consolidation of democracy. Even the depth of UNITA’s own embrace of reconciliation and its motives for doing so remain uncertain, and it is unclear how deeply the supposed consensus on unity penetrates into the two parties’ structures.

It is now a common belief in broader Angolan society that reconciliation is first and foremost a process that takes place on a micro-level, with help from the churches, expressed often as *somos todos irmãos*, ‘we are all brothers’. The majority of the Angolan population has been severely affected by the war, and as a result, fear and distrust are now embedded in relationships among Angolans.²⁷ The situation is aggravated by cultural values that inhibit the expression of grief and pain. Although the war and its consequences have been extensively written about, individual traumas and collective suffering are scarcely mentioned, either in private or in public.²⁸ Beyond

the micro-level, respondents re-emphasised that national reconciliation should be focused on social justice. In concrete terms, this was expressed as:

- no return to war;
- basic services;
- security at household and community levels; and
- employment.

At a community level, respondents indicated the existence of a few key actors working on deepening both reconciliation and democratisation. At the grassroots level, it is important to note that ad-hoc, organic community reconciliation is already happening in a very private manner, but it is also at this level that the occurrence of violence has increased, particularly political violence related to the pre-electoral phase. The existing ad hoc reconciliation processes need to deepen further at the family level, through churches, catechists, civil society leaders, and traditional leaders (known locally as *Sobas*). In the absence of the presence of local administration in vast areas of the country, these actors play a fundamental role as arbiters of conflict. Yet very little research has been done on how these processes should happen, and how they have been happening during the last five years. Virtually no data exists.

Disarmament, demobilisation and re-integration (DDR)

The Luena MoU represented the third time that Angola has attempted a DDR process in an effort to consolidate a sustainable peace. The previous two peace processes were the result of negotiated settlements, and called for UN participation in the DDR process. The Luena MoU stands apart from these previous attempts at peace, both because it resulted from the MPLA's decisive military victory, and because the ensuing DDR process was managed and financed by the Angolan government, with no provision for formal third party monitoring or verification.²⁹ A Joint Military Commission (JMC) comprising representatives of the government, UNITA, the UN and the Troika (composed of Portugal, Russia and the United States) was established to monitor and assess the implementation of all outstanding issues from the MoU.³⁰

Early stages of the DDR process were characterised by a gross underestimation of the number of UNITA soldiers that would seek benefits, and unrealistic timetables for disarmament, resulting in huge numbers of ex-combatants not receiving resettlement kits, reinsertion subsidies or government-sponsored training.³¹ Moreover, only four months into the DDR process, the JMC announced that the demobilisation and disarmament components of the programme had been completed, but large numbers of ex-combatants remained unregistered and continued arriving at the quartering and reception areas many months later.³²

Improving the benefits and opportunities offered to those demobilised from active service was a main focus of the re-integration programme in Angola; yet implementation of socio-economic re-integration programmes has proceeded haltingly. These programmes have been hampered by lack of funds and institutional capacity, the sheer scale of the re-integration effort, and the inability of government institutions and international partners to agree.³³ The government-sponsored Angolan Demobilisation and Re-integration Programme (ADRP) broadly recognises that the process 'should be implemented in close co-ordination with local and provincial administrations to ensure that all activities targeted at ex-combatants remained consistent with overall integration activities at the local level.'³⁴ Yet in practice, the programme seems to rely

entirely on central government agencies with decentralised directorates in the provinces, and on NGOs as implementing partners. Moreover, the re-integration policy has increasingly narrowed its target group and benefits, exhausting the local organisations that implement it.

The priority of ADRP has been to redevelop agricultural production in the rural areas that were most affected by the war, both as an employment option for career-changing soldiers, and as a way to prevent a rural exodus to urban areas. In the rural areas, where most ex-combatants returned, there was often a dazzling variety of re-integration schemes, set up for the time being by local church groups or NGOs. However, these projects could only cater to a handful of demobilised soldiers, and offered limited assistance and few benefits. When the much larger national programme was finally formalised, in many cases all demobilised soldiers came to register. Yet ADRP not only disqualifies the 'old-case load', ex-combatants who were demobilised in the context of the two previous peace processes, but also soldiers that had been more recently demobilised, but had already benefited from another re-integration project.³⁵

Regardless of the government's approach, the social, economic and political re-integration of these different factions of soldiers remains an urgent priority.³⁶ This sentiment was echoed by interviewees in Angola, who emphasised that the socio-economic and cultural aspects of re-integration would determine the success or failure of re-integration efforts. They noted that the various factions would inevitably make up newly-constituted 'communities in the making', and would have to learn to understand one another, and their specific roles and responsibilities within the new community. As one interviewee said, 'One has to learn one's place in these new communities.' This interviewee made a further link between the process of re-integration and citizenship, a link he said could only be made through reconciliation.

ADRP also excluded the following groups from direct benefits: women married to ex-soldiers; unmarried and married women and girls who worked in support functions for the armed forces; women abandoned by their soldier husbands; women who have chosen to leave their soldier husbands; and military widows. The programme's focus on male combatants assumed that all women associated with the armed forces – with the possible exception of woman fighters or combatants – were dependants reliant on men, that male recipients would use their benefits in the interests of their entire household, and that there would be no misuse of benefits. There was also an assumption that the work done by non-combatant women who had been abducted by the armed forces to serve as servants, cooks, or wives did not qualify as soldiering work.

As a result of these assumptions, demobilisation support was made available primarily to male ex-combatants, with women and girls only eligible to receive assistance if they were recognised as ex-combatants, or if they had an official or 'goodwill' link to a male soldier's family. Community acceptance of and assistance to returned female soldiers appeared to be dependent upon their being accepted by a family member in the area of return, or returning with a husband. However, a large percentage of young married women were abandoned by their husbands upon returning to the husbands' areas of origin. Women who were abducted by UNITA also faced the dilemma of whether or not to leave their UNITA husbands and return to their original homes, where they risked social rejection.³⁷

According to research conducted by Human Rights Watch, DDR programmes also discriminated against child soldiers, many of whom carried out the same duties as adults during the conflict. While adult combatants have received identification cards, resettlement kits and food assistance from the government, many child soldiers have been excluded from the demobilisation process, receiving only identification cards and food aid. Beyond the hardships of war, child soldiers were deprived of educational, vocational and developmental opportunities.³⁸

There was no provision in the DDR programme for disarming civilians, and studies show that 10 per cent of uncollected arms remain in the hands of civilians. Given the rise of household and localised violence, the continued presence of weapons among the civilian population represents a pressing security threat.³⁹

Criminal Justice System

The legal framework in Angola gives citizens legal protection for a wide range of political, civil, social and economic rights, as well as constitutional guarantees for the right to seek redress should these rights be violated. Yet there is a wide gap between the constitutional rights given to people and the actual enforcement of such rights. Angola is a highly unequal society, where discrimination and corruption have been rampant in many spheres of social, political and economic life.⁴⁰ And access to justice remains a critical problem in a country marked by impunity and widespread violations of human rights. Interviewees cited several cases where the police and the armed forces have been taken to court on charges of violence against civilians, including charges of murder.

The first and most pressing challenge to access to justice in Angola is that there is no tradition of using the formal court system. Angolans are reported to be rather sceptical of formal legal structures, and levels of trust in the formal legal system are generally low. Historically, the vast majority of disputes have been settled through local dispute resolution structures, especially at the village level. Elders and prominent men in the local environment are entrusted with finding solutions to disputes. Where these efforts fail, people approach the formal courts as a second instance of appeal. This is particularly true for people in Luanda, who are the only ones who have access to courts in any meaningful sense of the word.⁴¹ During the war, the courts barely functioned at all, and today, key access barriers continue to include lack of information, lack of physical proximity to courts, high financial costs and language barriers. The courts themselves are severely constrained by a lack of human, technical and financial resources, and one or two judges often serve millions of people. Moreover, in many areas, municipal courts, the first point of entry into the legal system, are barely functioning.⁴²

Traditional Justice Mechanisms

In Angola, traditional leaders are viewed as community elders, who play an active role in administering their communities. *Sobas* traditionally handle a multitude of local governance matters, including land administration and management, in conjunction with village elders.⁴³ The distinction between the traditional governance structure and the formal structure has blurred in the last decades; in some areas, the *Sobas* have steadily lost power, while in others they have become employees of the government. A recent development in this regard is the government's co-optation of the *Sobas* by giving them uniforms and salaries. This has contributed, in the eyes of some respondents, to increased conflicts at local level, as in order to serve their functions, the

Soba must remain impartial and above political pressure; but they are now seen, in several areas, as partisan actors. The salary given by government is a particular point of contention. During the week of the in-country assessment, a national conference on the role of traditional authorities was convened by the government. Little clarity seemed to emerge from the meeting, and it appeared to be little more than a further pre-election political ploy.

In post-conflict Angola, traditional authorities nevertheless retain a strong symbolic importance. Many people consider the *Soba* to be the most important person in the community, while recognising that in practice the *Soba*'s powers are becoming more and more limited.⁴⁴ Yet in-country interviews revealed that very little research has been done on indigenous approaches to the resolution of disputes and more serious conflicts. The Ministry of Justice is currently preparing a large-scale study on how to incorporate alternative dispute resolution mechanisms, such as mediation and conciliation, into Angola's formal legal system. *Sobas* may be uniquely situated to take on some of these responsibilities should they be formally institutionalised, but additional research is needed to support this effort.

South African military and political involvement in Angola during apartheid

South African military incursions into Angola in the 1970s and 1980s, as well as its support for UNITA, are distant memories only for the majority of Angolans. This is in part because these incursions were limited to the southern (rural) provinces of Cunene and Cuando-Cubango, but also because the widespread war that engulfed the entire national territory, and in particular the urban areas post-1992, was of huge intensity and scale compared to the first phase of the civil war between 1975 and 1992. This does not mean that the wide-scale infrastructural damage caused by the South African Defense Force (SADF) during this period has not had a lasting impact, but it was nothing compared to what happened subsequently. Several of the respondents pointed out that the two cycles of war, from 1992 to 1994, and from 1998 to 2002, were of a different magnitude, intensity and devastation, having provoked casualty levels incomparable to the period before. This remains people's most recent memory of the war period.

There is also an understanding and appreciation (primarily among the military generals) of the geo-strategic nature of the Angolan civil war, conducted primarily during the Cold War period. South African military incursions into Angola (plus the deployment of 50 000 Cuban troops) were part and parcel of this larger global context. When asked about their perception as to whether SADF incursions should have been part of the TRC's mandate in South Africa, respondents dismissed the idea outright, seeing no value in pursuing this line of action. As one respondent expressed it: 'South Africa's transformation from an apartheid regime to a constitutional democracy is sufficient reparation.'⁴⁵ It begged the question – where do we draw the line in addressing past human rights abuses?

This attitude towards the role of the SADF in the Angolan war is consistent with the more widespread Angolan disinclination to dig up or revisit the past; rather, the emphasis is on building the future, which in turn reinforces the central message of the MPLA government – reconciliation and reconstruction. South Africa is regarded as a very important partner for Angola, with the two countries standing to gain a lot from a close co-operative relationship within the framework of SADC and a regional economic approach. Therefore, a much greater interest was expressed in building the bilateral relationship between the two countries in the

current context, with a keen awareness of the changing political landscape in South Africa, and how this could signal improved relations between the two countries.

The lack of interest in a TRC-type process for Angola is further reinforced by respondents' understanding of the key differences between the conflict in Angola and South Africa. In South Africa, much of the war had been covert, and uncovering the truth was an important step towards national reconciliation: the identification of perpetrators and victims (those who perceived themselves as such) was a clear and relatively simple task, with one major aggressor or perpetrator. In Angola almost everyone was involved in the war, and it is difficult to separate aggressors and victims. Added to this, as already discussed, is the overwhelming sense of national 'war fatigue.'

Some of the respondents had personal experience of working with the commanders of ANC camps in Angola prior to 1990. These camps were independent and wholly under ANC control, and respondents reported that they had no knowledge of human rights abuses within the camps. However, it was recognised that a guerrilla war was being fought, which inevitably brings its own abuses of authority.⁴⁶

Recommendations

1. Provide support to appropriate government agencies that engage with the links between past and present traumas

The Ministry of Family and Women Promotion has demonstrated a desire to be more proactive in supporting psycho-social and healing work that addresses the interaction of both long-term war traumas and the traumas of more recent violence. However, despite this ministry's openness to engaging with long-term traumas, there is still an underlying fear of re-opening deep wounds. At the time of the interviews, Angolans' fear of the forthcoming elections was deeply connected to their earlier experiences with unmet expectations. This is perhaps the most important reason that people resist talking about the war, out of fear that this simple act will bring back the old animosities, mistrust and recrimination. Meanwhile there is no acknowledgement of loss. While people may not want to talk publicly as part of a process at national level, it is imperative to create, as one respondent said, the 'space for memories' to be shared, discussed and reflected upon. At present, there is no such space. Furthermore, what remains is a 'story of men' – the gender dimensions of loss and trauma are entirely ignored.

Linked to this is the need for sensitisation and education at a government level, but also throughout Angolan society, on issues of gender-based violence. This relates to unresolved traumas that appear to be manifesting in domestic spaces, but also to increased awareness of the way in which this violence is gendered – a discussion that appears obscured at present by the characterisation of the violence as 'household violence'. The impression that this violence is 'contained' at this level also points to the need for an understanding of the damage the legacy of the conflict can do if the conflict is unresolved; in being passed on as intergenerational trauma, and in future cycles of violence.

The in-country assessment team concluded that the Ministry of Family and Women Promotion would be an important potential government partner with which to begin addressing the source

of these traumas. The assessment team also concluded that the transitional justice sector could add the most value to the Ministry's efforts by helping the Ministry to see the links between past traumas and current traumas in a way that is safe and non-threatening to the country's newfound stability. Civil society can also play an important advocacy and lobbying role to promote dialogue as an important part of reconciliation.

2. Collaborate with community-based organisations on researching local conflict-resolution mechanisms

The key spaces for reconciliation work have been opened at the community level, especially by religion-based organisations. However, the prevailing alternative dispute resolution (ADR) model undertaken by foreign NGOs has been imported from the West, and implemented in Angola without adequately examining local conflict resolution mechanisms. The very few organisations that have undertaken conflict resolution training at community level have not preceded their interventions with appropriate 'baseline' research – thereby missing extremely important indigenous approaches to the resolution of disputes and more serious conflicts. Much more research needs to be undertaken before these types of ADR interventions are considered and executed. Pilot studies should be undertaken in different provinces, including at least one peri-urban and one rural area, to gauge local, indigenous processes of conflict resolution before training in 'Western-style' approaches is considered.

In addition, there is a need to help these organisations develop their capacity for gathering and analysing data to help inform the approaches taken toward conflict resolution. The in-country assessment team identified Development Workshop as an ideal partner for this kind of collaboration, because it has already developed foundational materials and workshop programmes on conflict resolution and violence prevention, and has both high credibility and a wide impact.

With regard to education-based reconciliation initiatives, Save the Children would be an ideal partner for projects in Angola. Save the Children's 'Revisiting the Future' programme focuses on addressing the lack of access to education, and on developing a new model of education around 'cultures of peace' at a very early age.

Further research should also be conducted to supplement the Angolan Ministry of Justice's study on incorporating alternative dispute resolution mechanisms into Angola's formal legal system. The need for this research is suggested both by the growing levels of community-based conflict and the absence of the judiciary in large parts of the country. More research is likewise needed on *Sobas* – experience in other African post-conflict settings demonstrates that it is these structures that are the most relevant and most utilised by local communities, but equally they are also the most often corrupted or undermined through politicisation and conflict. Research is needed on how communities have re-integrated, what structures they have utilised to manage conflict and resolve or minimise faultlines for violence, where this has occurred, and how local structures can be strengthened and democratised to increase access to justice while also contributing towards establishing a culture of human rights.

3. Improve data-gathering capacity

The absence of socio-economic data – or baseline data in general – and the severe lack of capacity to gather this data is a huge challenge. The lack of data has made it impossible for the UNDP to report on progress on the 2008 Millennium Development Goals for Angola. Although a large household survey is being conducted by the government (with the National Institute of Statistics), UNDP does not expect the results to be released before the first quarter of 2009. The result is that no single agency or organisation in Angola has accurate data or statistics on population or socio-economic indicators.

This also impacts on the capacity to meet victims' needs for redress, or to understand what these needs and desires are. Research in general – and building the capacity of local researchers – is needed to document levels of trauma, experience of conflict, levels of gender-based violence, justice needs and more. Work should also be conducted on the issue of reparations – this is a legal right of victims of gross violations of human rights, and yet it was not mentioned by any respondents during the course of the research.

Challenges

The government's clampdown on civil society, and its shutting down of the UN's Office of the High Commissioner for Human Rights in-country offices, have created major constraints and questions about how much political and operational space NGOs will have in which to work. Interviews with certain respondents revealed that such space was limited and narrow. There are divisions in the orientation of Angolan civil society organisations, with some acting as virtual mouthpieces of government policy, and others quite eager to engage with transitional justice issues. This means that finding appropriate in-country transitional justice partners will be a challenge. Moreover, the government's 'forgive and forget' approach to the post-war context means that programmes and initiatives that are couched in terms of addressing the traumas and injustices of the war will encounter resistance. Such programmes will gain more traction and support if they are framed in terms of social justice and development, or as dealing with present-day trauma, which is more in line with the government's 'reconstruction' approach to post-war reconciliation.

The language barrier will present a challenge to working in the Angolan context. Most respondents in this study could not speak English, and even those with good English skills often lacked the technical vocabulary to engage in relevant content discussions.

Appendix 1: Members of the Mission to Angola

In-country assessment team

Adèle Kirsten, Executive Director, CSVR (lead institutional partner)

João Gomes Porto, Bradford University, UK (consultant)

Eunice Ignácio, Development Workshop (in-country partner)

Researchers

Ashley McCants, CSVR

Glen Mpani, CSVR

Mozambique

Executive Summary

The Institute for Justice and Reconciliation (IJR) in South Africa and the International Centre for Transitional Justice (ICTJ), in partnership with Mozambique's Association for the Promotion of Peace (PROPAZ), conducted an assessment mission to Mozambique between 25 and 31 May 2008. The mission was part of the wider Southern African Regional Assessment involving studies of Angola, Mozambique, Namibia and Zimbabwe, aimed at understanding how these countries have negotiated their transitions from conflict and oppressive rule. Furthermore, the mission sought to deepen its understanding of South Africa's role in the region during the apartheid era and beyond.

Following independence from Portuguese rule in 1975, Mozambique was thrust into a civil war between the former liberation movement and government, the *Frente de Libertação de Moçambique* (FRELIMO), and the *Resistência Nacional Moçambicana* (RENAMO). Cold War policies meant that RENAMO received direct support from Rhodesia and South Africa, along with tacit and material support from the West, while FRELIMO was supported by the Soviet bloc. The conflict endured until the signing of the Rome Peace Agreement in 1992, which was followed by the first democratic elections in 1994. As the quotations above suggest, peace was the priority in a country that had endured bitter conflicts for over two decades. Within this milieu, censure for past deeds by either the government or RENAMO forces was not considered an option.

While Mozambique has had no formal accountability or reconciliation process, one of the key findings of this assessment is that since 1994 Mozambicans have engaged in a wide range of transitional justice mechanisms that have often been overlooked because they were not institutionalised as part of a 'national' project. Instead, churches and communities mobilised to initiate a variety of mechanisms aimed at healing and re-integration.

Mozambique is currently enjoying rapid economic growth of around eight per cent, and has replaced Zimbabwe as South Africa's leading economic partner in the region. Nonetheless, issues of social justice are increasingly becoming evident. The inequity between the growing elite and the majority who live on less than \$1 a day resulted in food riots in Maputo in February 2008, but many in government dismissed these riots, saying they had been orchestrated by external forces. Underpinned by a long Portuguese colonial legacy, Mozambique's post-colonial rulers have in many instances failed to adequately address issues of identity, ethnicity, development, exclusion and political domination. Major gender-based inequities, which women's groups claim result directly from the lack of any national project to address the impact of the conflict, are an enduring feature of the transition. This assessment identified some of the strengths and weaknesses of the transition, and made recommendations.

Introduction

*'Mozambique decided to prioritise peace and stability as a transitional policy.'*⁴⁷

*'Who ought we to have prosecuted? If not the Rhodesians, South Africans and other international players, why RENAMO and FRELIMO?'*⁴⁸

*'We had fought a terrible civil war that reached into the heart of every family. Some of the worst offenders were victims in the sense of having been abducted and forced to kill. Our priority was family and community healing.'*⁴⁹

*'The common enemy was war. We all agreed that it needed to be ended at almost any cost.'*⁵⁰

Aim of the assessment

The May 2008 assessment was performed by the IJR and the ICTJ in collaboration with PROPAZ, a Mozambican organisation that works in the area of peace-building and development. The goal was to investigate how Mozambique had dealt with its traumatic past of civil war, and addressed its post-conflict challenges. The assessment mapped the nature and variety of post-conflict reconciliation processes in a country that did not implement formal transitional justice mechanisms. It also examined key concerns that could threaten or undermine Mozambique's apparent current stability. The necessity for future transitional justice initiatives was an overriding concern.

The mission was part of a broader enquiry into the transitional justice landscape in the Southern African region. This was driven by four broad objectives:

- to map and assess the current status (or lack thereof) of transitional justice initiatives in Angola, Mozambique, Namibia and Zimbabwe, as well as in South Africa;
- to identify and understand local priorities in the transitional justice area;
- to ascertain the capacity of civil society organisations to play a role in any future transitional justice initiatives; and
- to make recommendations on how to address transitional justice in each country.

Team composition

The assessment mission was composed of four people: senior consultant and former director of the IJR, Dr Charles Villa-Vicencio, who was also the head of South Africa's Truth and Reconciliation Research Unit; Shuvai Nyoni, who heads the Zimbabwe Desk for IJR's Transitional Justice in Africa Programme; Dr Helen Scanlon, who is the Africa Coordinator of the Gender Program for the ICTJ; and Salomão Mungoi, Project Officer at PROPAZ.

Methodology

The Mozambique assessment mission was conducted over the week of 25–31 May 2008. Before the mission, the three organisations identified key actors in Mozambique's transition who could describe both the past and possible future transitional justice issues. This resulted in a series of interviews with ex-combatants, representatives of both government and RENAMO (as well as those involved in the 1992 peace negotiations), journalists and women's organisations. The

majority of the mission's work was conducted in Mozambique's capital, Maputo, but the team also travelled to Beira, which was at the heart of RENAMO territory. (For further details of the organisations with which the team met, please contact the author.)

The assessment coincided with an upsurge of xenophobic violence in South Africa which resulted in the deaths of at least 30 Mozambicans. The violence caused up to 40 000 Mozambicans to leave South Africa and return to Mozambique. This caused many to re-evaluate the relationship between Mozambique and its neighbour, South Africa.

Background to Country Assessment Mission

Context

The arrival of the Portuguese in Mozambique in 1498 precipitated their rule over the indigenous population until 1975 when the *Frente de Libertação de Moçambique* (FRELIMO) seized power. However, shortly after independence the country was plunged into a brutal civil war that lasted for nearly sixteen years (1976–92). This war took place in the context of the Cold War during which most African countries were aligned to one of the international superpowers.

The conflict between FRELIMO and RENAMO was aggravated by political, economic and cultural diversity in the country. That diversity included Islamist-influenced societies, as well as matrilineal cultural groups north of the Zambezi River, a set of patrilineal groups in the centre of the country, and others, south of the Save River, closely connected to the Swazi and South African people. These schisms were aggravated by the Portuguese colonial presence, which located its administration and developed a colonial infrastructure in the south, while leaving the centre and northern regions under the administration of multinational companies that showed little interest in socio-economic development. This resulted in significant and continuing regional economic inequities between the south and the centre-north regions.

When FRELIMO gained power in 1975 its governing Marxist-Leninist ideology resulted in the creation of a one-party state. All political opposition movements were deemed illegal, effectively excluding sections of the population from the political process. The government also argued that traditional African cultural practices would restrict Mozambican development. Some FRELIMO leaders in the liberation struggle were, in turn, excluded from the new government, generating further discontent, both among those who had remained in the country during the war and those who returned to the country from exile. Traditional leaders – both chiefs and traditional healers – were also excluded from political life, despite their community leadership roles. This, together with the prevailing sense of alienation in the rural areas in the centre-north of the country, exacerbated the country's underlying tensions, and led to fully-fledged civil war.

The national liberation struggle and the subsequent civil war had resulted in the loss of over a million Mozambican citizens and displaced some 40 per cent of its population. The cost of the war was estimated to be US\$15 billion, and, according to analysts, resulted in every Mozambican family having 'at least one member or acquaintance who was killed, mutilated, or who disappeared'.⁵¹ All of these factors have contributed to the power struggles that continue to underlie the Mozambican political landscape today.

A peace agreement between FRELIMO and RENAMO was eventually brokered in Rome in 1992, and the first democratic elections were held in 1994. FRELIMO won 129 seats against RENAMO's 112 seats, in a 250-seat parliament. According to one of the interviewees, RENAMO accepted the peace agreement partly because it believed it would win the vote (and given a different electoral system it might have done because of its popularity in the north). Nonetheless, FRELIMO's Joaquim Chissano was elected president, with 53 per cent of the popular vote, defeating RENAMO's Alfonso Dhlakama. War-weariness and a commitment to peace by both FRELIMO and RENAMO leadership, opened the way for an initial period of co-operation between the former enemies. By the end of the first five years of government, however, this earlier co-existence had given way to resentment as the FRELIMO government imposed its values and centralist ideology on the country.

FRELIMO's control of parliament has steadily increased since 1994. In 1999, FRELIMO won 133 seats in the National Assembly while RENAMO won 99, and the remaining 18 went to smaller parties that had formed a coalition with RENAMO. Joaquim Chissano was re-elected President, with 52.3 percent of the popular vote. The most recent election, in 2004, saw a dramatic fall in support for RENAMO: FRELIMO took 160 seats in parliament under the new president, Armando Guebuza, while RENAMO and its coalition partners secured just 90 seats.

South Africa's role and involvement

The threat to white rule in southern Africa posed by the collapse of Portuguese control of Mozambique and Angola in 1975 led both Rhodesia and South Africa to provide clandestine logistical support, funding and weapons to the *Resistência Nacional Moçambicana* (RENAMO), FRELIMO's major opponent in the civil war.

In turn, the FRELIMO government offered safe haven to fellow African liberation fighters from other countries, including members of the African National Congress (ANC) in South Africa, and the ZANU nationalists of Rhodesia (now Zimbabwe). In 1984, the Mozambican government signed the 'Nkomati Non-Aggression Pact' with South Africa's apartheid government, committing both countries to ensure that their territory was not used as a base for attacks against the other. However, it is widely held that South African support for RENAMO continued throughout the 1980s. The collapse of the Soviet Union and the end of the apartheid regime in South Africa both undermined external support for the war. Combined with war-weariness and a devastating drought in 1991 the warring parties finally signed the 1992 Rome agreement.

Since 1994, Mozambique has developed strong economic ties with South Africa, and is now the country's principal trading partner. The manufacturing industry is proving an attractive investment area for South Africa, as is tourism. Major South African investors include SA Breweries, Standard Bank, Anglo American, and Eskom (South Africa currently imports electricity from the Cahora Bassa hydro-electric facility).⁵²

Mozambique's Transitional Justice Landscape

Background

Mozambique has undergone two transitions since 1975 – the first from colonialism to independence and the second from civil war to democracy in 1994. Each transition resulted in different approaches to deal, or not deal, with the legacy of the past. The post independence government led by Samora Machel took measures to confront the past through seeking accountability from the *comprometidos* (the compromised) who had collaborated with Portuguese. Between 1978 and 1982 the programme, dubbed 'let us not forget the past', set out to 'transform the compromised based on the presumption of guilt, repentance, punishment and re-education'.⁵³

In direct contrast to Machel who had argued 'only by reviewing the past will we know the present' Mozambique's more recent transition resulted in what has been dubbed as a collective amnesia. An amnesty agreement for crimes committed between 1979 and 1992 ensured that prosecutions for crimes committed during the country's conflict by either side were set aside. Instead the first democratically elected government of Mozambique instituted a policy of reconciliation between former warring groups.

By mid-1995, more than 1.7 million Mozambican refugees had been repatriated from neighbouring Malawi, Zimbabwe, Swaziland, Zambia, Tanzania and South Africa. Independence was celebrated by RENAMO and FRELIMO together, and reports suggest that there was a significant democratisation under the first government. Journalist Tomas Vieira Mario points specifically to the beginning of multiparty government, press freedom, the institution of a national electoral commission and economic recovery as indicators of reform and a 'good start to democratic government'.

However, Archbishop Jaime Goncalves, a facilitator of the Mozambican peace settlement and subsequent advisor to RENAMO, identified 'the undermining of communal and local structures' as a major cause of the current social problems facing the country. Dr Brazao Mazula, Executive Director of the Centre for the Study of Democracy and Development, spoke of the need to 'allow local communities to take responsibility for their own socio-economic needs'. Others made similar points, stressing the need to decentralise governance and service delivery to regional government and local communities.

In an attempt to define current priorities in Mozambique, the same question was posed to a range of people: '*If you were president, what is it that would keep you awake at night?*' The common response was growing poverty, increased crime, health and education. Archbishop Jaime Goncalves stressed that the major socio-economic challenges facing the country cannot be resolved without dialogue and co-operation between government and opposition groups in the centre-north. Terezinha da Silva, the national co-ordinator of Women and Law in Southern Africa (WLSA), noted that what the country needed was: 'The revision of all legislation from a gender perspective and the development of structures to ensure these laws are implemented.' Graça Samo, the executive director of Fórum Mulher, called for: 'Holistic education, which is more than sending girls and boys to school'. Dr Brazao Mazula spoke of the need to address 'both material and political poverty'. He spoke of the need for a strong civil society, and political

leaders who are ready to address the concerns of the poor. ‘Some politicians,’ he argued, ‘have forgotten to do this, creating [a] rift between leaders and people . . . The economy is growing but ordinary people remain desperately poor.’

It is these issues – socio-economic concerns and good governance – that Mozambicans see as priorities in the ongoing transition of their country to a more comprehensive type of democracy.

Economy

Mozambique’s economy has experienced high levels of growth in the last decade, with an official average growth rate of 8 per cent. The country has also received a steady flow of international investment, most notably from neighbouring South Africa, and from China. The tourism, agriculture and forestry sectors, though contributing to the growth in Mozambique’s economy, are dominated by foreign investment. Fifty-one per cent of the country’s budget is derived from international donor funds. These donors consist primarily of the European Union, the World Bank and International Monetary Fund (IMF), Japan and the Nordic countries.

Despite Mozambique’s apparent economic renaissance, the country faces a dramatic regional imbalance in economic development and prosperity that can be traced back to colonialism and the inaction of post-colonial governments. Over 70 per cent of the Mozambican population lives in abject poverty. The 2007/8 UN Human Development Report ranked Mozambique 172nd out of the 177 countries analysed (which is a drop from 168th place in 2005).

As occurred in other colonial situations, the economy was developed not for the benefit of the country but rather to serve colonial interests. Little was done to invest in human capital – at the time of independence there was one black medical doctor and only one black agronomist in the country.⁵⁴ Roads and a substantial infrastructure had been developed in the colonial capital of Lourenço Marques (now Maputo) and the surrounding areas of the south, while the centre-north was neglected. This economic imbalance, inherited by the FRELIMO government, carried with it tensions and animosities that were further exacerbated by FRELIMO’s political and cultural neglect of the rural, less-developed north. These tensions allowed the South African and Rhodesian governments to fuel and fund rebel discontent through supporting the establishment of RENAMO.

In 1994, the first democratic government in Mozambique inherited a classic ‘centre-periphery’ problem. The south, with Maputo at its heart, had a relatively good infrastructure and capacity for economic development, particularly in comparison with the centre-north. The latter was the prime theatre of war which further impeded the development of those areas. While development of infrastructure and services has taken place in some parts of the centre-north since 1994, the pace and extent of this development is a matter of continued political dispute. Maputo’s proximity to the industrial centres of South Africa, and easy access by road and plane, has accelerated growth in the south since 1994. Its manufacturing industry is proving an attractive investment area for South Africa. Tourism has in turn grown substantially, with Maputo acting as a gateway to coastal and island resorts – many of which are owned and managed by South Africans.

Meanwhile, agriculture is emerging as a potential source of major foreign investment and revenue, with positive developments projected for the centre-north regions. The timber industry is growing rapidly. There are an estimated seven million hectares of timber under cultivation; China is now a major importer of Mozambican indigenous and cultivated timber. As South African agriculture comes under increasing pressure, Mozambique may well provide the country with agricultural crops such as fruit and vegetables. An agricultural consultant suggested that Mozambique might well become South Africa's major source of fresh produce within the next five to ten years. 'If the Mozambican government can address the growing social discontent by providing jobs, the economic growth is likely to stabilise above the present 8 per cent growth rate.'

The major threats facing the Mozambican economy are high unemployment, inadequate wages for workers in the formal labour sector, and an increase in the income gaps between the emerging middle class, the political elite and the poor. Eighty-one per cent of workers are employed in the agricultural industry, with limited trade union organisation, a high level of illiteracy and poor health services, suggesting that low-income workers and the unemployed (the official unemployment rate is currently 21 per cent) are likely to remain on the margins of society for the foreseeable future. This is compounded by the fact that Mozambique has the tenth-highest HIV prevalence rate in the world (16.2 per cent). The February 2008 protests and unrest in Maputo are seen as an indication of the restlessness that underlies Mozambican society. Trade unions are not well established; and legislation designed to protect workers, women and children is often not put into practice, and has little or no impact on the majority of those who work in the informal sector.

Politics

The transition from civil war to peace was facilitated through a two-year negotiated peace process involving both warring factions. After a sixteen-year civil war, the population was war-weary and changes in the global political context and in neighbouring countries contributed to a peaceful solution. It was important to secure the support of the security forces, and in the first years of transition, wide-scale DDR was initiated to promote peace. The downside of the settlement was that many of the major systemic sources of conflict were left unresolved. 'The fear was that a too aggressive approach to poverty, under-development and open democratic debate could scupper the peace,' suggested Irae Baptista Lundin, a lecturer at the Institute for International Relations. Mozambique, like so many other countries that failed to address these concerns adequately is now paying the price for its neglect.

The role of civil society during and after the Peace Agreement was of particular importance, with faith communities playing a significant role. 'Many of the NGOs that exist still today have their origin in faith communities,' reported Aida Muhai from the Organisation of Conflict Resolution (OREC). The attitude of government to civil society, and the level of co-operation between NGOs and government, seems to vary from situation to situation. The general feeling expressed by civil society was that the government was not providing sufficient space or support for them to realise their goals. Some suggested that individual government ministers favour NGOs that are perceived to be supportive of FRELIMO. Others reported that some ministers see (undisclosed) 'international players' to be behind the criticism of government by NGOs and churches. International NGOs are required to register with an assigned government agency, which some

interpret as ‘government control’. Others described it more simply as a process needed to counter the duplication of services caused by geographical spread. There was no suggestion of direct hostility to civil society by government. ‘The threats made by some politicians in the ruling party are unlikely to result in serious action against civil society,’ Aida Muhai said ‘Vigilance is however necessary.’

NGOs and faith communities both played a critical role in promoting peace and stability by training rural people in non-violent conflict resolution, and by consolidating the re-integration of ex-combatants into society. The media have also helped ensure public debate on democratic values. Academic institutions and human-rights NGOs are in turn upholding human rights through teaching, research and activism, providing alternative perspectives and initiatives to the two dominant parties, and encouraging more programmatic approaches to politics. They are influential in the promotion of issues of social justice, demanding reforms to the security sector through the training of police, and in the support of the rights of women and marginalised groups and the protection of children.

Irae Baptista Lundin stressed the importance of civil society, and the need for opposition voices in parliament to be heard. She argues that while there have been questions as to whether elections have been ‘totally free and fair’ there is no question over the present government’s legitimacy. ‘Whether anybody likes it or not, the government has been elected, for whatever reasons, with an increased majority in the last election. Politics being what it is, there is less pressure on them than before to be inclusive in policy and governance . . . In order to ensure future political stability, participation by all Mozambicans in the political process, it is vitally important that civil society, academics, the churches, the mosques and the media give expression to the needs of those Mozambicans who feel that their expectations are not being met by government, and to suggest ways in which these needs can be met.’ Asked to name the most urgent need facing the country, she noted: ‘Poverty . . . this is a need that transcends all political parties and all sectors of society. Everyone must be involved in addressing not only poverty in itself, but also the social impact this has on the lives of people.’

Justice

While Mozambique is a signatory of the International Criminal Court’s Rome Statute, it has not yet ratified the treaty. As noted earlier, the amnesty embedded in the 1992 peace agreement resulted in a national discourse of ‘forgive and forget’ which is now compounded by reticence towards revisiting the wounds of the past. There is currently no indication of political will by the government to prosecute those who perpetrated human rights abuses during the war for independence or the subsequent civil war. Even if the political will to pursue prosecutions were to emerge Mozambique currently lacks the investigative and judicial resources to do so. Mozambique has, however, made some important strides in the promotion of a human rights culture since 1994 through the inclusion of some significant provisos in its constitution and parliamentary laws. However, corruption, crime and a weak justice system are undermining these laws.

Several interviewees and organisations suggested that the institutions of justice are among the weakest arms of government, and that more funding is needed in this sector. It is estimated that there are currently only 250 attorneys in the country. Some argued that attorneys and judges need

more training, and that the court system needs to extend its reach, especially into rural areas. Numerous lawyers and judges are alleged to have left the country because of frustrations with the system.

The government has tried to address shortfalls in the judicial system through the promotion of Community Tribunals or People's Court that deal directly with social issues. Several of these have been elevated to the status of Community Courts. The general concern of civil society organisations is, however, that these courts tend to reflect traditional patriarchal values, and as such, fail to deal adequately with individual human and women's rights. It is further suggested that in many cases, the broader population does not have sufficient information about their rights under the constitution and law. 'Education in human rights for Mozambicans, especially those in the rural areas who are often without adequate education or access to the developments in the area of human rights, needs to be prioritised,' says Graça Samo.

The failure of the formal justice system to address the basic needs of the people appears to be a direct contributing factor to the recent phenomenon of *Misamentos*, which are local justice- or problem-solving initiatives. In some situations, these initiatives have taken the form of vigilante activities.

Some observers argued that a truth commission may have been useful at the end of the civil war, but would have little relevance now. In 2004 former President Joaquim Chissano, when explaining why he opposed the creation of a truth and reconciliation commission, told journalists that 'we do not need to know who killed more between one and the other'.⁵⁵ As Victor Igrega has noted, the peace agreement and the subsequent political environment have been based on 'cultures of denial' under which a 'collective blind eye' has been turned to the atrocities of the past.⁵⁶ However truth-seeking mechanisms are occasionally demanded by the opposition in parliament particularly at election time. Igrega has observed that these calls are getting louder due to FRELIMO's sovereign version of the country's history which excludes voices of the opposition.⁵⁷

Many war veterans, especially those who remain unemployed and socially marginalised, speak of the need for reparations. Such demands often occur along party political lines. Those soldiers who have served ten years in the ranks of FRELIMO's army receive a veteran's pension. However, RENAMO combatants do not qualify for a pension as they were never officially registered as soldiers. Only disabled RENAMO soldiers receive support from a separate government fund.

Mozambique has a Parliamentary Petition Commission to hear the claims of citizens and organisations of civil society for the redress of human rights violations as well as other civic demands. These claims are investigated and, where possible, restitution is made. Civil society sees institutions like these as vital in the promotion of socio-economic and political transformation, although most NGOs express concern that they are not functioning as well as they should.

Gender concerns

Significant progress has been made in the passing of gender-sensitive legislation in Mozambique's post-conflict environment. Due to a quota system women constitute one-third of parliament which is one of the highest proportions in Africa. The government has a female prime minister, Luisa Diogo, and has recently introduced legislation to combat gender inequities at a number of levels. This includes the Family Law of 2003, which raised the marriage age from fourteen to eighteen, allowed women to inherit property in the case of divorce, and legally recognised traditional marriages. In practice, however, these rights are often ignored or misunderstood.

Women were visible participants in both the eleven-year struggle against Portuguese rule and the subsequent civil war. In 1973, the women's wing of FRELIMO, the Organizaçao de la Mulher Moçambicana (OMM), was established, and Samora Machel made a bold commitment to the liberation of women as 'a fundamental necessity for the revolution, a guarantee of its continuity and a precondition for victory'.⁵⁸ In both conflicts, women took a variety of roles, ranging from active soldiers and bush wives to cooks, cleaners and the mothers of children born to combatants, although as one interviewee noted, all girls and women received some basic military training. However, women combatants were generally overlooked in DDR processes, and as a result, their re-integration was uneven particularly in the aftermath of the civil war. The United Nations Development Programme (UNDP) has previously reported that when RENAMO soldiers were demobilised, the women who had accompanied them were literally left at the side of the road.⁵⁹ Women's groups in the country and international NGOs who sought to address these concerns often faced resistance from local communities who saw their interventions as a violation of community customs and traditions.

Basic re-integration activities were rarely extended to women and their contribution to the conflict has not been adequately acknowledged. There are some examples of women's own involvement in traditional reconciliation rituals, but their role was predominantly to marry returning soldiers as part of a process to assimilate them into the community— a problem discussed further below. Further pockets of female ex-combatants who have still not been demobilised were reported by PROPАЗ and they explained this as a consequence of the inadequate gender sensitivity of DDR policies.

An obstacle facing the organisations working on these issues is the lack of documentation on, and willing testifiers to, the abuse of women, either during the war or currently. Some married women returned to their homes with children they bore in the bush and were turned away by their husbands or families on their return. These women are often neglected by government, as well as by some in the war veterans' organisations and local communities.

UNDP estimated that RENAMO and government forces together recruited some 250 000 boy soldiers, some as young as six years old (the Mozambican government was shown to have forcibly conscripted urban youths between the ages of fourteen and sixteen). However, no statistics were compiled to document the number of girls recruited and/or abducted.⁶⁰ These children – both male and female – were also allegedly neglected in DDR processes, largely because neither of the warring parties wanted to admit they trained children as combatants.

Transitional justice initiatives

In the absence of formal transitional justice approaches there have been a number of informal initiatives and organisations that have actively pursued issues of justice as well as social trauma and human rights concerns.

Traditional reconciliation initiatives

In the absence of state led reconciliation processes, many Mozambican communities sought to promote reconciliation in traditional ways and traditional healers played a critical role in bringing victims and perpetrators together. Since families often had both RENAMO and FRELIMO combatants within them, reintegration through ‘cleansing’ rituals was important to help overcome feelings of anger, fear and revenge. Typically, this has involved steps of physical and spiritual cleansing, connecting to spirits of relatives to let them know they were back safely from the fighting, and connecting to spirits of people they had killed, and asking for forgiveness. These ceremonies provide a way to communicate with the ancestors from whom no one can hide his or her past. The processes have a number of regional variations, but ordinarily the ex-combatant discards his or her identity and is ‘reborn’ as a different person.⁶¹

Mozambican academic Victor Igreja has undertaken important research among those involved in traditional reconciliation and healing rituals and initiatives, particularly in the Sofala Province, in central Mozambique. This research has clearly challenged other researchers and practitioners in Mozambique and elsewhere to augment the limited written accounts and publications concerning these practices.

Researcher Alcinda Honwana has written about ‘war-related psychological trauma being directly linked with the spirits of the dead killed in war’. She suggests that trauma cannot be adequately addressed among traditional Mozambicans without an understanding of their belief in the spirits of the dead. Victor Igreja describes how the *magamba* spirits of war are appeased in ceremonies conducted by *magamba* healers in the Gorongosa area. He explains how the healers re-enact the civil war through symbols and dance, by crawling on the ground, brandishing weapons, engaging in simulated fighting and thrusting their bayonets in the air as if stabbing people. Often they smoke *nbanje* or cannabis and drink alcohol to induce a sense of spirit possession, creating an atmosphere within which those survivors of war who are possessed by the hostile *magama* spirits can experience healing and peace. Through these rituals, war survivors may be brought into contact with the spirit of a person killed in war who had been denied funeral rights which prevent his or her spirit from returning home as an ancestor.

To ensure that the truth is made known, the process involves all those directly and indirectly involved in the killing. Accusations are made and reparations demanded through the mediation of the *magamba* healers, enabling a form of justice to be carried out. Symbolically and ritualistically, negotiations are entered into between the living community and the unappeased dead. The aim is the healing of the possessed person, and the enabling of the spirit of the dead to rest in peace.

Those interviewed regarding traditional ceremonies gave varied responses. Most agreed that these ceremonies play an important role in Mozambique but many expressed concern that the ceremonies fail to address the basic rights to justice of those involved. Graça Soma spoke, for

example, of the role young women are often expected to play when a former fighter is drawn back into the community through marriage to a woman of the community in question. She mentioned the need for traditional practices to be interrogated in order to investigate gender-related concerns over these processes. The relationships between traditional African practices of justice and restoration, and those of the international community, need to be addressed. 'There is insufficient work being done in this area,' she noted. It is apparent that the government has started to use the apparent success and international fascination with traditional justice as arguments to justify their decision to prioritise peace and security. Former President Joaquim Chissano noted in 2004 that 'reconciliation in Mozambique is being made in a Mozambican way, with daily actions, and this is being applauded worldwide'.

Religious ceremonies were equally important in Mozambique's transition as over 40 per cent of the population is Christian. The majority of the churches became engaged in spreading a message of peace and reconciliation without any type of *justiça terrena* (earthly justice). Ideas about obtaining formal justice were totally discouraged. It was argued from the pulpit that the responsibility for enacting justice against those perpetrators of human rights abuses during the conflict was the role of God alone.⁶²

Organisations of ex-combatants

Between 91 000 and 100 000 male soldiers from RENAMO and FRELIMO were demobilised in the aftermath of the civil war.⁶³ The official message of the government is that reconciliation has taken place between war veterans and that former soldiers have been re-integrated into society. While the government more or less honoured its initial commitment to include both FRELIMO and RENAMO forces in the post-1994 security structures of the state some of those who took part in the war remain marginalised and aggrieved.

Of particular concern is the payment of government pensions to ex-combatants which requires evidence of ten years of formal involvement as a soldier, with allegations of corruption in the issuing of the required documentation. As already suggested, this is a point of tension with RENAMO ex-combatants who are excluded from receiving pensions.

Those involved in ex-combatant movements also speak of a general feeling among former fighters from both sides that they have been abandoned by political leaders. Some suggest that these leaders are unjustifiably blaming them for the criminal violence that is growing in the country. Some at the Association for Demobilised Soldiers (AMODEG) suggest the need for a 'truth commission' or public enquiry to deal with government's failure to deliver on promises made to former combatants.

The Association for the Promotion of Peace (PROPAZ), which works among ex-combatants, stresses the need for more work to be done with these groups in order to build peace and ensure political stability in the country. Salomão Mungoi of PROPAZ points out that 'Many of the ex-combatants continue to suffer psychological trauma, which impacts on the communities to which they return'.

A major concern continues to be the recovery of weapons, with huge caches of arms remaining hidden in the central region of the country. There are still groups that guard these weapons,

turning parts of the area into ‘no go’ zones. Several NGOs, and the Mozambican Council of Churches, are involved in addressing the issue of arms through innovative exchange programmes and the conversion of weapons into sculptures and other works of art.

Challenges in the Transitional Justice Landscape

A number of challenges that have yet to be addressed in the post-1994 Mozambique were drawn to the attention of this assessment group. Three key areas of concern were identified by those interviewed:

- *The need to address income inequality:* ‘Mozambicans are accustomed to being poor – the difference is that they are today seeing others who are rapidly becoming wealthy. This level of inequality is beginning to have major consequences for social stability in the country,’ says journalist Felisberto Arnaca. The majority of Mozambicans have yet to benefit from the gains that have been made in economic growth and levels of poverty have actually increased for many Mozambicans. Over 50 per cent of the economically active population remains engaged in the informal economy.
- *The cost of international aid:* Mozambique’s continued reliance on international aid is preventing sufficient employment in the public sector due to structural adjustment constraints. In particular, qualified teachers and nurses are unable to find employment. ‘One of the biggest contributions international NGOs can make to third world countries is an investigation into the impact of international aid on the poor,’ suggests Irae Baptista Lundin of the Institute for International Relations.
- *Concerns over access to land and capital:* Despite the apparent growth in areas such as agriculture, forestry and tourism, foreign investors often import their own expertise without attempting to train or create jobs for Mozambicans. The respective involvement of South Africa in tourism and China in the forestry and manufacturing industries was identified in this regard.

Further related concerns centred on the need to address issues of social and economic justice. Direct calls for transitional justice are overshadowed by the immediate need for jobs, poverty relief and human rights. The February 2008 uprisings in Maputo were identified by most of those we interviewed as evidence of the economic hardship of ‘ordinary’ Mozambicans. Concerns over the following issues were also voiced.

Natural disasters

The poor, especially the majority who rely on subsistence agriculture, have been the primary victims of a series of devastating natural disasters, including cyclones and flooding in 2000 and 2007. NGOs generally regard the response of government and the international community to such disasters as inadequate suggesting that there is insufficient capital investment in pre-empting the cycle of disasters that Mozambique faces. Reference was made to the impact of global warming and it was suggested that international NGOs should emphasise the price that Mozambique is paying for the affluence of developed countries.

Ethnic tensions

Ethnicity is seen as intrinsically linked to access to opportunity and economic development. Many see the centralisation of authority in the south as a deliberate attempt to deprive the centre-north of resources. This inequality has the capacity to ignite ethnic rivalries that continue to linger despite the attempts of government to overcome these.

Some interviewees noted that despite efforts to counter ethnic violence at the time of the 1992 Peace Agreement, ethnic tensions are currently demonstrated by economic inequality. ‘When speaking in a politically correct manner, we talk economics, not tribalism,’ Salomoa Mungoi of PROPAZ told us. Irae Baptista Lundin stresses that state universities and other tertiary institutions have been established in the central and northern regions in order to promote development among those communities who feel they are being economically disadvantaged. According to Felisberto Arnaca, ‘Tribalism is an unspoken reality in Mozambique and we would be very foolish to ignore it.’ Drawing our attention to underlying ethnic conflict in the civil war period, he pointed out the extent to which ethnic conflict resurfaces at the time of elections, and continues to be used as a mobilising factor by all political parties in the country. Dr Brazao Mazula noted that the vast majority of intra-state conflict is along ethnic lines. ‘When people feel aggrieved they look for solace among their own – those who speak their language and practise their customs. When people are hungry, they resort to tribal claims.’

Gender inequities

Gender inequities continue to be a major challenge in Mozambique despite recent legislation to enhance equality and the prominent role of women’s organisations such as the Fórum Mulher. The current high rate of gender-based violence is a major issue. Graça Samo from Fórum Mulher identified this as ‘one of the most obvious continuing consequences of war’. No exact statistics exist, but in the late 1990s a study identified 52 per cent of aggressors in cases of domestic violence as former fighters (both from FRELIMO and from RENAMO).

A further gender-related issue is the education of girls, in a country that currently has a 54 per cent illiteracy rate. Girls continue to be underrepresented in educational institutions. According to UNICEF while 52.6 percent of boys of primary school age are enrolled in schools only 48.6 percent girls are. The organisation cites girls’ domestic workload, poverty, and sexual abuse as some of the reasons for this gender gap. Graça Samo explained that although the numbers of girl children attending school has increased since 1994 the issue of safety for girls remains an ever-present threat to their education.

While legislation is in place to protect the rights of women and children, it is often not effectively implemented because of prevailing social customs and norms. This suggests the Fórum Mulher along with others working in the area of gender rights, requires civic education in addition to legislative initiatives to protect women. ‘In rural areas,’ Graça Samo stresses, ‘it is traditional leaders, usually males, who act as the gatekeepers of society.’

Opportunities in the Transitional Justice Landscape

The assessment mission found that Mozambique has a relatively active civil society which promotes justice and realistic forms of reconciliation in the country. This raises the question of

the extent to which the government is open to the involvement of civil society in addressing the challenges facing the country. Officially, government has an open-door policy towards civil society, and is willing to listen to their demands. However, some in civil society argue that they are not given sufficient space by government to do their work.

Asked about civil society's relationship with government, Felisberto Arnaca noted: 'Although many would say government is not particularly responsive to civil society's demands, it does not mean that the civil society fails to influence government.' He suggests that the role of civil society in maintaining peace and stability is recognised and even appreciated by government, and he argues that civil society needs to exploit this by suggesting solutions to problems, rather than simply criticising government. 'There is space for them to shape policy and they use it in a constructive manner. They need to remember, however, that if they want to engage government, they are entering the political realm and need to know that this is about contestation.' He points to the constructive role of the Mozambican Council of Churches in uncovering arms caches and collecting weapons as a case in point, as well as the churches and NGOs that are participating in mine-clearing operations.

Lawyer and journalist Tomas Vieira Mario argues that 'by African terms, the media is free to criticise government and is accessible to NGOs and others who wish to raise their concerns'. Terezinha da Silva suggests that NGOs are able to gain access to government ministers and officials, who are prepared to consider their proposals for the promotion of human rights. Ex-RENAMO negotiator Raul Domingo, on the other hand, suggests that 'access depends on where you stand politically.' Archbishop Jaime Goncalves is adamant that 'the present government is less accessible than earlier governments.'

Recommendations

The following recommendations are aimed at promoting Mozambican civil society activity in the area of transitional justice.

1. Promoting human rights education

The struggle for human rights in Mozambique remains significantly hampered by a lack of public knowledge of the existing constitutional and parliamentary laws on human rights, particularly regarding women, children and related family-law concerns.

In the absence of adequate government initiatives to publicise these rights, NGOs in neighbouring countries and further afield should partner with Mozambican organisations to provide human rights literature and education, in Portuguese and indigenous languages. This literature should include locally generated material for dissemination through faith communities, NGOs and traditional structures operating in the rural areas. Such literature and teaching materials should be designed to meet the needs of specific communities; this will require co-operation with traditional chiefs and healers, leaders in faith communities and local NGOs such as OREC and WLSA.

2. Investigating the impact of traditional African structures

Traditional practices that are used extensively in Mozambique are regarded by many human rights activists in Mozambique and beyond as falling short of international standards of justice. However, there is evidence that decisions handed down by these authorities are generally accepted by the majority of Mozambicans. There is also evidence to suggest that these processes have contributed to peace-building and reconciliation in many communities.

Greater research is needed on as to whether a balance can be achieved between notions of international justice and the restorative dimensions of traditional African practices. Commenting on the relationship between western notions of the rule of law and African traditional structures of community healing, Kofi Annan, General Secretary of the United Nations at the time, noted that ‘due regard must be given to indigenous and informal traditions for administering justice and settling disputes to help them to continue their often vital role to do so in conformity with both international standards and local tradition’.⁶⁴

Empirical research is also needed in Mozambique on whether traditional African forms of justice and reconciliation mechanisms are having a measurable impact on community and national reconciliation and further study is also needed on their gender dimensions. Equally important is the question of whether victims and survivors of gross violations of human rights are appeased and satisfied in the long term with the kinds of settlements reached through traditional structures.

3. Evaluating the re-integration of child soldiers

The re-integration of child soldiers – both male and female – in the aftermath of the civil war, through international organisations such as Save the Children, was confined to certain areas with limited reach. Re-integration programs failed to address the differing experiences of male and female children, and accounts of the war’s effect on the country’s child soldiers are cursory. Thus, empirical research is needed to examine the re-integration of children used during the conflict and to track their journey from the bush to their present circumstances.

Transitional justice work in Mozambique could facilitate spaces that enable former child soldiers to recount their stories.

4. Recording and documenting the experiences of women

In the aftermath of Mozambique’s peace agreement process, women were largely overlooked by transitional mechanisms such as demobilisation and re-integration. It is clear that women faced specific challenges in post-conflict Mozambique and a parallel was drawn between the current high rates of gender-based violence and the failure to address the violence against women perpetrated during the conflict.

As a result, it is important to document the role and experiences of women in the conflict in order to create a more inclusive historical record. This would also serve to challenge an existing narrative that often idealises the role of women in the independence struggle while stereotyping them as victims in the civil war. An extensive study of women’s multiple roles in the conflict would also provide a deeper understanding of prevailing social justice issues existing in Mozambique.

5. Investigating the impact of Development aid

Members of government and of civil society expressed concern over the restrictive terms of international aid from the World Bank, the IMF and other international funders. Aid ordinarily comes with requirements over expenditure in the civil service and service professions (for example, nurses, teachers and development officers). The impact of international aid requirements is something that needs to be researched by universities and organisations focusing on economic and development concerns. It is critical that Mozambique has partners to help meet the particular needs of the country. This could in turn enable Mozambican researchers to address international funders in a direct and comprehensive manner, as well as enabling those in civil society who are most critical of international donors to better understand the guiding principles of donor agencies. More extensive debate and understanding of international donor policy and practice should be a priority.

6. Assessing Regional responsibilities and co-operation in the post-war context

Although the exact role of South Africa's apartheid regime in Mozambique's civil war remains contested, the effects of incursions by the South African Defence Force (SADF) are undeniable. For example, Matola, a town on the outskirts of Maputo, was subject to frequent SADF attacks as part of the apartheid regime's 'total strategy' which caused extensive damage to property and livelihoods. The assessment found that South Africa has an obligation to address these issues. Mozambique has become South Africa's biggest trade partner in recent years, which reflects the change in the relationship between the two countries. However, this does not remove the reality that a significant number of Mozambicans were severely affected by the activities of the SADF in their country. There exists an opportunity for civil society in Mozambique and South Africa to consider how restitution and reparations could be achieved.

Many of those interviewed expressed disappointment towards the current South African government, in light of the supportive role that Mozambicans felt they had played towards members of South Africa's liberation movement during the apartheid era. Any discussions on reparations and redress would have to take into account the effects of the recent xenophobic attacks in South Africa and the plight of the thousands of Mozambicans that fled to their home country in 2008.

Potential partners

The Association for the Promotion of Peace (PROPAZ)

This organisation emerged from a larger organisation, the Association of Demobilised Soldiers (AMODEG), specifically to train former combatants as peace promoters or peace workers in communities. Since the formation of PROPAZ, the scope of its work has expanded to include work for the maintenance of peace and the recovery of weapons. The organisation's knowledge of the Mozambican context is essential to any future transitional justice work.

Organisation for Conflict Resolution (OREC)

OREC works in the area of resolving social conflicts. Their training of people in rural communities to resolve conflicts in non-violent ways can contribute to the development of community-led reconciliation initiatives.

Fórum Mulher/ Women Lawyers of Southern Africa (WLSA)

Both Fórum Muhler and WLSA are not only strategically placed to deal with issues relating to gender and women from the transition, they also have been vocal and active in dealing with a plethora of concerns that continue to affect women and other vulnerable groups in the aftermath of the transition.

Tomas Viera Mario

Tomas is a journalist with a deep and extensive knowledge of the Mozambican context, both before and after the conflict. His work in media and research associations that operate regionally allows him access to information about regional as well as local processes.

Irae Baptista Lundin

As a social anthropologist with a strong background in field research and publications on Mozambique's conflict, transition and path to transformation, Irae is an ideal person to have as a consultant and partner for any future endeavours in Mozambique.

Namibia

Executive Summary

Namibia has a legacy of unresolved human-rights abuses: the massacre of Herero and Nama people in 1904–07, the crimes dating from the apartheid-era regime, and the atrocities of the SWAPO liberation movement (nearly 4 000 detainees in SWAPO camps in neighbouring countries are still unaccounted for). However, public discussion of violations has been greeted by official silence. The political context in Namibia is not conducive to any official investigation of the past. The ruling party (SWAPO) has demonstrated its unwillingness to allow any impartial interrogation of the past. The regime tolerates questioning about the Herero and Nama massacres and the South African occupation only.

Several motions in parliament to address past abuses within the ranks of SWAPO have been rejected. Abuses and violations have continued since independence: further disappearances took place in 1994–96, and entitlements to war veterans' benefits discriminate against those accused (often unjustly) of collaborating with South Africa during the liberation struggle. The Namibian government rejected the offer of the South African Truth and Reconciliation Commission to further investigate the abuses perpetrated by the apartheid regime and the South African Defence Force in what was then called South West Africa.

Similarly, the debate over veterans' entitlements has drawn attention to the lack of accounting for past abuses. The 1999 War Veterans' Subvention Act provides benefits to SWAPO veterans, effectively excluding veterans out of favour with the current government. A 2007 amendment to the bill did not address these problems.

The report recommends, as first steps in a transitional justice agenda, that Namibian civil society actors initiate a research project to document the past comprehensively and impartially; explore the options of a constitutional challenge to the new war veterans' law; assist in the establishment of a resource centre (a repository of documents and meeting place for victims); and seek legal advice on various national and international options for redress of gross human rights violations.

Introduction and Methodology

The assessment mission to Namibia was part of a broader enquiry into the transitional justice landscape in the Southern African region. This was driven by four broad objectives:

- to map and assess the current status (or lack thereof) of transitional justice initiatives in Angola, Mozambique, Namibia and Zimbabwe, as well as in South Africa;
- to identify and understand local priorities in the transitional justice area;
- to ascertain the capacity of civil society organisations to play a role in any future transitional justice initiatives; and
- to make recommendations on how to address transitional justice in each country.

The purpose of this assessment was to identify major transitional justice issues in Namibia and potential for future involvement. The ICTJ worked in conjunction with the Legal Assistance Centre (LAC) of Namibia for this mission.

The Namibian assessment mission aimed to achieve the following objectives.

- To map and assess the current status of transitional justice initiatives in Namibia.
- To identify and help to enhance the capacity of civil society organisations, especially groups representing the needs of women (such as the Women's Leadership Centre), and groups representing ex-detainees (such as Breaking the Wall of Silence and the National Society for Human Rights). These groups have a strong interest in the implementation of transitional justice mechanisms in Namibia, and could play a leading role in any future transitional justice initiatives.
- To organise a sub-regional workshop bringing together key actors to recommend transitional justice priorities and formulate an appropriate plan of action. Key actors may include representatives of formal transitional justice mechanisms, as well as representatives of gender initiatives.

The assessment took place in Windhoek between 27 May and 2 June 2008. The Namibian team, from ICTJ, was composed of Howard Varney (Truth-Seeking Program Director), Olivier Kambala (in-country lead) and Margerie Vacle (intern). Together with Norman Tjombe of the Namibian LAC, the team met with a number of civil society organisations,⁶⁵ the Dean of the Law School of the University of Namibia, representatives of the Congress of Democrats, the German ambassador and Breaking the Wall of Silence (BWS).⁶⁶ For further details of those interviewed, please contact the author.

The team conducted interviews with the above-mentioned groups, often preceded by an introduction to the ICTJ and its partner, as well as a briefing regarding the objectives of the assessment. In certain instances, the team deemed it necessary to define and summarise transitional justice before interviews began.

The Transitional Justice Landscape

Brief historical background

Despite its rich supplies of uranium, copper, lead, zinc and gemstones, Namibia's barren and inhospitable coastline made it relatively unattractive to colonists until the late 19th century.

From 1884 to 1915, German colonial rule was established in the territory of the current Namibia, which was then known as South West Africa (SWA), after the signing of treaties between Germany, Portugal and Britain regarding the international boundaries of the territory. The territory was extended in 1890 by the annexation of the Caprivi Strip.

German colonisation of SWA met with local resistance by the Nama and Herero peoples. Hendrik Witbooi led the first armed resistance against the Germans. The Mahareros dynasty also rose up against the German troops, but was defeated.

In 1904, German General Lothar von Trotha is said to have issued orders to exterminate the Herero people, who then joined forces with the Nama. Many sources claim the result was the killing of some 80 per cent of the Herero population, and 50 per cent of the Nama population by 1907, as well as the elimination of resistance leaders.

During the First World War, German forces in SWA surrendered to the South African army (which was fighting on the side of Britain). This resulted in South Africa taking control of SWA in 1915. In 1920, the League of Nations granted South Africa the mandate to govern this territory. It was renewed by the United Nations at the end of the Second World War, but the UN opposed the annexation of the territory to South Africa, which intended to make SWA its fifth province. A legal battle unfolded between the UN and South Africa, in which the UN suggested that SWA be placed under the trusteeship of South Africa, thus transforming the mandate given by the League of Nations to South Africa in 1920. South Africa was adamant that the mandate had lapsed upon the demise of the League, and refused to co-operate with the UN concerning the administration of SWA.

Despite international objections, South Africa tightened its grip on the territory by retaining administrative control and establishing military supremacy in the region; for example, by shutting down the Bondelswarts uprising.

In 1950, the International Court of Justice (ICJ) ruled that South Africa was obliged to govern SWA under the supervision of the UN. South Africa rejected the ruling, opposing any form of UN supervisory administration.

South Africa then began exploiting the riches of SWA in earnest. Workers' organisations became increasingly dissatisfied and restless, and by the late 1950s, mass demonstrations and talk of nationalism were common. Political parties began to form, and strikes were organised among workers both in SWA, and those sent to work in South Africa. These various political parties and workers' organisations merged to form the Ovamboland People's Organisation (OPO) in 1959, which became the South West Africa People's Organisation (SWAPO) in 1960. SWAPO was forced to operate clandestinely, and many of its leaders chose the road of exile, with Sam Nujoma going to what was then Tanganyika, for instance.

In 1966, SWAPO took its objections to South African occupation to the ICJ. The UN General Assembly voted to end South Africa's mandate over the territory, on the grounds that South Africa had failed to fulfil its obligations under the mandate conferred on it by the League of Nations. The assembly placed the territory under the direct responsibility of the UN, and created a Council to administer it in 1967 (the United Nations Council for South West Africa) until the territory could achieve sovereignty. South Africa responded aggressively towards, shooting or detaining thousands of demonstrators. Shortly thereafter, SWAPO's military wing, the People's Liberation Army of Namibia (PLAN), launched a war of independence.

In 1968, SWA became Namibia, as SWAPO continued to demand independence for Namibia, while South Africa continued to object to UN resolutions to its continued administration of the territory, which was later declared illegal. South Africa supported its administration in Namibia

by military force, exploited its resources, and imposed apartheid laws, including the policy of 'Bantustans' (in which ethnic groups were relegated to specific regions).

After being recognised as the authentic representative of the Namibian people in 1973, SWAPO continued its struggle against the South African occupiers, succeeding in gaining international support for sanctions against South Africa.

The Council for Namibia established the Institute for Namibia in Zambia in 1974, and thousands of SWAPO supporters left the country, many of them joining the movement's military camps in Zambia and Angola. The UN called for negotiations between South Africa and SWAPO to end the conflict, declaring South Africa's decision to annex Walvis Bay (historically a British territory) illegal.

In 1978, the UN Security Council adopted Resolution 435, which contained a plan to settle the Namibian conflict by transferring sovereignty of the territory through elections supervised by the United Nations Transition Assistance Group (UNTAG). Although South Africa accepted the UN plan, it refused to implement the attached ceasefire agreement, and demanded the withdrawal of Cuban troops from Angola as a precondition to the independence of Namibia. With the signing of a tripartite agreement in New York in December 1988 by Angola, Cuba and South Africa, the road was paved for the independence of Namibia through free and fair elections. UNTAG therefore carried out its mandate, which was threefold: organisation of elections, monitoring of the ceasefire between SWAPO and South African forces, and overseeing the withdrawal and demobilisation of all forces from Namibia.

In the meantime, clashes between South African forces and SWAPO continued to take place, with the final one resulting in the death of 300 South West Africans⁶⁷. The period preceding elections also witnessed a massive return of refugees to Namibia.

In November 1989, UNTAG monitored legislative elections to form the Constituent Assembly. SWAPO won the majority of seats in the assembly. As South African troops left Namibia, the Constituent Assembly drafted a constitution, which was approved on 9 February 1990. On 16 February the assembly elected the leader of SWAPO, Sam Nujoma, as president of Namibia for a five-year term. On 21 March, he formally declared Namibia independent.

Nujoma proclaimed a national reconciliation policy to heal the wounds caused by 25 years of armed struggle, and a reconstruction programme based on retaining a mixed economy and partnership with the private sector.

After serving a third term in office, Nujoma was replaced by Hifikepunye Pohamba after the 2004 elections, which were again won by SWAPO.

Differing transition and opportunity structures

Namibia has undergone three political transitions in the last hundred years. The first transition was from German colonisation to South African administration; the second from South African

administration to independence in 1990; and the third was the transfer of presidential power from Sam Nujoma to Pohamba.

The colonial period was characterised by a regime of depredation, which the Herero people opposed. Local resistance was severely repressed by the German colonisers, in a ruthless and brutal manner that some have called genocide. Between 1904 and 1907, approximately 80 per cent of the Herero and 50 per cent of the Nama were wiped out.

The South African occupation, against the wishes of the UN, resulted in a liberation struggle led by SWAPO. The South African Defence Force (SADF), supported by proxy militias, sustained a prolonged counter-insurgency war. The most notorious proxy unit, Koevoet, was composed of local fighters under the command of South African officers. SWAPO's military wing, PLAN, operating from neighbouring countries, fought against the South African occupation until Resolution 435 came into force in 1989. Confrontations between South Africa (and its proxy groups) and PLAN fighters continued even after the signing of key settlements in 1988, resulting in additional casualties during the return of PLAN's fighters and the withdrawal of the SADF.

During its occupation, South Africa imposed apartheid policies of racial discrimination on Namibia, and punished those who protested. For example, in the late 1970s, Namibian high-school students who staged boycotts to protest Afrikaans as the medium of instruction were dismissed from school, prevented from writing final examinations, and refused admission to other schools.

Meanwhile, allegations of internal abuse, including harassment, torture, summary executions and disappearances, have been made about SWAPO's camps in neighbouring countries. Approximately 4 000 PLAN fighters are said to be missing. Testimonies of former PLAN members, as well as Siegfried Groth's book, *Namibia: the Wall of Silence – the dark days of the liberation struggle* (1994), exposed abuses that had taken place in SWAPO camps.

In 1999, before the end of his second term in office, Sam Nujoma initiated a constitutional review that would allow him to contest presidential elections for a third time. He was then re-elected. His successor, President Pohamba, is said to have been chosen from technocrats within the party, but many suspect he is Nujoma's 'hand-picked successor'. He has been president of the ruling party since 2007. After finally leaving office in 2004, the status of 'founding father of the Namibian nation' was conferred on Sam Nujoma.

A significant number of SWAPO adherents expressed discontent with the revision of the constitution in 1999, and with the party leadership succession process in 2007. Two political parties have emerged as a result: the Congress of Democrats (CoD), led by Ben Ulenga, who was suspended from the SWAPO Central Committee, and the Rally for Democracy and Progress (RDP).

The common denominator of all three transitional periods described here has been a reluctance to deal with past atrocities openly and comprehensively.

In summary, three main issues arising from the past have been left unresolved: the massacres of the Nama and Herero in 1904–7; crimes of the apartheid regime; and atrocities in the SWAPO camps.

The Massacres of the Herero and Nama peoples

The politics of the systematic extermination of the Herero and Nama peoples after the battle of Hamakari (in August 1904) are still vigorously debated in terms of the legal nomenclature that should be used to describe these events. Approximately 65 000 people are said to have been killed by German forces between 1904 and 1907.

While it is certain that massacres took place, Germany denies all accusations of genocide. In August 2004, a formal apology from the German government was made by Development Aid Minister Heidemarie Wiecek-Zeul. Although in her speech, she acknowledged Germany's 'historic and moral responsibility', Germany has rejected the notion of compensation, pledging continued economic aid to Namibia instead.⁶⁸

Three years later, the German Left Party succeeded in passing a motion in the German parliament (the Bundestag) that sought to force the German government 'to accept its historical responsibility and to recognise the right to reparations of the Herero and Nama peoples for the genocide' and to 'inform the Namibian government of its readiness to enter into an open dialogue about reconciliation and reparations'.

Herero and Nama representatives are pursuing reparations claims against Germany in the United States, based on the Alien Tort Claim Act.

In Namibia, the Honorable Kuaima Riruako, MP and paramount Chief of the Ovaherero people, introduced a motion in parliament seeking national support for the Herero's demands for reparations. In an address to parliament in September 2006, he defined reparations as taking accountability for the atrocities, enabling respect and self-respect for the survivors, reclaiming memories, narrating stories, and reclaiming what is due.

The Apartheid Regime Occupation Crimes

During the South Africa's illegal administration of Namibia, economic exploitation of Namibian resources was accompanied by a wide range of human rights violations: killings, disappearances, torture, poisoning and intimidation. Koevoet and other 'death squads' harassed SWAPO sympathisers until the very last days of Namibia's accession to sovereignty. It is also said that during the last battle, known as '9 days of war', after defeating PLAN's fighters, South West Africa Territorial Force (SWATF) elements indiscriminately targeted non-combatants.

South Africa also detained, prosecuted and jailed thousands of SWAPO cadres. Ben Ulenga, leader of CoD, was a prisoner on Robben Island.

In addition, a segregationist and discriminatory law (similar to the Group Areas Act in South Africa) was exported to Namibia, creating socio-political ghettos into which the majority of the local population were locked.

SWAPO Atrocities

Many SWAPO members report violations and abuses orchestrated from within the liberation movement. A prevailing mistrust within the movement, born of differing liberation strategies and politico-ethnic alignments, led to the detention, torture, disappearance or death of scores of SWAPO adherents and PLAN fighters suspected of being spies or *askaris* (collaborators).

Former combatants attest that between 1981 and 1989, SWAPO initiated false operations in Lubango (Angola), intended to eliminate suspected comrades. There is also considerable information relating to killings and mysterious disappearances at Ekengelela, particularly in 1988. Siegfried Groth's 1994 book exposed further abuses, incorporating the testimony of former fighters.

It is alleged that further disappearances took place after Namibia became independent in 1990. An armed conflict that erupted in northern Namibia is said to have resulted in over 1 600 disappearances.

Transitional Justice Approaches and Challenges

Past gross human rights violations in Namibia seem to re-surface continually, as they are never dealt with properly. In the words of Ben Ulenga of CoD, 'these things keep coming back and it will keep happening until the standards of . . . truth are established. Lots of history buried in Lubango.' This is equally true of, and pertinent to, the colonial-era atrocities and the South African occupation.

Across the board, the same transitional justice issues seem to recur: acknowledgment for past abuses, truth-seeking and historical clarification, reparations, redress for abuses committed against women and members of liberation movements, re-integration of former combatants, memory and remembrance, and healing and reconciliation.

The colonial-era massacres were only acknowledged by Germany in 2004, and independent and impartial establishment of the actual facts has yet to happen. In the meantime, appropriate responses to the demands of Herero and Nama representatives are long overdue. Given that Germany has recognised its culpability, the fact that issues of accountability, truth-telling, memory and compensation remain unresolved is the result of the indecisiveness of the Namibian government.

The South African occupation has left Namibia with evidence of violence and violations orchestrated over many decades. Since 2005, the discovery of several mass graves near the former Eenhana military base, in the Ohangwena Region, is an indication of atrocities that took place there, and of the necessity for a thorough investigation into the past.

Many people from this area, a few kilometres south of the Angolan border, still have unanswered questions about the fate of family members who disappeared during the war. Some of the missing relatives had belonged to PLAN, and others had served in proxy forces supported by the SADF, while still others were civilians caught up in the conflict.

A real prospect of shedding light on crimes committed by the occupying power was offered by the South African Truth and Reconciliation Commission (TRC), which had a mandate to investigate in foreign countries that had suffered the negative consequences of the apartheid government's actions. When TRC investigators contacted Namibian authorities for research and investigation assistance, they were informed that the issue of past atrocities (in either Namibia or South Africa) was a closed wound that the Namibians did not wish to re-open.

The extent of SWAPO infighting, and abuses (notably disappearances) perpetrated on alleged spies and *askaris* (collaborators), has not been fully exposed. The SWAPO ruling party is not showing any interest in officially confirming or refuting the allegations, which have gained momentum since 2005, and the discovery of a series of mass graves.

There is also dissatisfaction with the way in which history is recorded in Namibia. SWAPO seems to be determining Namibia's historical record, and no impartial accounts are authorised. Sam Nujoma's book⁶⁹ is on the verge of becoming part of the history curriculum for schools, now that it has been made into a government-funded feature-length film, which has premiered at a foreign film festival in Hollywood.

The people of Namibia feel that the truth about past atrocities must be revealed. A public opinion survey conducted in 2005 revealed that 53 per cent of Namibians are in favour of a Truth and Reconciliation Commission.

The South African TRC: Namibian's truth-seeking opportunity lost

The South African TRC established as falling within its scope the former apartheid regime's 'military activities in neighbouring countries, especially in South Africa's "fifth province", Namibia'.⁷⁰ It documented the role of the SADF and Koevoet, a counter-insurgency police unit guilty of gross human rights abuse, in Namibia. It also uncovered links between Koevoet and the South African 'death farm' Vlakplaas, a location where notorious security operatives executed insurgents, through testimony from former Koevoet members applying for amnesty. It also covered South Africa's attempts to disrupt the 1989 elections in Namibia.

Volume 2 of the TRC report dedicates a section to 'Police and military counter-insurgency operations in South West Africa', confirms that the occupation of Namibia was illegal under international law, and recognises that 'South Africa's occupation of South West Africa would merit a separate truth commission of its own.'⁷¹ It lists torture, intimidation, harassment of civilians and extra-judicial killings as the operational means of SADF-backed counter-insurgency units, while political repression and imprisonment, detention and torture were attributed to the occupying administration.

The report also notes South African responsibility for deadly activities after the signing of the New York agreement in 1988; the breach of the cease-fire agreement; the organisation of covert operations such as Operation Heyday and Operation Victor; support for sabotage activities⁷² (notably those carried out by groups such as Aksie Kontra 435⁷³ and the Civil Co-operation Bureau);⁷⁴ and the assassination of Advocate Anton Lubowski.⁷⁵

The SWAPO-led Namibian government opted not to co-operate with the TRC's investigations. It is alleged that SWAPO signed an agreement with the South African government not to take legal action against individuals for atrocities they had committed during the war.⁷⁶

The conspiracy of silence that has prevailed since independence only adds to the sense that there is a *de facto* amnesty that benefits perpetrators from both sides of the conflict.

The Fate of SWAPO Ex-detainees

The 'detainee's issue' did make itself felt in Namibia's independence elections. SWAPO detainees released in July 1989 formed a political party, and united with the vocal Parents' Committee (comprising relatives of detainees or missing persons). Together they captured some of SWAPO's support base, and helped deny it a two-thirds majority vote in the first national elections. Since then the issue has been largely dormant. Exhortations from the president to observe national reconciliation, the judicious incorporation of many former detainees into the public service, the discrediting of others, and fatigue and fear of social ostracism have all contributed to effectively quelling the few subsequent attempts by former detainees to revive the issue.

In late 1994, parliament stifled a motion by opposition politician and former detainee Eric Biwa requesting the release of a promised official list of some 2 100 people still unaccounted for, so that formal death certificates could be issued to families, permitting guardianship to be established, marriages to take place, and inheritances to be settled.

In March 2008, during the state memorial service for the late MP Kalla Gertze at the parliamentary gardens in the capital, Pauline Dempers, co-founder of Breaking the Wall of Silence, appealed to MPs of all political affiliations to reconsider, and open the motion 'on the predicament in which direct and indirect victims of the Lubango dungeons find themselves'. This motion had already been rejected by the National Assembly when tabled by the late Mr Gertze in October 2007.

Reparations

Following the formal 2004 apology by Germany for the massacre of Herero and Nama people, the Namibian and German governments reached an agreement on a special initiative to 'improve the living conditions of people in those areas that are home to the ethnic groups which suffered particularly under German colonial rule (Herero, Nama, Damara and San)'.⁷⁷ A memorandum of understanding to this effect was signed in Bonn in November 2007, in which the German government gave 20 million euros to be disbursed over three to five years.

Both the Namibian and German governments made the point that the rationale for the Namibia-Germany Special Initiative Programme (NGSIP) is not to serve as a form of reparation.⁷⁸ Parliamentary State Secretary Karin Kortmann noted that the NGSIP is the materialisation of Germany's 'active support for Namibia's policy of national reconciliation'.⁷⁹ This was echoed by the National Co-ordinator of NGSIP, Moses Omeb, who stressed that the NGSIP was 'a government-to-government development programme and was not part of reparations'.⁸⁰

It is nevertheless interesting to consider how these bilateral government agreements to uplift the living conditions of those Namibian communities that had 'historic ties' with colonial Germany are perceived by members of these communities, particularly the Herero. As mentioned above, the Herero maintain that they have a claim for reparations against the German government: Paramount Chief Kuaimi Riruako has made a claim for \$600 million against Germany, and has also filed a claim in the Superior Court of the District of Columbia for \$2 billion against German companies.⁸¹

Reconciliation

Reconciliation seems to be the motto of SWAPO since independence. Despite the fact that the constitution of Namibia acknowledges the need for national reconciliation in its preamble, there is no particular undertaking to translate this statement into policies and actions.

SWAPO is reluctant to debate what is meant by reconciliation. According to many actors, the formal content of a reconciliation policy would be: forgive and forget. SWAPO seems to be vacillating between amnesia and amnesty.

Veterans' issues

Veterans' issues divide Namibians across the board because of the entitlements linked to them, but also because of the associated recognition or rejection.

In 1999, the War Veterans' Subvention Act was passed, with the aim of regulating and administering war veterans' issues. In the legal terms of the act, a war veteran refers to 'any person who is a Namibian citizen and (a) who, during the war, performed military service in Namibia or in any other country as a member of the liberation force, (b) who, owing to his or her participation in the liberation struggle, was convicted, whether in Namibia or elsewhere, of any offence closely connected with such struggle and sentenced in respect thereof to such [a] long period of imprisonment that he or she was as a result of such imprisonment unable to perform, during the war, military service as contemplated in paragraph (a); but does not include a person who at any time during the war deserted the liberation force.'

This definition of a war veteran poses two main questions. First, it does not consider those Namibians who worked as proxies of the SADF (either in SWATF or in assistance to units such as Koevoet) as war veterans. Second, it excludes from its ambit liberation fighters who happened to be in disgrace or in dissension with SWAPO, and those who were judged to be spies, South African agents or deserters.

An amendment to the Act was passed in 2007, but discrimination between veterans is still persisting. New amendments related to the powers and functions of the minister responsible for veterans' affairs; the establishment of a Veterans' Fund for the provision of assistance to veterans and dependants of veterans; the registration of veterans and dependants of veterans; the establishment of projects for the benefit of and assistance to veterans; the constitution and functions of the Veterans Board and Veterans Appeal Board; and other incidental matters.

The Caprivi trials

Almost nine years after separatist attacks in the Caprivi region shattered Namibia's post-independence peace and brought the country's human rights record into disrepute, the first trial against the government concerning damages claims over the alleged assault and torture of people caught up in the Namibian Police's Caprivi high treason case dragnet started in the High Court in Windhoek, on 18 June 2008. Three of the men being prosecuted in the main Caprivi high treason trial – Kisko Sakusheka, Aggrey Makendano and George Liseho – have lodged civil claims against the Minister of Home Affairs and the Minister of Defence, the first of some 127 such cases against the government.

NSHR submission to the ICC

In 2006, the National Society for Human Rights (NSHR) lodged a submission before the International Criminal Court (ICC) to prosecute the former president of Namibia, Sam Nujoma, former Defence Minister Erkki Nghimtina, former Chief of Defence and now retired Lieutenant-General Solomon 'Jesus' Hawala, and NDF First Battalion Colonel Thomas Shuuya, for the disappearance of thousands before and after independence. The NSHR requested the ICC to take action on the alleged crimes on the basis that they constitute continuous violations, namely: (1) enforced disappearances, torture and killings of PLAN fighters; (2) violations occurring in the Kavango Region between 1994 and 1996; and (3) the armed attack in the Caprivi region in 1999.

Challenges to Transitional Justice

The inventory of past issues in Namibia requiring resolution reveals an overwhelming desire for closure and an imperative necessity for redress. During our visit to Namibia, it was clear that the past was haunting the present, to the extent that during the assessment there was media coverage of war veterans' issues, the commemoration of the Herero and Nama massacres, and the submission of the NSHR to the ICC.

Many attempts to debate the past in parliament, both official and unofficial, have been blocked. A score of motions put before the national assembly have been rejected.

The ruling party persistently obstructs debates concerning past atrocities, which can be summed up as the absence of any space in which to debate the past.

For example, in 1990, MP Moses Katjioungua initiated a motion to create a judicial commission of inquiry into matters relating to ex-detainees. This was rejected. In 2003, as mentioned above, another MP, Eric Biwa, introduced a motion to clarify the fate of 'some 2 100 people still

unaccounted for so that formal death certificates could be issued to families, permitting guardianship to be established, marriages to take place, and inheritances to be settled'. This too was rejected. In 1999, Ben Ulenga, the leader of the newly constituted political party, CoD, requested that the national assembly open a debate on the Lubango dungeons and on reconciliation. He was unsuccessful.

Breaking the Wall of Silence (BWS) have requested the government and organs of the ruling party to facilitate discussions on the fate of the disappeared, to establish the full truth of what happened to them, and to address the conditions of the survivors, particularly the rehabilitation of those falsely accused of being spies or traitors. These requests have been refused.

Opportunities in the Transitional Justice Landscape

Although the tradition of silence persists in Namibia, there are reasons to hope that transitional justice issues will remain a preoccupation of civil society, and that the latter will keep applying pressure on the ruling party to take action, possibly mobilising international support.

Non-governmental organisations such as BWS and the NSHR work to keep these issues alive. BWS collects testimonies of survivors and of relatives of missing persons, and lobbies internationally and nationally for closure of the issue, and for comprehensive treatment for victims, including trauma counselling. The NSHR keeps records of enforced disappearances, with a view to submitting cases to domestic courts.

The Council of Churches of Namibia (CCN) strives to serve as mediator between the government and the victims groups, despite government reluctance to co-operate.

The opening up of political space could contribute towards a synergy that might end the silence on the atrocities of the past. The existence of two political parties presenting themselves as alternatives to SWAPO's rule could be a determining factor in a change of attitude by SWAPO. Ben Ulenga's CoD and the newly formed Rally for Democracy and Progress (RDP) will bring an element of balance to the 2009 general elections.

Recommendations

The following recommendations have been put forward for consideration by civil society organisations:

- initiate research to document the past and identify critical issues needing a nation-wide response;
- explore the options of a constitutional challenge to the new veterans' bill, as it clearly does not cater for victims' redress, and entrenches the discriminatory treatment of former combatants;
- establish a resource centre that can serve as repository of documents collected, while allowing victims to network, support each other and collaboratively plan actions aimed at healing the wounds of the past;

- seek legal assistance on issues regarding enforced disappearances (continuous crimes, among others) as well as on extra-national avenues for complaints.

Potential Partners

Legal Assistance Centre

Breaking the Wall of Silence

National Society for Human Rights

Council of Churches

Centre for Women's Leadership

The Law faculty of the University of Namibia and the Human Rights and Documentation Centre

People's Education Assistance Counselling for Empowerment (PEACE).

Zimbabwe

Executive summary

The Regional Assessment Mission to Zimbabwe took place in the week of 19 August 2008, against the backdrop of SADC-mandated negotiations between ZANU (PF) and the MDC. The negotiations had been resuscitated after the heightening of the political crisis due to endemic violence, which effectively precluded the MDC's Morgan Tsvangirai from participating in a second-round presidential election in which he was the front-runner. Unsurprisingly, the immediacy and brutality of this violence informed stakeholder responses to the questions posed by the mission, and gave an urgent, if distorting, cast to issues of transitional justice in Zimbabwe.

The post-March 2008 electoral violence was the latest of several crisis points at which issues of transitional justice can be located in Zimbabwe's violent past. The others include, but are not limited to: resistance to colonial intrusion, the liberation war, the Gukurahundi massacres, the land invasions of 2000 onwards, and Operation Murambatsvina. This leads to some debate as to the starting point for transitional justice mechanisms. Most believe that the start of the current crisis, in 2000, is an appropriate beginning. In Matabeleland, the appropriate starting point is held to include the Gukurahundi period. A symposium on transitional justice, attended by a large number of Zimbabwean NGOs, in Johannesburg in 2003, concluded that the period under consideration should begin in 1960. Despite these differences, a common thread is the desire to end the culture of impunity, and to address transitional justice issues neglected so far.

To date, the only state response or approach to past violence took the form of a stated 'reconciliation' policy, spoken about by Mugabe in his speech at independence. No institutions were put in place to carry the policy forward to implementation, and the establishment of a 'War Victim's Compensation Fund' resulted in the looting of its coffers by the politically connected.

The focal point for most NGOs was the most recent violence, and the emphasis was clearly on access to justice and reparations. However, at the same time there appeared to be an information gap relating to other transitional justice mechanisms, not only among the NGO constituents, but also within the NGOs themselves. Most NGOs engaged in transitional justice work have focused on documenting atrocities. While much of the documentation is of quantitative and qualitative value for the compilation of reports, the nature of the information acquired requires a re-interview of the victim if it is to be used for the purpose of prosecution, or in a claim for reparation. Furthermore, there is little co-ordination between the NGOs collecting data, and no centralised collection point. This has resulted in the duplication and under-utilisation of data. Some NGOs have managed to obtain civil redress through the existing court structures, but hyperinflation has rendered any award for damages of symbolic value only.

This NGO concern with the most recent violence was replicated in a brief pilot survey conducted by the in-country partner, the Research and Advocacy Unit (RAU). Responses to the survey showed resistance to conciliatory aspects of transitional justice, with the emphasis firmly placed on justice, usually in the form of prosecutions and reparations. In interviews, the notion of

amnesty in exchange for truth-telling was almost universally rejected by NGOs, with the exception of church-based groups, which nevertheless conceded that their constituencies resisted this approach.

Given the universal concern with impunity, the Mission recommended that civil society's minimum demands in relation to transitional justice be conveyed immediately to politicians involved in the then-ongoing negotiations to prevent a foreclosure of these demands. Howard Varney skilfully summarised these minimum demands during the course of the interviews, and the document he prepared was presented to (and largely accepted by) NGOs at a conference convened shortly after the mission. The mission also stressed the following needs:

- to investigate appropriate methodologies by which to establish a process of healing as a first and urgent priority;
- to research models of transitional justice and their suitability in relation to the Zimbabwean context, and to disseminate them in a form easy to assimilate;
- to gather the views of victims on these models, utilising a questionnaire format and NGOs with nationwide constituencies, in order to determine an appropriate model for Zimbabwe.

Introduction

The assessment mission to Zimbabwe was part of a broader enquiry into the transitional justice landscape in the Southern African region. This was driven by four broad objectives:

- to map and assess the current status (or lack thereof) of transitional justice initiatives in Angola, Mozambique, Namibia and Zimbabwe, as well as in South Africa;
- to identify and understand local priorities in the transitional justice area;
- to ascertain the capacity of civil society organisations to play a role in any future transitional justice initiatives; and
- to make recommendations on how to address transitional justice in each country.

The Zimbabwean assessment, which had twice been delayed because of the continuing political crisis and high levels of violence in the country, took place from 19–23 August 2008, several weeks after SADC-mediated negotiations in search of a political settlement in Zimbabwe had resumed, in the wake of a 27 June presidential run-off election. Although the intense violence that had marred the inter-electoral period had moderated somewhat, during the course of the mission, civil society organisations continued to face a ban on their activities, particularly interaction with, or work in, the rural areas of the country. This needs to be borne in mind when considering the mission's findings.

Composition of Mission

The Zimbabwe mission was led jointly by Idasa, a South African NGO, and its in-country partner, the Research and Advocacy Unit (RAU), which has focused on transitional justice issues in its research and advocacy work over the past three years. Karin Alexander, manager of the States in Transition Observatory, represented Idasa. RAU was represented by Derek Matyszak (Senior Researcher) and Fungisai Maisva (Research Officer), who provided insight into both the

legal and socio-political context, as well as an understanding of previous transitional justice initiatives undertaken by civil society in Zimbabwe.

The International Center for Transitional Justice (ICTJ) was represented by Comfort Ero and Howard Varney, who together brought significant experience from a range of African and international transitional justice processes, most specifically that of civil society in Kenya in its attempts to raise issues of transitional justice with the recently formed coalition government. In addition, Advocate Varney accompanied the mission as an expert on truth-telling and issues of jurisprudence, which it was felt would be central to the concerns and priorities of the Zimbabweans to be consulted.

Methodology

In keeping with the design of the regional assessment, the mission focused its questions and analysis on the current status of transitional justice initiatives; transitional justice priorities; and the role that civil society organisations (both coalitions or networks and mass-based organisations) saw for themselves in shaping or supporting future transitional justice initiatives.

Zimbabwean civil society had held a symposium on transitional justice in 2003, and in order to build upon this and not replicate past initiatives, the mission located its consultations and interviews at the offices of the Zimbabwe Human Rights NGO Forum ('the Forum'). The Forum had been nominated to house and carry forward the resolutions of the 2003 symposium, and was thus considered the most appropriate platform from which to conduct the assessment.

A consultation schedule was drawn up by RAU, in collaboration with the Forum, and included meetings with most key civil society stakeholders in the field of human rights. This group included lawyers, civil society activists, organisations representing key victim constituencies, and community- and mass-based organisations. The aim was to have meetings in both Harare and Bulawayo in order to ensure a national perspective. However, the mission was unable to secure flights to Bulawayo, and therefore arranged a few separate meetings with representatives from key organisations from this area outside of the mission time-frame. In addition, the mission held meetings with several independent political analysts, the Media Monitoring Project of Zimbabwe, and representatives from one of the opposition parties (meetings with other political actors were restricted because of the involvement of key figures in the ongoing mediation).

At the time of the mission, the political climate restricted travel outside of the cities for the purpose of consulting directly with victims and community-based organisations, although one meeting with victims was made possible. Instead of face-to-face consultations with victims, RAU used its networks to distribute a questionnaire (see Appendix 2) to victims in the weeks before the in-country visit. Five hundred responses were received; this input has been included in this report.

Background to Country Assessment Mission

Historical background

From the outset, Zimbabwe's history has been marked by conquest, subjugation and repression. It has known very few years of true peace. In 1834, fleeing the Zulu leader Shaka, Mzilikazi established an Ndebele state in the south-west of what is now Zimbabwe, subjugating the Shona inhabitants in the process. The area became known as Matabeleland, with Bulawayo as its central point. As an offshoot of the Zulu nation, the Ndebele are linguistically and, in many ways, culturally different from the Shona. This history has left a lingering antagonism between the two groups. The Ndebele constitute about 18 per cent of the population, and constitute a majority in Matabeleland. The Shona comprise about 76 per cent of the population. The remaining 6 per cent of the population includes the Batonga, the Shangaan, the Venda, and people of European and Asian descent, each constituting about 1 per cent of the population.

The next conquest was by the British South Africa Company under the leadership of Cecil Rhodes, who entered Zimbabwe in search of mining opportunities. Encroachment by the BSAC on territory occupied by the Shona and the Ndebele led to a rebellion by the two groups, in 1896. The uprising is known in Zimbabwe as 'the First Chimurenga' (liberation struggle). It was swiftly crushed. The Shona and Ndebele became subject to the direct rule of the Rhodes administration. This administration began acquiring arable black-occupied land and displacing the occupants onto less fertile land, thus initiating a dispute over land occupation which continues to the present day, and has powerful resonances in contemporary politics.

The territory became known as Rhodesia, after Rhodes, and until 1980 was governed, in one form or another, by the white minority. In 1965, Prime Minister Ian Smith led the country's white minority in rebellion against the British crown, pre-empting a grant of independence by Britain (which would have led to 'majority rule') by declaring independence on its own terms. This Unilateral Declaration of Independence (UDI) was a devastating blow to black nationalists, who had hoped that the days of white minority rule were at an end. The result was a civil war, characterised by widespread atrocities and torture. The war resulted in 30 000 deaths, with a further 100 000 people injured. This 'Second Chimurenga' ended in 1979, after the British brokered a peace agreement between the parties at Lancaster House in London. Legal independence was formally granted by Britain on 18 April 1980, with Robert Mugabe as Zimbabwe's first prime minister under a Westminster style of government.

Under Mugabe's rule, the Ndebele populace felt that positions of power had been unfairly distributed in favour of the Shona. After a series of attacks on farms in Matabeleland by Ndebele groups dubbed as 'dissidents', the government responded with the launch of Operation Gukurahundi (or 'drive out the chaff'). North Korean soldiers were brought in to assist with the brutal suppression of the Ndebele people, in which at least 20 000 civilians, including women and children, were massacred, sometimes with extreme barbarism. A unity agreement settling the conflict was finally signed with the Ndebele leader Joshua Nkomo in 1987.

By January 1998, difficult economic conditions, caused by corruption and an IMF-sponsored structural adjustment programme, were taking a heavy toll on the poor. In 1999, disaffected

groups, largely from the trade union movement, formed the opposition party, Movement for Democratic Change. Civil society also identified constitutional reform as the key to positive change. Following pressure to adopt a draft new constitution proposed by civil society, the Mugabe government established its own controversial Constitutional Commission to propose a constitution. In mid-February 2000, the government's draft constitution was put to the public in a referendum, and resoundingly rejected. The ruling ZANU (PF) party's complacency concerning its grip on power was shattered. For the first time since independence, there was a possibility that ZANU (PF) might be dislodged at the polls.

The response of ZANU (PF) was swift and dramatic. It launched a campaign to establish total control over all sections of society. Farm invasions by a government-sponsored militia began two weeks after the referendum. The government claimed that this was driven by the popular demand for land. Under the guise of land redistribution, ZANU (PF) launched a brutal campaign of intimidation to regain control over the rural populace, and closed democratic space to ensure its dominance in other sectors of society. International isolation and condemnation followed, and the presidential and parliamentary elections of 2000, 2002 and 2005 were not recognised internationally as free and fair.

Agriculture had been a mainstay of Zimbabwe's economy. Its decline was mirrored in the economy as a whole, and a withdrawal of balance-of-payments support by international institutions meant an economic crisis partnered the political crisis. Hyperinflation removed any real control of the economy from the government's hands, and caused severe hardship for ordinary Zimbabweans. In May 2005, fearing that the large number of economically-marginalised urban dwellers was a potential powder keg, the government embarked on Operation Murambatsvina ('drive out the trash'), in which informal trading points and the informal and formal housing of traders and others outside the formal economy were destroyed. An estimated 700 000 people were displaced, suffering severe deprivation in the process.

In March 2007, the Southern African Development Community (SADC) mandated South Africa's then-president, Thabo Mbeki, to facilitate a settlement between ZANU (PF) and the opposition in an attempt to resolve the political and economic crisis. The first tangible result of the process was the 'harmonised' elections for local government, parliament and the presidency, held simultaneously in March 2008. ZANU (PF) lost its majority in the House of Assembly for the first time, and in the presidential race, Mugabe was defeated by MDC leader Morgan Tsvangirai by nearly 5% of the votes. However, with four candidates running, Tsvangirai failed to garner sufficient votes to avoid a run-off. Mugabe's government delayed the run-off through various illegal subterfuges.

During the intervening period, the military and militia subdued the populace through a bloody campaign of intimidation, torture, rape and murder, in which over 150 MDC supporters were killed. Murders of non-party activists are still slowly coming to light, and the total number of people murdered is believed to be as many as 2 000. Tens of thousands were displaced by the violence. The intensity of the violence surpassed even that experienced after Mugabe's 2000 referendum defeat, and the ferocity, brutality and methods deployed evoked memories (as was probably intended) of both the Gukurahundi and liberation war years. The MDC refused to proceed with the run-off under such conditions. The one-candidate election thereafter was a

sham, and is not recognised regionally or internationally as a credible expression of the will of the people.

Mbeki was thus required to continue his mediation efforts in order to defuse the crisis. The renewed SADC process, despite the commitments in the Memorandum of Understanding, did not bring about the immediate cessation of violence, or restore minimum conditions for the free exercise of rights in Zimbabwe. Furthermore, civil society voices continued to be excluded from the process and, on issues of transitional justice, the opposition political stakeholders requested that civil society play down its demands. The process eventually led to an agreement between the parties on 11 September 2008, but a deadlock over the allocation of key ministries has prevented any further action in relation to the agreement. It remains to be seen what the implications of this will be for the agreement, and whether the agreement will hold or its provisions be implemented. It will be important for civil society in Zimbabwe to play an active role in securing what gains exist within the agreement, if it is allowed to do so. An early point of action in relation to transitional justice could take the form of advocacy concerning the ratification of the Rome Treaty, and several other international conventions relating to processes of redress in respect of human rights violations.

South Africa and Zimbabwe

A large section of Zimbabweans view Thabo Mbeki's (and thus South Africa's) post-apartheid relationship with Mugabe as one of collusion. Even the much-heralded 11 September agreement is regarded as having been foisted upon the opposition to protect Mugabe and ZANU (PF) after electoral defeats in the 2008 presidential and parliamentary elections.

The apartheid government's collusion with the repressive Smith regime was more overt. Between 1975 and 1979, South African military personnel were clandestinely deployed in Zimbabwe alongside the Rhodesian army as an 'X Force' against the nationalist forces. After Zimbabwe's independence, South Africa pursued a policy of destabilisation against the 'frontline states', and also engaged in bombing attacks on the ANC offices in Zimbabwe. Recently there have been suggestions that South Africa actively fomented the 'dissident' activity in Matabeleland that led to the Gukurahundi atrocities.

The Transitional Justice Landscape

Understanding and definition of transitional justice in Zimbabwe

Zimbabwe's early post-independence history, particularly with reference to the Gukurahundi massacres in Matabeleland, has resulted in key civil society groups and certain sectors of the population having entrenched attitudes on the implications of the failure to punish gross human rights violations from this period. As the political situation became more polarised, and repression increased in the wake of the formation of the MDC, the constitutional referendum and the 2000 elections, transitional justice has also become a focus for a range of human rights groups, as well as a steadily growing number of victims of the state's crackdown on opposition. In both cases, the state's failure to acknowledge its role in the persecution of the population has bred a conception of transitional justice priorities that focuses on prosecution and compensation.

Where organisations or groups currently have programmes that focus on one or more aspects of transitional justice, their main emphasis is on ending what they see as a culture of impunity. This stems from the recognition that there is a clear historical line, from the injustices of colonialism, through the atrocities of the liberation struggle and the Gukurahundi massacres of the 1980s, to the most recent inter-electoral violence and torture. In addition, the greatest concern voiced by victims is that the perpetrators will re-offend – and not just against the original victim, but others as well. As one interviewee put it, ‘people should not be allowed to get away with murder – if you look back to Gukurahundi and Murambatsvina, the same tactics were used. We must draw a line.’ At this point in the nation’s history, therefore, it is imperative that ‘the minimum is done to ensure that it is less and less easy to get away with running a dictatorship’.

While there was a consistent focus on the need for justice, almost all those consulted linked justice with peace, if not with some understanding of reconciliation. In this conception, justice and peace were seen to be two mutually reinforcing sides of one coin. However, this focus on a peace component did not mitigate the critical importance placed on compensation by stakeholders. Here, justice was twinned with redress, and this notion was particularly prevalent among organisations that work directly with victims. That said, it does appear that victims have begun to rebuild their homes and lives in certain areas, and in such cases, it was felt that tracking and prosecuting perpetrators would be a priority.

In certain cases, the discourses on justice did indicate a sense of some distinction or grading system that could be applied to perpetrators. It was felt that the organisers, planners and motivators of the inter-electoral violence, along with multiple offenders, should have to face prosecution. However, there was more lenience expressed towards foot-soldiers or, in the case of land reform, certain groups among the resettled farmers. This ‘grading’ of perpetrators by some interviewees was the realm in which issues of truth-telling and, to a lesser extent, some form of reconciliation process entered the discussions. Throughout, there was an underlying emphasis on acknowledgement as an essential first step. As one stakeholder put it, ‘Perpetrators will either need to come out and be punished, or come out, tell the truth and engage in some form of reconciliation.’ Some organisations did discuss or recognise the potential importance of traditional approaches to the issues of justice and reconciliation. In this conception, given the community-level violence that has been perpetrated, it was felt that a system in which punishment was served in the community would offer potential for long-term healing and nation-building.

There was an openly acknowledged imperative not to forgive and forget. Interviewees felt that people were often too quick to forgive and forget, discounting how hard it is to actually forget. Church-based groups spoke of the biblical understanding in which reconciliation involves forgiveness and acknowledgement. However, they highlighted the damage that could be caused by denial, the results of which can be seen in the country’s recent history; and the issue of compensation was raised as a necessary addition to the package. But compensation has a complicated history in Zimbabwe. One interviewee, who had worked on the ‘Breaking the Silence’ report drafted after Gukurahundi, spoke of how that report had finally focused on community compensation rather than individual compensation (the exact reasoning for that decision was unclear from the interview). Other stakeholders noted that compensation had not been adequately dealt with in South Africa, and still others highlighted the haggling and greed

that arose in Zimbabwe when the War Victims' Compensation Fund was launched. That particular Zimbabwean example also raised the spectre of the cost to the state of certain forms of compensation, as well as the economic collapse precipitated by the unbudgeted payout to war veterans in 1997.

Overall, while each interview involved the use of some conception of transitional justice building-blocks, there was both an evident (and acknowledged) lack of in-depth knowledge of its key tools, and the ways in which they could serve the Zimbabwean context. As one interviewee put it, the statement on mediation released by civil society in early August did contain a demand for truth and reconciliation processes, but there was no deep reflection as to where such processes should be located in the transitional government, and what they should entail. One challenge is that civil society demands outcomes more than it proposes mechanisms for transitional justice processes, and there is a need to strengthen the understanding of possible mechanisms. (It must be noted that the Forum hosted a workshop for human rights-focused organisations in September 2008. While part of the workshop dealt with the issue of mechanisms, its focus was, again, largely outcomes-oriented.)

Transition Opportunities

Since the mission, the political landscape in Zimbabwe has shifted significantly, with the signing of a deal in relation to an interim government that will hold power for a minimum of 18 months. This imperfect deal may yet provide a platform for basic economic reconstruction, although recent attempts to revive negotiations concerning its implementation have stalled once again. The agreement contains several clauses on healing and reconciliation that are somewhat vague, and it does mention the possibility of prosecution. However, and perhaps more significantly, the deal does not grant amnesty to any parties, and does not contain sunset clauses. The absence of clauses dealing with issues of transitional justice is in itself an opportunity. Just days before the agreement was reached, civil society had issued a set of minimum demands on transitional justice that were not foreclosed by the agreement (see Appendix 4).

Acknowledging the prolonged stalemate in relation to implementation of the agreement, the current political compromise raises issues concerning institutional reform that will be critical to both the implementation and the success of any transitional justice processes. The actual document that was signed is particularly opaque on issues of institutional reform; and the interim government, which will lack a popular mandate even if current negotiations are successful, may steer clear of major institutional reform until the constitution-drafting process is complete. This would have an impact on the timing and sequencing of any transitional justice initiatives. However, the interim may well afford the nation much-needed time to popularise the concepts involved, and initiate a series of dialogues about what, in particular, victims would like from a transitional justice process.

Approaches and priorities of local actors, particularly those in the human rights community

A key priority, evidenced and discussed openly in meetings, is the information gap in relation to transitional justice concepts and mechanisms. There is a clear need to inform and educate both organised civil society and, more specifically, citizens and victims. In part, there should be an initial focus on simply informing citizens of what could be called the national story. The dearth

of independent media and access to external media has meant that not many people know what is happening on the ground nationally. They may know the stories from their own community or local area, but the full story needs to be told. This information gap extends to the full story of Gukurahundi, as much of the nation still does not have a clear idea as to whether the state line on punishing ‘dissidents’ is a true reflection of why the mass murders took place, or who crafted and initiated the policies that led to the killings.

Such a campaign of information dissemination and dialogue would need to be built on and supported by changes in the media environment in the country, as an independent media will be critical in enabling the population to hear one another’s stories and embrace the ideas of transitional justice. There is a clear threat of revenge being sought at either individual or community level. This impetus for revenge is one of the factors feeding the need for education on how justice and restoration of property can be addressed, and have been addressed in other situations. This priority is perhaps better phrased as the need to prepare people for living together.

In tandem with the above, many organisations expressed concern that there is no platform for citizens to express their views or to tell the nation what actually happened to them and their communities. There is an evident need to empower communities to have a voice, and through that, to establish their own solutions and invent their own transitional justice process. For example, some interviewees noted that the average Zimbabwean inherently respects authority, and cognisance must be taken of this viewpoint in the design of transitional justice mechanisms. At the very least, such platforms would allow victims to express their views on the process and to give their consent to, as well as have ownership of, the way forward.

It is clear that the greater part of the most recent violence was state-orchestrated intra-community violence – a brother burning down the home of his relatives, for example. These incidents will necessitate a process of community-level truth-telling, even if it is initially informal, in order to pave the way for more formal transitional justice processes and, potentially, reconciliation. This initial telling of the ‘whole story’ will also need to be supported by civil society in the form of the provision of psycho-social and livelihood support that can open up the space for dialogue about the atrocities. A number of groups felt a process of healing was essential before any more formal discussions on the most appropriate transitional justice mechanisms could take place. At the very least, a process of counseling should be initiated in the early phases of the political transition.

In terms of priorities expressed by victims, most focused on a return to a previously-held status quo (whether involving access to a livelihood or, in some cases, return to a community following displacement), and the receipt of reparations that would enable them to restart their lives. Yet, in many communities, people still cannot live side by side, and displaced people, fearing for their lives, do not want to return. The restoration of citizen security is necessary before dialogue on the way forward can be initiated. Assuming these immediate concerns will have been addressed, victims list differing sets of priorities, often featuring a mix between wanting an acknowledgement of the wrong done and an apology from the perpetrators, and wanting perpetrators tracked down and delivered to justice. Female victims, in particular, want justice – especially in relation to rape. While they feel that compensation would be sufficient in relation to

property damage, they will not accept anything less than justice for rape. This may well point to the development of specialised courts for women and children, given the sensitivity of the crimes perpetrated against them.

As mentioned earlier, prosecution (often phrased as accountability) is a high priority for the majority of victims. Those perpetrators whose names are known will have to face some form of justice, as victims already know what has happened, and therefore truth-telling will not be sufficient. There is definitely a sense that any system of prosecution should be tiered, and this is where some form of truth commission gets the most frequent mention. For some, the estimated time that prosecutions would take is a concern; how 'deliverable' justice will be is perhaps what informs the idea of a grading of perpetrators. More often than not, the call for justice does come linked to the need for redress. In this sense, the conception of justice is partly retributive, and partly restorative, through individual compensation. Where the violation has taken the form of stock or property theft, victims seem ready to accept return of property as a form of compensation.

Although loosely framed and far less discussed, other than for specific interest groups, there was an expressed need for commissions on both economic crimes and land reform or tenure as a priority, for both the transitional justice and nation-building processes. While the necessary evidence for a Land Commission has been fastidiously collected and documented, the evidence on economic crimes would need to be placed higher on the agenda of certain key groups.

For those civic organisations consulted, documentation of crimes remains a key priority. The extent of the documentation already gathered is significant, though there is acknowledgement that it is not always of a level that would constitute admissible evidence.

The RAU Survey

The general understanding that various NGO leaders have of their victim constituents' perceptions of transitional justice is broadly supported by a pilot country-wide survey undertaken by RAU shortly before the assessment mission took place. The study sought the views of ordinary Zimbabweans who were selected on the basis of the likelihood that they had been victims of political violence and gross human rights violations since 2000. Twenty-five interviewers were sent out into the community with the task of interviewing as many activists each as they could. A simple questionnaire (see Appendix 2) was designed that would cover the major areas involved in any transitional justice process in a future Zimbabwe. The interviewers were given a one-day training workshop on the issues behind the design and manner of administering the questionnaire, and allowed to customise a prepared questionnaire into a form they felt appropriate for their targets. The questions were then translated into chiShona and Sindebele.

The final sample comprised 514 persons, of whom 57 per cent were male and 43 per cent female. The average age of the sample was 36 (with a standard deviation of 12.9 years), which is very similar to that reported in other human rights reports in Zimbabwe. The sample was mainly rural: 72 per cent of respondents came from the rural areas, and 28 per cent from an urban setting. The

sample was generally well-educated, with over 70 per cent having at least secondary school education.

Although this small study cannot claim to represent a national profile, it does provide an interesting perspective on the views of activists, many of whom (47 per cent) had been victims themselves. The findings suggest that there is a need for much wider consultation about transitional justice in Zimbabwe.

There were a number of interesting findings from this survey.

- A substantial percentage (42 per cent) of the sample felt that amnesty should be given, with a higher percentage feeling that it should be given if it was necessary to produce a political settlement. Many who responded in this way had only a primary-school education; however, these views might well change after a political settlement is reached and time has passed, as was the case for the victims of the Gukurahundi violence.
- Nevertheless, only a small number (18 per cent) felt that serious crimes should be excused; again, those with primary school education significantly favoured amnesty.
- Although most were not in favour of a TRC as an alternative to prosecutions, most were in favour of a TRC if prosecutions were not possible; most were not in favour of exemptions for truthful testimony, with an apparent trend towards punishing command responsibility.
- Very few respondents felt that there was a need to investigate violations prior to 1980, and this was a general trend. The Ndebele and the Shona samples had markedly different preferences for the period they saw as important, which is hardly surprising.
- It was apparent that there were many differences within the sample in terms of ethnicity and level of education. While the ethnicity factor is important, it does not appear to indicate a potential for ethnic conflict; rather, the differences stem from the effects of the violations experienced by the two groups. The Ndebele are rightly concerned about the 1980s; very little has been done to redress the wrongs committed during that period, while the Shona are clearly very preoccupied – as are a substantial number of the Ndebele – with the current violations. These differences are unlikely to lead to ethnic conflict, as long as the two time periods are given equal attention in any transitional justice process in the future.

The differences resulting from educational level are a matter for some concern, and they highlight the need for widespread teaching and information about transitional justice. If citizens' level of education (probably with a concomitant level of poverty) results in them being uninformed about the options for transitional justice, this could result in a process that does not have sufficient validity to transform the country. It seems evident that there is a serious need for a widespread educational process led by grassroots organisations before any decision is made about the structure and process of any future transitional justice system.

Range and Nature of Justice Claims

Over the last eight years, legal units within members of the Forum (in particular, the Zimbabwe Lawyers for Human Rights) have pursued human rights cases via court actions, despite the

politicisation of the judiciary. This has been done both for purposes of documentation, and as a mechanism through which to achieve whatever redress possible for victims, particularly in the form of civil claims for property and physical damage incurred as a result of repression.

Any transitional justice process will need to deal with both criminal and civil claims, as state repression has taken multiple forms, targeting livelihoods along with lives and physical and mental well-being. Operation Murambatsvina, as just one example, raises civil claim issues concerning homes and livelihoods. In the rural areas, youth militias have acted in ways that should result in both civil and criminal cases. Civil cases will need to look at property damage and stock theft, and criminal cases will need to be initiated in terms of torture, murder and rape of young women in communities (as well as girls and young women who were abducted into the camps to care for the militia). The fast-track land reform programme has created a potential for a vast range of civil claims, from both farmers and farm workers. And finally, the state's repression of any opposition over the last eight years warrants a wide range of criminal claims for torture, murder and disappearances, not to mention the potential for court proceedings relating to gross human rights abuses, given the state-sponsored and orchestrated nature of the violence that has accompanied the political crisis.

Status of transitional justice approaches

Civil society organisations in Zimbabwe are engaged, and have been for some time, in a range of transitional justice approaches. The ongoing work has not always been described as 'transitional justice' as such, in part due to the political pressure that this label might have attracted, and in part because it has taken very specific forms.

As previously noted, the most advanced transitional justice approaches relate to the documentation of evidence for prosecutions. This work is being undertaken by a range of organisations, and is being co-ordinated either through the Forum or between particular organisations. Civil society groups that deal with collecting victims' stories, and providing counselling and medical attention, take statements that are then shared with human rights defenders; or clients are referred to the human rights defenders for particular legal counsel. The more recent inter-electoral violence has seen the expansion of groups taking statements and trying to link victims to particular services. The Forum is currently trying to group this information, and look at what particular transitional justice mechanisms would best suit the crimes that have been committed in Zimbabwe. This involves identifying the perpetrators, and ensuring that the questions asked of victims have an evidential focus.

In addition, there is a small group of organisations using different strategies to build capacity in terms of peace-building and conflict resolution. Whether these structures take the form of Peace Committees, gardening groups that dialogue while they work, or church-based dialogue structures, they focus on bringing communities together and assisting them to find solutions to the issues and violations that confront them. The state-driven political polarisation of the nation has caused fissures in almost all communities, and these local efforts to rebuild community play an important role in trying to soften the impact of the economic collapse.

Finally, there are initiatives in healing that, while small, are re-empowering victims, and trying to bring victims and perpetrators together in a process that treats each human being as a microcosm

of an ecosystem. The aim is to give voice to victims through workshops in which they share their experiences with other victims, enabling them to regain their confidence and come to terms with the violations perpetrated against them, both personally and within the broader community. The potential for expanding such processes, which are led and orchestrated by victims, is significant, and could form a vital tool, both in preparing citizens for, and helping them to engage in, later processes of reconciliation.

Challenges in the Transitional Justice Landscape

The political context in Zimbabwe, despite the 11 September deal, remains one of the most obdurate challenges to transitional justice options. In particular, this relates to the environment in which NGOs conduct their work. While the June ban on activity has ostensibly been removed, numerous unreasonable bureaucratic requirements, including detailed disclosure of funding sources and partners and the requirement to work with ZANU (PF)-controlled structures, effectively keep the ban in place for many NGOs. The more recent abduction of and treason charges against key civil society leaders imperil the work of all NGOs. At the same time, the context within which the media operates needs a major overhaul in order for open and frank dialogue about transitional justice processes to be accessed by and spread to the population as a whole, rather than just those linked to organised civics or living in the cities with access to foreign news and the internet.

The extent and nature of institutional reform by and under the interim government will also present a challenge. In the context of transitional justice, this relates specifically to the judicial sector and the security sector. While many of the organisations consulted by the mission believe that there are ways to reform the judicial sector quite quickly or, at the very least, to establish an impartial and well-staffed judicial commission of some kind, there will be far more significant obstacles to attempts to reform the security sector. President Mugabe remains in control of the National Security Council (scheduled to replace the Joint Operation Command or JOC), and although Prime Minister Tsvangirai will sit on the council, he does not appear to have been granted specific or significant powers in this regard. The key Service Chiefs that have formed the JOC, and have run the country over the last three years, remain the most likely to be spoilers in the settlement process.

Furthermore, a process will need to be agreed upon for demilitarising the youth militia, and more broadly, the army. Those people who have been internally displaced will need to be assured that their security will not be threatened if they return home, and those people currently subject to militia raids for food will need assurance that their livelihoods will no longer be under threat from the militia. It is unclear at this point to what extent the leadership of ZANU (PF) and the armed forces still maintain primary control over the militia groups, who have been released from pay and service but not disarmed, and as a result they will be an unknown quantity in coming months.

As a result of the widespread and extraordinarily violent nature of the state repression seen between the March and June elections, the imperative for revenge that is already evident in certain sectors of the population poses a challenge both to the stability of the political settlement and to future transitional justice processes. While they would be understandable, widespread

revenge reprisals would prejudice nation-building processes, and need to be averted by both the political parties and civil society stakeholders. In part, these could be prevented by open discussion of the transitional justice options and by actions that could be taken by the political stakeholders and lobbied for by civil society. These could include (but would not be limited to) information-sharing and transitional justice dialogues, as well as a clear government line on sunset clauses and lustration.

The timing of any transitional justice processes is therefore a challenge. The need for a free operating environment for NGOs will obviously determine the extent to which they can access the population and begin educational work on the options that exist. In addition, while people are willing to listen, at present they are extremely angry, and only minimally interested in hearing about reconciliation. It will therefore be necessary to let the intensity dissipate and to allow for some economic stabilisation before those affected in the last six to eight months of 2008 are ready to consider a framework that goes beyond simple prosecution.

Two historical factors present further challenges to a transitional justice process. The first, and perhaps most significant, is the question of what time-period should be considered by a truth commission or justice process. In 2003, civil society agreed that atrocities should be investigated from 1960 right through to the present, encompassing those committed by the Rhodesian government during the liberation struggle, and throughout independence (with Gukurahundi occurring in the 1980s). In response to the same question in 2008, interviewees were divided between those who felt investigations should extend from 2000 to the present (that is, from the start of the current political crisis) and those who felt that investigations had to encompass Gukurahundi (from 1980 to the present) if they were to bring any kind of national healing. In part, this divide is a generational difference, with the youth having no clear memory of the impact of Gukurahundi. However, it is also in part an ethnic divide between the Shona and the Ndebele, and it is on this level that the time period for investigations could trigger a divisive dialogue and cause conflict. This will therefore need to be handled with extreme care and require broad national consultation. The second historical dimension relates to the issue of reparations, as raised earlier in the example of the abuse of the War Victims Compensation Fund. There will need to be a carefully considered approach to reparations and compensation, involving administration of the same by an independent body, if the citizens are to have faith in its operations.

Opportunities in the Transitional Justice Landscape

If the political settlement can be salvaged and implemented and if an interim government formed as a result manages to deliver a semblance of economic stabilisation, as well as some sense of personal security and the free exercise of human rights and freedoms, it may be easier, especially if people feel safe to return to their communities, for the citizens of Zimbabwe to embrace and see possible solutions. There are traditional Zimbabwean forms of conflict resolution (for example, *madare*), and if the settlement delivers what it promises, there may be space, even if only within small communities, for people to begin thinking about coming together to discuss issues and the crimes of the past.

In terms of justice and security sector reform, the organisations consulted saw opportunities, even while recognising existing threats. As far as the judiciary is concerned, certain groups acknowledged that although it has been compromised, it could be a function of the political environment and the erosion of the system that has prevented judges and magistrates from exercising the principles of independence to date. A range of groups noted that there are independent individuals within the system, particularly at the lower-level courts, who could form the building blocks of a non-partisan judiciary. The alternative is to create specialised courts, which would also address certain issues relating to the speed of delivery.

A possible opportunity exists in the security sector derived from the belief that it could be professionalised relatively quickly. There are estimates that over 15 000 police and army members have left Zimbabwe in the last eight years; if they could be brought back, they would form a foundation for the reform of both services.

Potential Partners

The extent of the work already done by civil society organisations and community-based groups in Zimbabwe provides a solid foundation from which the nation can explore and develop its own transitional justice processes. In seeking partners within the country, it will be important to identify those local organisations already engaging with the issue of transitional justice, and to seek ways in which to support and capacitate them.

Civil society organisations have agreed that all initiatives in relation to transitional justice should go through the Forum as a co-ordinating body. This will enable co-ordination of initiatives, but more importantly from the perspective of external organisations, will provide a focal point for engaging with civil society and identifying the most relevant organisation for support in a particular area. Furthermore, there is evidently strong support from the donor community in Zimbabwe for transitional justice initiatives, and this should also be co-ordinated through the Forum to avoid overlap and double spending.

The mission was not able to engage with a broad spectrum of the church and faith-based organisations in the country, besides one meeting with the Catholic Commission for Justice and Peace (CCJP). The work of the ecumenical community and other church-based initiatives should be assessed and mapped. Such an exercise could identify strong local-level partners for dialogue, key entry points for engagement with victims, and potential mechanisms through which to popularise transitional justice concepts.

In terms of the South African Regional Assessment, the Forum (and its membership organisations) and RAU should form the focal point of any engagement in relation to in-country partners. In the initial phases, support should be streamlined to assist with education of citizens and capacity-building of civics in relation to transitional justice. Thereafter, support would need to be tailored to the needs and demands of Zimbabwean civics.

Recommendations

Healing

The interviews and RAU survey give a clear indication that perspectives on transitional justice in Zimbabwe are disproportionately informed by the violence that took place between the first presidential election and the run-off. There are several obvious reasons for this:

- a) the immediacy of the violence at the time of the mission;
- b) the continued proximity of perpetrators and victims;
- c) the degree of brutality and sadism that accompanied the violence;
- d) the pervasive nature of the violence throughout the northern and eastern parts of the country;
- e) the systemic and calculated nature of the violence;
- f) the obvious aetiology and teleology of the violence, rooted in crushing a widely held hope for political change that will remove economic hardships;
- g) the fact that many thought that the moment of change had arrived, only to witness it brutally obliterated, has honed the desire for revenge, and increased polarisation and hatred;
- h) the inequity of the robbery (legally defined as theft accompanied by violence) of the electoral victory has diminished any inclination to extend any concept of fairness to the perpetrators.

For these reasons, notions of ‘reconciliation’ receive short shrift from victims in the current context. It is therefore clear that some form of healing process should begin immediately, in a transitional period, before concepts of transitional justice can be discussed in any expansive manner. Given that many victims continue to live side-by-side with perpetrators, an immediate *modus vivendi* for such communities needs to be developed, and a healing process initiated.

As seen elsewhere in these recommendations, transitions in other societies should be looked to for appropriate responses. While healing programmes such as the Tree of Life were clearly seen to be beneficial, there is an immediate need for this and similar programmes to cover a wider area and larger portion of the population. A reformed media with healing as part of its mandate would no doubt be salutary. But the immediate need is for experiences in other transitions to be synthesised and analysed to consider their transposition into the Zimbabwean context. This requires expert assistance so that appropriate mechanisms can be designed to facilitate this process. At the same time, extreme care must be taken to ensure that such mechanisms are informed by victim needs and choices – a grassroots-upwards approach, not an academic elite-downwards approach. This leads to the second recommendation.

Transitional justice education and feedback

The 2003 Symposium on Transitional Justice held in Johannesburg emphasised the need for a victim-oriented approach to transitional justice. The mission observed that this remained a strong concern of NGOs in Zimbabwe. In order for victims to determine the most appropriate transitional justice mechanism for Zimbabwe, they need to be able to make an informed choice. Accordingly, a comprehensive review and critique (in the form of an expert desk study) of justice and accountability processes in analogous countries should be carried out as soon as possible, with a view to disseminating suitable options in Zimbabwe.

For example, the Gacaca process observed in Rwanda is seen as problematic for use in Zimbabwe, as a result of a mistaken understanding of the role of rural leaders ('traditional' rural elites are not necessarily involved in the Gacaca process). Yet it is difficult to see how communities can be restored without acceptance by rural authorities of the intrusion of a transitional justice process into their domain.

Methods of dealing with such difficulties, and critiques of previous models and their applicability to the Zimbabwean context, need to be disseminated to victims in a form that can be easily assimilated. Provincial coordinators could then receive training on the different justice and accountability experiences emerging from such a review report, together with allied issues, and they in turn can disseminate similar training to key personnel in their urban and rural networks. This will allow extensive research to be carried out through a participatory methodology, using structured and participatory discussions, with a substantial representative sample of people in a reasonable geographical distribution. The project could then get the necessary feedback as to what victims consider to be the most appropriate transitional justice mechanism for Zimbabwe.

The actual research process of discussion and analysis of possible justice and accountability frameworks is intended to lead to an important concrete outcome in itself: the creation or introduction of processes that will be viable, sustainable and owned by the majority of ordinary people. The project would need to be run through an NGO or NGOs with an extensive grassroots network, and questionnaires could be used in conjunction with the other methodologies suggested here. A review of dissemination models and tested media strategies should be drawn upon where available.

Transitional justice mechanisms

The form of transitional justice mechanisms ought to be determined in the manner outlined above. However, if the emphasis on justice, prosecutions and reparations continues, it is reasonable that such mechanisms should be locally based and owned. Several interviewees expressed the view that local justice institutions could be used for this purpose. Although these institutions are currently perceived as politically partisan, it was felt that once the political pressure for such partisanship was removed, the institutional structures would be resilient enough that they could be expanded to undertake the process. If reform is undertaken, these institutions should work in conjunction with community-based initiatives, and would need to use the severity of crimes committed as one of the determining factors in establishing mechanisms for redress.

NGOs and civil society – past and present transitional justice initiatives

NGOs and CSOs are keenly aware of the need for effective transitional justice mechanisms in Zimbabwe. The failure to address transitional justice after Zimbabwe's Second Chimurenga continues to inform the political terrain in contemporary Zimbabwe, and the resentment and anger over Gukurahundi remains acute and destabilising in the south-west of the country.

However, current transitional justice initiatives have several problematic characteristics. Apart from church-based initiatives, most are prosecution- and reparation-centred. As a result,

transitional justice activities consist largely of gathering documentation with a view to future prosecutions or claims for reparations rather than present claims. Yet even in these cases, most documentation requires secondary interviews, as the initial information gleaned is insufficient for these purposes. An immediate recommendation is to investigate whether this problem can be resolved. A second difficulty is that present claims result in reparations of a symbolic nature only, as by the simple expedient of delaying payouts for state torts, inflation renders any award meaningless in monetary terms.

While many NGOs are involved in the process of documentation, there is little co-ordination between the NGOs in this regard. Only one data-gathering NGO, CSU, appears to have networked with the Zimbabwe Human Rights NGO Forum to collate data and have the Zimbabwe Lawyers for Human Rights act on it. A broader and more inclusive process of data collation will be necessary, particularly in respect of mapping a national story in relation to violations, and ensuring there is no overlap in statement-taking. While co-ordination remains problematic, the advantages of collaboration and the strengthening of documentation processes as a result need to be highlighted. Perhaps in this way more organisations will be willing to participate in collective initiatives.

Co-ordination

This lack of co-ordination between Zimbabwean NGOs has been noted by the EU, from whom many NGOs involved in transitional justice initiatives obtain funding. The EU is soon to employ an expert to attempt to co-ordinate the documentation from the various Forum members. But NGOs from outside the Forum's membership need to be brought into the process so that a consolidated database can be established.

An immediate recommendation of the mission, which has already been made to the Forum and needs to be pursued, is the convening of a donors' conference to foster co-ordination among NGOs working on transitional justice projects in order to prevent duplication of work and to establish a coordinated response and the sharing of data. This will be no easy task, given that the mission noted a certain territoriality around transitional justice information on the part of Zimbabwean NGOs. While donor pressure can discourage this, the mission recommends that transitional justice NGOs convene a conference, with co-ordination and ways of achieving this as its sole agenda. The resolutions of the 2003 symposium can be built upon and implemented in this manner. While acknowledging the impact of increased repression and state aggression towards civil society in particular, the resolutions from the symposium remain relevant. The lack of action in relation to the resolutions over the past five years has resulted in under-preparedness for the onset of transition, if indeed Zimbabwe can be described as entering a transitional phase.

The mission noted that the Forum did in fact convene a conference on transitional justice on 9 September 2008. However, the issues suggested here were not raised, and the conference merely iterated and updated the resolutions that emerged from the 2003 symposium. Nevertheless, a recommendation that minimum demands on transitional justice be formulated for politicians involved in the then-ongoing inter-party negotiations by Zimbabwean NGOs was taken up by the Forum, and the resulting demands were widely published. A key demand was that there be no

blanket amnesty for perpetrators. Since no such amnesty is mentioned in the agreement that emerged, the recommendations made here can indeed be pursued.

To sum up briefly, the above recommendations suggest that methodologies to establish a process of healing must be investigated as the first and most urgent priority. Secondly, models of transitional justice must be researched for suitability to the Zimbabwean context, and disseminated in a form that is easily understood by ordinary Zimbabweans. Thirdly, victims' views on these models should be gathered utilising a questionnaire format and through consulting NGOs with nationwide constituencies, in order to determine an appropriate model for Zimbabwe. Only once this has been done can the practicalities (which are not inherent in the choice of model) be considered, and the process of implementation can begin in a political environment that is indeed one of transition – something that there is still no certainty of achieving in Zimbabwe.

Appendix 1: RAU's Survey Questionnaire (customised by interviewers)

Background information

Gender	Male	Female			
Race	Black	White			
Area	Rural		Urban		
Education level	Primary	Secondary	Tertiary		
Ethnicity	Shona	Ndebele	Other (specify)		
Age					

1. Do you think there should be amnesty for people who have committed politically-motivated crimes and crimes against humanity in Zimbabwe? Yes/ No
2. Do you think there should be an amnesty to achieve a political settlement in Zimbabwe? Yes/ No
3. What form of amnesty should be granted to the following groups of people?
 - o People who have committed the most serious offences (full/ partial/ no)
 - o People in positions of authority, military and police who authorised and allowed politically motivated crimes to be committed (full/ partial/ no)
 - o People in positions of authority, military and police who allowed politically motivated crimes to be committed without stopping them (full/ partial/ no)
4. Do you think a truth and reconciliation commission should be established in Zimbabwe? Yes/ No
5. a) Do you think there are some people who should not be prosecuted for crimes they committed against humanity? Yes/ No
 b) Do you think those people (from a above) should stand before a truth commission to admit publicly to the crimes that they committed and be exempted from prosecution? Yes/ No
6. If a truth commission is established:
 - a) Should anyone who truthfully testifies be exempted from prosecution? Yes/ No
 - b) Should only people who have committed lesser crimes and who testify truthfully to the commission be exempted from prosecution? Yes/ No
 - c) Should the following groups stand before the commission?
 - i) Ringleaders Yes/ No
 - ii) Senior officers who commanded their juniors Yes/ No
 - iii) The ordinary officers/militia who actually carried out orders Yes/ No
7. The investigation of crimes against humanity in Zimbabwe should cover:
 - a) The period from 1960–1980 (Smith regime) Yes/ No
 - b) The period from 1980–1987 (Gukurahundi) Yes/ No
 - c) The period from 2000–2008 Yes/ No
 - d) The period from 1960–2008 Yes/No
8. Do you think that victims of politically motivated crimes or crimes against humanity should receive compensation? Yes/ No
9. Who should compensate the victims?
 - a) The government? Yes/ No
 - b) Perpetrators of crimes against humanity? Yes/ No

- c) Beneficiaries of politically motivated crimes? Yes/ No
10. Do you think women have been affected differently to men by politically motivated crimes? Yes/ No
11. Do you think that women victims of politically motivated crimes or crimes against humanity need to be compensated differently to men? Yes/ No
12. Are you a victim of politically motivated violence? Yes/No
13. Are you currently a political activist? Yes/No

South Africa

The SA Report was written by Piers Pigou on behalf of ICTJ. Piers is the director of the South African History Archive based at the University of the Witwatersrand and has worked with several human rights documentation and research organisations. He was also formerly an investigator with the South African Truth and Reconciliation Commission.

Executive Summary

From the mid-1970s, the South African government waged a devastating war on its neighbours in its efforts to combat what it described as the spread of international communism and terrorism in the southern African region. Most commentators, however, understood Pretoria's aggression to be a fundamental component of its core policy objective to maintain South African hegemony in the region, as well as white minority rule.

From the late 1950s onwards, in a context of decolonisation, Cold War politics, armed insurrection and brutal counter-insurgency measures, as well as a domestic 'reform' programme designed to undercut growing militancy amongst anti-apartheid groupings, the South African government sought to decelerate the momentum behind the inevitable drive towards universal suffrage in South and Southern Africa. This was not unlike trying to stop a truck with failed brakes on a decline – at best they could delay the inevitable, and the cost was to be enormous.

South Africa's main liberation movements had sought to establish bases in the Frontline States, and until the mid- to late-1970s, had been forced to operate behind a *cordon sanitaire* of colonial and settler states that provided an effective buffer to externally launched insurgency efforts.

The collapse of the Portuguese empire and the intensification of insurgency against the Rhodesian settler state, leading to Zimbabwean independence, resulted in a policy shift by Pretoria, which now sought to manipulate and control the outcome of regime changes in the region, and, when this was not possible, to force compliance of newly independent states through a range of economic, political and security-related interventions, better known as destabilisation. This era was characterised by the increasing militarisation of the South African state, and the ascendancy of the securocrats, who were committed to employing force as a central methodology in combating what it described as a 'total onslaught' against apartheid South Africa.

This report outlines the evolution and the main methods of destabilisation employed by South Africa against its neighbouring states, and provides an overview of the devastating consequences these policies had in the region, with a particular focus on the 1980s.

The subsequent changes that brought about a negotiated settlement in South Africa during the early 1990s saw an end to these policies. Unlike neighbouring states such as Mozambique and Zimbabwe, where no efforts were made to interrogate the causes and impact of past conflict, South Africa's Government of National Unity adopted a Truth and Reconciliation process designed to interrogate the manifestations of and reasons for past conflicts between 1960 and 1994, both inside and outside of South Africa's borders.

This report engages with the external dimension of South Africa's Truth and Reconciliation Commission, both in terms of providing an overview of what was achieved vis-à-vis the Commission's findings and recommendations, but also, importantly, what was not. It makes recommendations for addressing the range of destabilisation-related issues that fall under the rubric of 'unfinished business'.

Introduction

Beyond the vicious violence and oppression inside South Africa, there is an equally vicious violence and oppression inflicted by apartheid on the peoples of neighbouring countries bringing untold social and economic destruction and the shattering of hopes for rapid development in the region. The ideology of apartheid is hitting the neighbours back into the Stone Age.

Kenneth Kaunda, 19 July 1989⁸²⁸³

South Africa has a long history in both the colonial and post-colonial periods of intervention in the Southern African region to protect and promote its political and economic interests. The drive for independence from colonial rule in the period after the Second World War witnessed entrenched and ultimately violent resistance to change from colonial and settler administrations in Southern Africa.

The politics of the Cold War saw a convergence of interests as liberation movements in Southern Africa – many of which had declared allegiance to Marxist-Leninist liberation doctrine, and were implacably opposed to imperialist and colonial agendas – inevitably gravitated towards the Soviet Union, and to a lesser extent, the People's Republic of China, as sources of external support. The South African government positioned itself as an essential bulwark against Soviet expansionism, and in so doing, guaranteed ongoing, albeit at times qualified, support from Western nations. The West was, however, largely uncritical, and foreign investment in South Africa, primarily from the West, increased from R3 billion in 1959 to R21 billion in 1977.⁸⁴

Despite being well-positioned internationally at the end of the Second World War, and a founding member of the United Nations, South Africa increasingly became a focal point for enmity after the National Party victory of 1948 and the introduction of explicitly racist apartheid policies. Thereafter, a slew of Resolutions opposing South Africa's racist policies, and its illegal occupation of Namibia, were adopted by the United Nations' General Assembly. In 1960, the UN's Security Council adopted its first Resolution (134 of 1960) against South Africa, and shortly thereafter the campaign for sanctions –

particularly an arms embargo and boycotts of sporting and cultural activities – began to gather momentum.

For the next 30 years, the United Nations remained an important platform for profiling violations perpetrated by the apartheid government, extending support for those at the receiving end of apartheid abuses, and advocating for appropriate censure and punishment of the South African government. In 1976, the Centre against Apartheid was established in the UN Secretariat, and following the crackdown on political opposition in the wake of the 1976 uprisings, further efforts to isolate the apartheid government picked up momentum during the late 1970s and throughout the 1980s.⁸⁵

Having successfully crushed much of the internal resistance to apartheid, South Africa enjoyed unprecedented economic prosperity and growth during the late 1960s; the early 1970s, however, witnessed the re-emergence of political resistance, in the form of industrial action in Durban and East London, and the impact of global economic pressures following the 1973 oil crisis.

Until the mid-1970s, the countries around South Africa's borders had provided a *cordon sanitaire*, a buffer against the African National Congress in exile, frustrating its efforts to infiltrate cadres into South Africa to further the armed struggle and the broader objectives of mobilisation.

In the mid-1970s, the collapse of the Portuguese empire and establishment of revolutionary governments in Angola and Mozambique was rapidly followed by an intensification of the armed struggles in Zimbabwe and Namibia, and the first major internal disturbances (Soweto, 1976) in South Africa since the early 1960s. The South African invasion of Angola in 1975, ostensibly in support of UNITA (Union for Total Independence of Angola) and against the Marxist MPLA (Popular Movement for the Liberation of Angola) strengthened Pretoria's position as a Cold War ally of the West. Indeed, the international détente of the early 1970s between the USA and USSR gave way to the emergence of 'the Second Cold War' in the late 1970s and early 1980s, which in turn provided a fig-leaf of legitimacy (at least among major Western allies) to the hardening of South African policy and interventions in the Southern Africa region.

The situation was complicated by growing international pressure against South Africa from the majority of United Nations countries, and other multilateral groupings such as the Non-Aligned Movement and the Commonwealth. South Africa's racist policies and occupation of Namibia were indefensible, and it became necessary for South Africa and its supporters to demonstrate a 'reformist' agenda. The independence of Zimbabwe in 1980 heralded a shift in regional policy, as South Africa effectively bowed to international pressure to facilitate a political solution that enabled a majority government that, while rhetorically hostile to Pretoria, was rendered effectively compliant through a series of domestic and international constraints.

Indeed, securing compliance from neighbouring states became the hallmark and core objective of Pretoria's multiple levels of economic, political and security engagement, as South Africa refined its foreign policy objectives in the region and further afield.

Although South Africa's role in the region was to become subject to intense international scrutiny, throughout most of the 1980s it was able to act with impunity, and the impact of its multiple levels of destabilisation were compounded by devastating drought that wreaked havoc, especially in the early 1980s, in all the countries of Southern Africa.⁸⁶

The growing devastation of South Africa's destabilisation policy in the region was set out in Joseph Hanlon's seminal 1986 publication, *Beggar your Neighbours*, which focused on South Africa's military and economic interventions in the region from 1980. This publication set out examples of military and economic destabilisation, demonstrating how these interventions supported the objectives of various South African interest groups, primarily the retention of apartheid. Hanlon also demonstrated how Pretoria's interventions were also designed to maintain economic dependency as 'essential to the defence of apartheid'.⁸⁷

Despite its apparent omnipotence in the region, South Africa was under relentless pressure, both domestically and internationally; in 1985, the government defaulted on international loan repayments, prompting a massive devaluation of the rand. This economic pressure was compounded by ongoing protests as the government detained tens of thousands and renewed the State of Emergency for the second time since 1985. Secret negotiations between elements in the South African government and the ANC also began during this period, but despite this development, the mid- to late-1980s witnessed an unprecedented upsurge and intensification in the conflict, both in terms of insurgency and counter-insurgency activities.

In 1987, in a context of mounting calls for comprehensive sanctions against Pretoria, the Commonwealth Heads of Government established the Committee of Commonwealth Foreign Ministers on Southern Africa, which in turn commissioned several studies, including a report on South Africa's aggression against the Frontline States. Johnson and Martin's subsequent report, *Apartheid Terrorism – The Destabilisation Report*, released in 1989, reinforced the findings of their earlier research,⁸⁸ as well as Hanlon's study, laying a further empirical basis for intensifying sanctions designed to bring Pretoria to the negotiating table.

In December 1989, in recognition that South Africa had been responsible for widespread violations within the region, the UN General Assembly, at its sixteenth Special Session, adopted by consensus the 'Declaration on Apartheid and its Destructive Consequences in Southern Africa', calling for negotiations to end apartheid and establish a non-racial democracy. It laid down steps needed to create a climate conducive to negotiations, modalities of negotiations and principles for a new constitution.⁸⁹ Less than eight weeks later, in early February 1990, South Africa's President, F. W. de Klerk, announced the release of political prisoners and the unbanning of proscribed organisations.

Few could have imagined, however, that less than seven months after Kenneth Kaunda penned the foreword to the Commonwealth Committee's report, a radical shift in

apartheid governance would give way to a process of negotiated settlement with South Africa's primary liberation movement, the ANC.

The negotiated settlement included a commitment to address the conflicts of the past, and in 1995, the country's first democratic parliament passed the Promotion of National Unity and Reconciliation Act (No. 34 of 1995), which made provision for the establishment of the Truth and Reconciliation Commission (TRC). The Commission's primary objective was:

To provide for the investigation and the establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights committed during the period from 1 March 1960 to the cut-off date contemplated in the Constitution, **within or outside the Republic**, emanating from the conflicts of the past . . .⁹⁰ [author's emphasis]

For some time, there had been a fundamental acknowledgement that the countries of Southern Africa had suffered enormously as a result of their support for fundamental political change in South Africa. The TRC was given a specific mandate to explore South Africa's role in the region and beyond as it related to the perpetration of gross human rights violations. As with many other domestic-related violations, a considerable body of evidence had already been gathered about South Africa's involvement in the region on which to base its inquiries.

An overview of South African Destabilisation in Southern Africa

The ordinary people of the region are suffering so that minority rule can continue in South Africa.⁹¹

When P. W. Botha became Prime Minister of South Africa in 1978, his new government argued that South Africa was facing a 'total onslaught' spearheaded by communist protagonists from both inside and outside its borders, and that to effectively combat this, an integrated 'total strategy' had to be implemented that 'encompasses economic, military, political and diplomatic tactics towards the region, and uses military means to achieve economic ends'.⁹²

These concepts shaped South Africa's foreign policy for the next decade, and underwrote the rise of military influence in South African politics, as well as the further militarisation of the South African state through the expansion of security-related infrastructure and decision-making. The State Security Council, dominated by the military, took over key decision making regarding security-related matters, and presided over the National Security Management System, a complex security infrastructure that brought together security and civilian interest groups to oversee and manage security interests at local and provincial levels.

South Africa's direct involvement in regional security considerations began in the 1960s. Over a period of three decades, the South African government's involvement in the region expanded from occasional cross-border interventions to a situation (by the 1980s) in which the South African Defence Force (SADF) was involved in various levels of warfare in six Southern African states, while covert units conducted attacks, particularly in Botswana, Lesotho and Swaziland. Also in the early 1980s, South African security and intelligence operatives tried to overthrow the Seychelles government, and co-funded a mercenary force of Presidential Guards in the Comoros, which became the *de facto* ruling authority of that territory.⁹³ Between 1966 and 1978 the military's budget increased sevenfold, and by 1983 had doubled again.⁹⁴

At first, South African foreign policy sought to build regional alliances based on joint economic projects, in what former Prime Minister John Vorster had described as a 'co-prosperity sphere'. Efforts to promote compliance among South Africa's neighbours had a serious setback in 1980. The independence of Zimbabwe had not ensured a victory of 'moderates' with whom Pretoria felt it could do business, but rather its worst nightmare – as a radical self-proclaimed Marxist bitterly opposed to South African policies was sworn in as the country's new leader. At the same time, the Frontline States established the Southern African Development Co-ordination Conference (SADCC – the forerunner to SADC), which was dedicated to freeing itself from its dependency on South Africa, thereby destroying Pretoria's hopes of creating a compliant regional economic grouping that would have effectively reinforced South African economic predominance and dependency in the region.

SADCC therefore represented an economic, but also a political threat to South Africa, as it presented a potentially viable platform to promote and support alternative policy for the region from a range of external actors. In a context of increased international isolation, SADCC represented a very dangerous potential for change.

During this period, the ANC was emerging from a period of relative obscurity, but had begun to establish itself more coherently, including by the establishment of a rudimentary infrastructure across the region. At this stage, the security threat posed by the ANC was relatively minor, as illustrated by the limited number of operations carried out, but exaggerating their role provided an important part of propaganda efforts to justify cross-border raids and related operations.⁹⁵ Nevertheless, the ANC's military capacity did increase during the early 1980s, resulting in a number of high-profile operations, which in turn prompted high-profile retaliatory raids against ANC targets in neighbouring countries, designed to intimidate and punish.

Between mid-1980 and the end of 1982, 'South Africa launched a concerted offensive against the region involving direct incursions, as well as sabotage, assassinations, kidnappings, bombings and espionage, particularly against the newly independent state of Zimbabwe.'⁹⁶

In January 1981, South African commandos attacked three houses in a suburb of Maputo, Mozambique, killing thirteen ANC members and a local technician. It was the first

‘official’ cross-border raid outside of South Africa’s involvement in Angola. According to Hanlon, this raid signified a shift from efforts to co-opt neighbouring countries to ‘a hard-line of active destabilisation’.⁹⁷

Indeed, this is evident from the litany of incidents listed in *Beggar Your Neighbours* and *Destructive Engagement*. While the military played the key role in security-related interventions, the South African Police’s Security Branch retained certain operational responsibilities, and was involved in a number of assassinations and abductions in the neighbouring states of Botswana, Lesotho and Swaziland. In August 1981, the SADF re-occupied areas of southern Angola, and remained there until 1985. In December 1982, a joint police and military raid on ANC targets in Maseru, Lesotho’s capital, left 42 dead.

Between 1983 and 1985, South Africa’s ‘Total Strategy’ took on a ‘more subtle tactical approach’, as military interventions were followed by intense diplomatic activity, in what Martin and Johnson have described as a *modus operandi* of ‘thump and talk’.⁹⁸ In 1982, Pretoria secured a ‘security pact’ with Swaziland that was only revealed in 1984 following the signing of a similar pact with Mozambique, known as the Nkomati Accord. In 1984, the SADF also temporarily withdrew from Angola, having concluded a short-lived military agreement (the Lusaka Agreement) with Luanda. In May 1985, South Africa convened talks with SWAPO in Lusaka. These foreign policy breakthroughs followed P. W. Botha’s successful implementation of the 1983 largely cosmetic constitutional reform process, and were rewarded with a state visit to the United Kingdom and other European countries in May and June 1984.

The United States hailed the Nkomati Accord as a vindication of its foreign policy of ‘constructive engagement’ towards South Africa, although the local South African media described it for what it really was, ‘diplomacy backed by unchallengeable military superiority’. The Nkomati Accord demonstrated that even adamant opponents could be forced to compromise, and demonstrated the success of the destabilisation policy (i.e., by forcing a radical policy change that would undermine Mozambique’s capacity to support the ANC).

However, these agreements did not provide for sustainable solutions, and the prospects for meaningful change were short-lived. By the end of 1984/early 1985, the Lusaka Agreement and Nkomati Accord had all but collapsed, resulting in a return to military and economic destabilisation.⁹⁹ Internally, from September 1984 onwards, the Vaal uprising spread across the country, resulting in the declaration of a countrywide State of Emergency the following year.

In 1985, South Africa’s attention turned to Botswana, and in June that year, a SADF raid on Gaborone on properties identified as ANC safe-houses left twelve dead, including a number of Botswana nationals. Botswana had refused to sign a ‘security pact’ with South Africa, denying that its territory was used as a launch pad for attacks on the Republic.

According to Hanlon, between 1980 and 1985, South Africa launched military operations in three neighbouring capitals (those of Lesotho, Botswana and Mozambique) and four

other countries (Angola, Swaziland, Zambia and Zimbabwe), attempted to assassinate two prime ministers, backed dissident groups in Mozambique (RENAMO) and Angola (UNITA) as well as in Lesotho (Lesotho Liberation Army) and Zimbabwe (Super ZAPU), disrupted oil supplies to six countries, and attacked railways and other infrastructure that facilitated the normal import and export routes of seven countries. Although the numbers killed in security-related operations is unknown, it is clear that tens of thousands died, mostly in Mozambique, where drought and famine had been manipulated as a weapon of war, as well as in Angola, where a vicious externally manipulated civil war had been in progress since the mid-1970s.

South African interventions are calculated to have cost the region \$10 billion, calculated in terms of war damage, increased transport and energy costs, loss of production and revenue, increased military expenditure, and lost and deferred economic development.¹⁰⁰ Looking back, South African actions in the region had not only wreaked havoc, but failed to secure South Africa's own economic or security objectives. In fact, they achieved the opposite effect, as South Africa's security and economic situation worsened, and Pretoria's traditional allies became increasingly uncomfortable with their complicity.

As Hanlon points out, while South Africa's military engagement received considerable public attention, its economic manipulation was less well exposed. Indeed, it was South Africa's regional domination of the economy and the dependency of regional states that enabled Pretoria to manipulate, pressurise and punish those whom it believed had transgressed. This, Hanlon argued, had a political, but also an economic rationale, as 'neighbouring states are not simply a source of revenue – they are also a vital and captive market for its small, protected and monopolised manufacturing industry . . . South Africa is defending not only a set of racial taboos, but an economic system.'¹⁰¹

Consequently, variations of military and economic interventions were employed in the different regional countries: 'Angola faced a purely military assault, Mozambique a combination of military and economic, and Zimbabwe and Lesotho primarily economic backed up with some military intervention. Even Malawi came under military pressure (i.e., the intentional cutting of Malawi's railway links inside Mozambique). Inevitably, this reflected the power that South Africa had over its neighbours.'¹⁰²

This aggressive posturing by South Africa had the net effect of escalating the crisis, making it all the more difficult for Pretoria's Western allies (especially the United States and the United Kingdom) to justify ongoing support. By 1985 the situation had markedly deteriorated, as noted by former South African Foreign Minister, Pik Botha; 'Looking back, Mr Chairperson, 1985 stands out as a dark year in our history. The South West Africa issue was far from being resolved. South African troops were fighting in Angola. The high hopes raised by the 1984 Nkomati Accord between Mozambique and South Africa had dissipated . . . Relations with our neighbouring states were characterised by animosity, suspicion, resentment and mistrust and there were acrimonious exchanges and cross-border military operations.'¹⁰³ There did not appear to be a resolution to these multiple problems in sight, as the war in Mozambique intensified and the SADF was deployed to contain the growing insurrection in townships across the country.

In October 1985, the Commonwealth appointed a group of eminent persons to see if it could break the impasse. On 19 May 1986, in the midst of the group's mission in South Africa, the SADF launched a series of attacks on Lusaka, Harare and Gaborone, effectively ruining prospects for a successful intervention.

Indeed, Martin and Johnson describe the period 1986 to 1988 as one of 'a massive escalation of military action across the region, directly and through surrogates'. At the same time, South Africa sought to present itself as a 'stabilising' force in the region, one that should be engaged and not opposed.¹⁰⁴

Although the TRC did examine violations relating to the occupation of Namibia and related violations (see below), Namibia is invariably excluded from studies of South African destabilisation in Southern Africa. Although the United Nations had assumed responsibility for Namibia in 1966, South Africa had refused to surrender control or facilitate the 1978 UN Resolution 435, which outlined a process for transition to independence. South Africa's biggest concern was that an independent Namibia would be controlled by the Marxist-aligned South West African People's Organisation (SWAPO), who were allied to the ANC, MPLA, ZANU (PF) and FRELIMO, Pretoria's sworn enemies. South Africa had no need to destabilise the territory it controlled, but used its occupation to entrench the territory's dependency on the Republic. Throughout the 1980s, Namibia remained an occupied territory, and a launch-pad for South Africa's military adventurism in Angola, which it either flatly denied or justified by claims of combating SWAPO terrorism and communist-backed insurgency.

Impact of Destabilisation

The impact of apartheid on the region, in economic, human and ecological terms, represents a holocaust that few people know about or can comprehend. The mental and physical scars are deep. The human cost is on a staggering scale in some countries.¹⁰⁵

The cost of South Africa's destabilisation campaign on the region is incalculable. By 1988, the costs were being conservatively estimated at \$45 billion, with over one and a half million lives lost, and over half of those children. Angola and Mozambique have been the most severely affected by South African-backed insurgencies that have crippled both countries.¹⁰⁶

Mozambique was particularly devastated. As Zimbabwean independence dawned, South Africa's military took over responsibility for arming and supporting RENAMO from the Rhodesian intelligence structures. RENAMO had been effectively routed by FRELIMO forces by 1980, but South African intervention rapidly enhanced RENAMO's capacity for devastation. The escalating insurgency, compounded by several years of drought, generated an unprecedented dislocation, and hundreds of thousands left their homes in search of security. In 1984, FRELIMO signed the Nkomati Accord, but South Africa reneged by continuing to support RENAMO. By 1987, over 1.1 million people had been

displaced, both internally and into neighbouring countries.¹⁰⁷ The government's health and education infrastructure was destroyed. By 1987, in Zambezia province alone, over 10 per cent of the population was homeless, over 700 schools had been damaged, and 150 health posts had been destroyed, along with roads, bridges and other government infrastructure.¹⁰⁸

Angola is the only country in which South Africa's military fought a conventional war. By 1986, this had resulted in three separate invasions, costing billions of dollars, and displacing at least one-tenth of the population. With less economic leverage, South Africa relied on 'extreme military measures' using land, air and seaborne assaults, massive support for UNITA's insurgency, and other covert operations designed to cripple Angola's economy and thereby undermine its capacity to fund its war efforts.¹⁰⁹

Costs to the region expanded to a range of inter-related factors, including direct war damage, additional defence expenditure, higher transport and energy costs, low exports and tourism, smuggling, refugees, reduced production, lost economic growth, boycotts and embargoes and coerced trading arrangements.¹¹⁰ The combined costs of destabilisation and economic aggression subtracted massive resource allocations from the potential development agenda, helping ensure the region remained one of the poorest in the world.

The direct impact of South African military actions included, for example, damage and disruption to Angola's main refinery, which was attacked in November 1981, and damage to Zimbabwe's Thornhill air base, when saboteurs destroyed thirteen fighter and trainer jets in July 1982. However, most damage involved basic infrastructural and socio-economic damage to roads, railways, bridges, rolling stock, schools, hospitals and other government buildings.

The deteriorating security situation led to increased military spending by affected countries, especially Mozambique and Angola, and at the same time, in certain situations, provided justification for harsh counter-measures that also violated certain fundamental rights. South African support for Zipra dissidents in Zimbabwe, for example, was manipulated by the ZANU government as part of its 'cover' to explain widespread violations committed in Matabeleland and the midlands provinces during the early to mid-1980s.

The region's road and railway network was targeted for infrastructural damage, with severe repercussions for the transport and energy costs of SADC countries, especially those landlocked, such as Zambia, Zimbabwe and Malawi. This also impacted negatively on export earnings, as well as on potential tourism revenue.

By 1989, South African policy had contributed directly to massive displacement, affecting over 4 million people. Over 8 million were reliant on emergency food aid. South African involvement and its sponsorship of proxies also resulted in the theft of natural resources, ivory smuggling and asset stripping.¹¹¹ These estimated costs represent infrastructural loss only – the human cost to the region remains inestimable.

SADCC has only costed bricks and mortar, steel and machinery. There is no price for blood, no cost that can be assigned to the thousands who have died as a result of actions instigated by apartheid.¹¹²

The TRC's Focus on Violations in the Southern African Region

Volume Two, Chapter Two of the TRC's 'final' report¹¹³ sets out a broad narrative and key findings relating to 'The State outside South Africa between 1960 and 1990'. This 500-paragraph, 120-page chapter details the Commission's own analysis of South Africa's role in Southern Africa and beyond, with respect to the commission of gross violations of human rights and related abuses. The chapter does not set out the Commission's fact-finding methodology with respect to this focus of its work, but as elsewhere, the Commission relied on a combination of primary and secondary sources. In this regard it had only a limited number of primary testimonies, either from victims or from perpetrators. The Commission also secured access, albeit at a relatively late stage, to certain military archival records,¹¹⁴ which help provide insights into the 'official narratives' of what transpired. However, many records had been destroyed, as outlined in the Commission's own report of its investigation into the destruction of documents.¹¹⁵ The Commission was informed by the South African military that specific files relating to surrogate operations in Southern Africa had been destroyed.¹¹⁶

The Commission's findings, often very harsh, remain bitterly contested, as evidenced by the perspectives proffered especially by the military's former leadership and their political principals, who invariably dismissed the TRC as biased and failing to provide an adequate empirical base for its analysis and findings. Perhaps unsurprisingly, the security force chiefs avoided engagement with how their conduct and actions related to political developments, as they were themselves appeared deeply supportive of the apartheid government's broader political agenda.

The Commission concluded that many victims of the South African government's efforts to retain power were outside the borders of the Republic, and that the apartheid state's actions in the region were disproportionate to the threat posed by these countries, or the armed South African insurgents they supported.¹¹⁷

Gross violations of human rights were examined in five categories:

- conventional warfare;
- police and military counter-insurgency operations;
- surrogate-force insurgency operations;
- cross-border operations; and
- unconventional military operations.

Conventional warfare

The TRC's report provides a chronological overview of South African policy and interventions in Angola from 1975, tracking the invasions and their impact and – in terms of human rights concerns – profiling and making findings relating to a limited number of

specific incidents, such as the 1978 Kassinga raid, in which over 600 SWAPO combatants and civilians, including women and children, were killed.

Following the 1975 invasion and subsequent withdrawal, by 1979 a dual strategy to bring down Angola's MPLA government and neutralise support for SWAPO had been adopted by the State Security Council.¹¹⁸ This 'involved a series of large-scale conventional military operations against pre-selected SWAPO and Angolan army targets . . . a low-intensity counter-insurgency campaign and support for UNITA'. The net effect of South Africa's thirteen-year occupation ensured 'the *de facto* secession of the south from central government control'.¹¹⁹

Details of operations and incidents are limited largely to what has been gleaned from official documents and press reports. The impact of the 1981 *Operation Protea*, for example, which was South Africa's largest mechanised military operation since the Second World War, left over 160 000 Angolans homeless in its initial phases, and resulted in hundreds of SWAPO (PLAN) and Angolan military (FAPLA) casualties (as well as fourteen SADF dead and 64 wounded). According to the TRC:

In terms of civilian casualties, the mass displacement of civilians and the creation of an internal refugee population, as well as the wholesale destruction of towns and socio-economic infrastructure, Operation Protea probably caused more human suffering and physical damage than any other operation in the thirteen-year long Angola war, resulting in violations of human rights on a vast scale.¹²⁰

It is not clear on what empirical basis the TRC came to this conclusion, raising questions as to what supporting information is contained in the Commission's archive, which remains (in 2008) unprocessed and largely inaccessible.

Details on casualties in successive operations between 1981 and 1989 are sketchy, although it is claimed that over 8 000 PLAN and FAPLA members were killed along with 136 SADF members. No information on civilian casualties has been provided.¹²¹ The TRC concluded that 'the effects of the war on Angolan civilians were devastating', pointing out that 'UNICEF has estimated that between 1980 and 1985, at least 100 000 Angolans died', and that 'between 1981 and 1988 . . . 300 000 Angolan children died of unnatural causes'. Consequently, the TRC made findings that:

The South African government's military campaign in Angola between 1977 and 1988 led to gross violations of human rights on a vast scale. The Commission finds further that the campaign constituted a systematic pattern of abuse, which entailed deliberate planning on the part of the former cabinet, the State Security Council and the leadership of the South African Defence Force. The Commission finds these institutions and their members accountable for the aforesaid gross violations of human rights.¹²²

Police and military counter-insurgency operations and the use of surrogates

The TRC report provides an overview of counter-insurgency operations in occupied South West Africa, Zambia, Zimbabwe, Mozambique, Angola and Lesotho.

The Commission identified six distinct periods of counter-insurgency in Namibia: 1960–1966; 1966–1971 (covering the first five years of SWAPO’s insurgency); 1971–1974; 1974–1980 (covering border activities, and the period in which the SADF took over responsibility from the SAP for counter-insurgency); 1980–1988 (covering the introduction of the SAP’s new counter-insurgency unit, *Koevoet*); and 1989 onwards. The following categories of violation were profiled: political repression and imprisonment, detentions and torture (including the illegal abduction and detention of refugees captured in Angola in 1978), extra-judicial executions and killings, intimidation and harassment of civilians (with a particular focus on the activities of the SAP’s ‘K’ Unit, *Koevoet*). The TRC received several submissions and amnesty applications providing anecdotal detail that underscored how effective *Koevoet* was as a killing machine. The Commission also reported on pre-election events in 1989 and the assassination of Anton Lubowski, SWAPO’s Secretary-General, and supported Namibian judicial findings that a covert military unit, known as the Covert Collection Bureau (CCB) was responsible for the murder.¹²³

The TRC secured only limited information about covert operations in the Republic of Zambia. During the late 1970s, the SADF launched a number of attacks on SWAPO bases in Zambia, and during 1980, occupied large swathes of western Zambia. Details of violations perpetrated during these incursions remains sketchy. Following the shift of SWAPO’s bases to southern Angola, the only other large-scale SADF operation during the 1980s was the 1986 air force raid outside Lusaka.

More information was secured by the TRC about security force activities in pre- and post-independence Zimbabwe. Between 1967 and 1975, South Africa deployed South African Police units to support the Rhodesian security forces. Although these forces were withdrawn in the mid-70s, South Africa continued to contribute significantly to Rhodesia’s defence budget and the strengthening of its security infrastructure. Especially in the run-up to Zimbabwe’s independence, covert collaboration between Rhodesia and South Africa was stepped up in an effort to undermine both ZANU and ZAPU, and also to counter ANC infiltration of the Zimbabwean liberation movements. State Security Council minutes confirm how important Rhodesia was to South Africa’s defence, and Pretoria unsuccessfully spent millions of rands in support of a ‘moderate’ political outcome.

Robert Mugabe’s elevation to Zimbabwe’s premiership resulted in a large-scale operation (*Operation Winter*), to recruit former Rhodesian security force members (approximately 5 000) into the South African security forces, and to transfer Rhodesian mentoring of RENAMO to Pretoria. A number of the newly recruited forces remained in Zimbabwe, embedded as agents inside the new regime, but reporting to Pretoria. Later in 1980, the SADF’s Directorate of Special Tasks (DST), which fell under Chief of Staff Intelligence (CSI) and had responsibility for ‘surrogate-force’ operations), launched *Operation*

Drama, aimed at destabilising the new Zimbabwean government. With only one or two exceptions, however, the TRC was unable to shed much light on the range of incidents, including assassinations, sabotage and the like, believed to have been undertaken by South Africa's security forces during the 1980s.¹²⁴

Counter-insurgency operations in Angola and Mozambique were tied to broader strategies of conventional operations and the use of surrogate forces. The TRC secured only limited information from those working in these areas inside the SADF structures. Some documentation was secured in relation to the supplying of RENAMO and UNITA, but no details on operational activities.¹²⁵ In Lesotho, the government's shift in policy away from support for South Africa during the 1970s meant that 'as far as the South African government was concerned, Lesotho had moved into the camp of the ANC'.¹²⁶ Internal political dynamics between the Basotho National Party (BNP) and the Basotho Congress Party (BCP) provided an opportunity for South Africa to support covert operations undertaken by the Lesotho Liberation Army (LLA), which was associated with the BCP, but also 'handled' by the DST. The LLA was mainly active in the early 1980s, and was responsible for infrastructural sabotage and the targeting of BNP members. By 1986, LLA operations had stopped, and a military coup led by Lesotho's military that year received direct covert backing from the SADF.

Police and military cross-border operations and raids

The TRC's report provided details on a sample of the cases known to them, including matters where the Commission's own enquiries had generated further information. The TRC pointed out that the SADF and the SAP did not always operate alone: 'aiding and abetting them was a formidable intelligence and operational infrastructure', including some sympathetic governments (such as Swaziland and Malawi, as well as the Lesotho government after 1986). Both Lesotho and Swaziland developed high-level and operational security liaisons with the South Africans. Sympathetic security officials and civilians in neighbouring countries or on the borders facilitated some operations, as did agents and informers both from within the ranks of the liberation movement and elsewhere in neighbouring countries, especially Zimbabwe. Details on these networks and their role in specific activities and operations remains extremely scarce.

Despite this, there is considerable detail in the TRC report on certain external assassinations, attempted assassinations and abductions in the period under review, especially from the late 1970s and early 1980s. This included details of both SADF and SAP operations in Botswana, Swaziland, Lesotho and Zimbabwe, and related individual findings by the Commission. A full listing of incidents was not included in the final report. Nevertheless, considerable detail on a number of cross-border operations was provided by a number of amnesty applicants, especially security police members (many of which were part of the police's counter-insurgency unit, CI based at Vlakplaas), as well as by victim testimonies. This provided the greatest contribution by primary data sources on regional operations by South African security forces, although these were primarily police-related disclosures, as most SADF members refused to participate in the amnesty process (see below).

In addition, the TRC report set out a list of ten operations of which details had been provided by the SADF in its own submission, as well as other military operations not acknowledged by the military.¹²⁷ Some details, gleaned from military archives and amnesty applications, show that although the SADF played a lead role in these actions, the planning and logistics often involved members of security police structures.

The TRC also gathered considerable evidence of destabilisation in the region that did not fall under the rubric of gross violations of human rights, but rather to economic, military and infrastructural damage, including attacks on the offices and residences of anti-apartheid activists.¹²⁸ These attacks, some of which are outlined above (e.g., the attack on the oil refineries and Zimbabwe's Thornhill airbase) should be looked at in the broader context of Pretoria's destabilisation strategy.

Special operations of a sensitive or covert nature: the CCB

Very little operational information was forthcoming about the activities of the CCB in the Southern African region, largely because no CCB members applied for amnesty. The Commission's report in this regard focused on the evolution of specialist units and the CCB's forerunners inside the SADF. While CCB operatives have been linked to assassinations and other criminal activities inside South Africa (CCB's 'Region 6') and in Namibia, CCB operatives have consistently argued that their primary role was to develop South Africa's effective covert capacity, and that this was a long-term investment that had not had time to gestate and bear fruit before the unit was exposed and disbanded in 1989. Despite limited available information, the TRC found that 'The CCB was a creation of the SADF and an integral part of South Africa's counter-insurgency system, which in the course of its operations, perpetrated gross violations of human rights, including killings, against both South African and non-South African citizens.'¹²⁹

Overview of the evidence

The October 1998 TRC report relied on several primary and secondary sources. These included public and *in camera* testimonies, from victim and special hearing processes, as well as amnesty applications (and some related testimony), and a range of archival sources and secondary source publications, some secured by TRC investigators and researchers, and others submitted to the Commission by former operatives.

Six key documents formulated by the State Security Council and submitted to Cabinet for approval between 1979 and 1990 provide the 'legal' framework for assessing South African policy relating to regional economic and security concerns:

- 'Authorisation procedure for cross-border military operations' (1979)
- 'A Total Strategy for Southern Africa' (1980)
- 'Total Strategies for Lesotho, Malawi, Botswana, Mozambique, Zimbabwe, Zambia and Swaziland' (August 1981)
- 'SSC guidelines for economic warfare' (April 1982)

- ‘Revised authorisation procedure for cross-border military operations’ (October 1985)
- ‘Revised strategy for Southern Africa’ (May 1986)

These documents, although theoretically now in the public domain, have not been released publicly, and must now be accessed in terms of the Promotion of National Unity and Reconciliation Act.

The TRC’s public hearings into the role of the State Security Council and the Armed Forces provided some direct insights (of both a general and a specific nature) and responses to questions relating to South African involvement in the region. In this regard, the Commission was able to draw on State Security Council documents that provided a template of decisions and recommendations that required interrogation.

The TRC’s hearings into the workings of the State Security Council allowed the Commission to question some of the former key decision-makers, and provided some, albeit limited, insight into the differences of opinion and analysis as to what had transpired and why. Former Foreign Minister Pik Botha testified at these hearings and submitted a detailed document responding to a list of issues and questions identified by the Commission. This document has not been placed in the public domain. Botha did, however, refer to this document, insisting that despite State Security Council recommendations that ‘there should be the closest co-operation between the defence force and the Department of Foreign Affairs as well as other affected departments’ in reality, this was not the case; and that the ‘predictable international consequences’ of cross-border military action compounded ‘a clear and consistent divergence of views between the security forces and Foreign Affairs’.¹³⁰

Botha admitted there were occasions where Foreign Affairs ‘acquiesced’ and supported cross-border operations, but drew a distinction between ‘cross-border activities against terrorists who cut the throats of elderly couples on farms, or who set off a bomb like the Pretoria bomb’, which were ‘generally supported’, and other interventions where ‘facts or circumstances surfaced after an attack which contradicted the claims made by the South African security forces’.¹³¹

This position supports a more general assertion, made by many commentators, that the military and securocrats in the cabinet (i.e., Defence and Police) had taken the primary decision-making role concerning security issues from the late 1970s onwards, and that this was advanced and supported by P. W. Botha, the former State President.

In general, former National Party leaders provided a ‘sanitised’ overview of events and contributing factors to South African policy in the region. With respect to Rhodesia/Zimbabwe, for example, despite discussions in the State Security Council relating to the elimination of Rhodesian leaders, Pik Botha denied any knowledge of South African involvement, arguing that Pretoria had supported the election process with logistical support. With respect to post-independence destabilisation, Botha pointed out that post-election relations deteriorated rapidly after an April 1982 incident inside

Zimbabwe that resulted in the deaths of four SADF members, but denied any substantive knowledge or approval for acts of destabilisation by the State Security Council against Zimbabwe. He denied that prior approval or support had been given for the Seychelles coup d'état in November 1981, but confirmed that continued military support of RENAMO had been in violation of the Nkomati Accord, and had occurred without the knowledge or support of Foreign Affairs. Botha painted a picture of security force elements operating within the parameters of line function legislation (i.e., the Defence Act, the Police Act), and with operatives believing they had top-level authorisation. However, in a number of instances, Botha pointed out that he and some other National Party leaders were unaware of from where certain orders emanated.¹³²

Botha's testimony highlighted the importance of securing further insights from former Defence Minister General Magnus Malan, and former State President P. W. Botha, as well as the security force chiefs. P. W. Botha refused to co-operate with the TRC, which he dismissed as a witch-hunt, and it was left to former Police Minister Adriaan Vlok, and SADF chief and Minister of Defence, Magnus Malan, to explain the police and military's position with respect to cross-border attacks. Vlok simply dodged the entire question, claiming that according to legal advice he was obliged to not make disclosures, as there were no guarantees regarding possible extradition to affected countries.¹³³ Indeed, the issue of possible extradition was used by both politicians and former military chiefs, with the effect that junior officers who might have made disclosures about activities in neighbouring states were subsequently unwilling to do so.

The TRC's relationship with the military was both tense and generally unsatisfactory. In September 1996, in its first year of operation, the TRC warned the SANDF that they were obliged to co-operate, or it would be forced to employ its powers of search and seizure.¹³⁴ The first submission on behalf of the SADF was made in October 1996 by Major-General Mortimer, and set out in very basic terms the SADF's perspectives on the past conflict. The submission was astounding as much for what it avoided saying, as the limited nature of what it did address.¹³⁵ In terms of external military operations, this submission referred to only seven operations, and made the following related observations:

Authority for the conduct of operations outside the borders of the RSA was contained in a directive approved by the SSC in 1979. These guidelines were initially compiled to provide for operations in southern Angola and were later amended to include other areas. In essence, the directive limited the authority of the Chief of the SADF to immediate hot pursuit (cross-border) operations, while the Minister of Defence could approve reconnaissance into neighbouring areas. The planning for all other military actions beyond the borders of the RSA and

*SWA/Namibia had to be referred to the Chairman of the SSC for his decision, in consultation with those members of the SSC he decided to involve.*¹³⁶

The TRC was ‘deeply disappointed’ by the SADF’s 1996 submission, and in June the following year, it publicly criticised the submission made by the South African Medical Service of the SANDF, especially for failing to ‘acknowledge its role in past regional conflicts’.¹³⁷

In a separate submission to the Commission, General Malan explained that while military structures traditionally adopted a ‘defensive posture’, the ANC insurgency launched from outside South Africa’s borders required the SADF to replace this with ‘an offensive, proactive posture’ which ‘formed the basis for all cross-border operations that ensued’.¹³⁸ Malan referred to parliamentary statements during the 1980s, in which he had warned neighbouring countries of the consequences of supporting the liberation movements: ‘It is terrorism against us which brings about destabilisation for those neighbouring countries.’¹³⁹ In February 1986, Malan had delivered a more explicit threat:

*I wish to give this House the assurance that this Government will not permit these murderous gangs to complete their planning, training and preparation in the security and protection of neighbouring states and from there act against South Africa. The Security Forces will hammer them, wherever they find them. What I am saying is the policy of the Government. We cannot permit these terrorist organisations to decide at what place, at what time, and when they will commit these contemptible acts within or outside the Republic of South Africa. I therefore warn the states of this subcontinent that the Security Forces that are responsible for the safety, protection and security of the Republic of South Africa and all its inhabitants, will act against our enemies across the borders. We shall not sit here with hands folded waiting for them to cross the borders. We shall carry out ongoing surveillance. We shall determine the correct target and we shall settle the hash of those terrorists, their fellow-travellers and those who help them.*¹⁴⁰

As such, Malan justified cross-border operations as a necessary part of an array of unconventional methods employed to combat the total onslaught. He admitted that he had authorised ‘numerous’ such raids based on the SSC guidelines, and stated that: ‘I do not intend to seek amnesty for those operations. I consider those operations as legal acts of State which soldiers performed as servants of the State.’¹⁴¹ Malan subsequently elaborated on this position during the special hearings into the State Security Council.¹⁴² He also demonstrated the single-mindedness with which he addressed his work, and by extension the influence that the military had over political decision-making. He confirmed that P. W. Botha had authorised the May 1986 raids that had scuttled the Eminent Persons Group intervention, claiming that the work of the EPG was ‘not a factor in his considerations’.¹⁴³

In early October 1997, the military made a second submission, in response to the TRC’s criticism that it had failed to take responsibility for its actions.¹⁴⁴ This submission, which was certainly more substantive than the initial one, simply reinforced the previous

position put forward by Mortimer, effectively underwriting the fundamental disjuncture between the findings of the Commission and the military's own presentations, in which it portrayed itself as an effective professional force for the former government, as well as during the transition.

*The State's international defence was handled by us and the State's obligation to act according to its mandate to protect the people and also to protect South Africa in this regard. Our internal behaviours were according to the previous constitution of South Africa. The old defence force was during the previous dispensation, a builder of bridges. The old defence force strived to – in a practical way politically and on a racial basis, to incorporate everybody into the defence force. We've developed a defence force from the nation.*¹⁴⁵

The former defence force chiefs dismissed allegations of 'third force' complicity and other illegal activities with contempt, yet provided no perspective on the cause of these violations or what the military had done to counter them. It defended its role in the southern African region by blaming the ANC for 'internationalising' the conflict and drawing in the region. Despite these broad statements, the military hierarchy would not divulge any details regarding cross-border operations, asserting, as others had done, that the Commission was unable to provide a guarantee of international amnesty. Consequently, very few amnesty applications were submitted from members of the military relating to cross-border activities.

Amnesty Applications from Members of the Security Forces

A total of 293 members of the former government's security forces applied for amnesty, of which over 87 per cent (254) were members of the police. Only 31 were from the SADF.¹⁴⁶ The TRC pointed out that the failure of politicians and senior commanders to support applications acted as a deterrent to others coming forward, and reiterated concerns raised by the SADF chiefs that a TRC amnesty carried no legal weight beyond South Africa's borders. Although the former SADF leadership 'advised its members not to apply for amnesty for actions outside South Africa', the Amnesty Committee was left with the distinct impression that the SANDF 'nodal point' (which had been established to facilitate relations between the Commission and the military, and to channel amnesty applications from former SADF members) had 'acted as a gate-keeper rather than a facilitator for amnesty application'.¹⁴⁷

Nevertheless, because of police involvement in many cross-border operations, the Amnesty Committee received 73 applications for violations that occurred outside South Africa's borders, all but two of which were in the former front line states, mostly in Swaziland.¹⁴⁸ This represented 13 per cent of this category of application.¹⁴⁹ Volume 6 of the TRC report provides an analysis of these amnesty applications, in terms of the types of violations, with a specific focus on 'targeted killings', listing incidents (both inside and outside South Africa) for which amnesty was being applied for, as well as cases where no applications were received.¹⁵⁰ The Amnesty Committee dedicated a section of its report to external operations (involving both police and military) for which police operatives

had applied, but military operatives had not. This included several incidents, mainly in Botswana, but also in Swaziland and Zimbabwe.¹⁵¹

Conclusion

The TRC concluded that ‘the regions beyond South Africa’s borders bore the brunt of the counter-revolutionary warfare waged by the South African security forces’.¹⁵² The TRC’s mandate was to investigate and document gross human rights violations perpetrated both ‘within and outside’ South Africa in the period 1960 to 1994. Volume Two, Chapter Two of the Commission’s final report is entitled, ‘The State outside South Africa between 1960 and 1990’ and sets out the evidence of gross human rights violations gathered between 1996 and 1998, primarily killings and attempted killings committed by South African security forces and/or their agents and surrogates in nine regional states: Botswana, Lesotho, Swaziland, Angola, Mozambique, Zimbabwe, Zambia, Tanzania and the Seychelles. In addition, the Commission examined several security force operations in Western Europe.¹⁵³ The codicil to the final report also contains details of external operations gleaned from the amnesty proceedings, but does not present these in the context of its previous analysis. Indeed, one could argue that the TRC’s report does not represent or reflect a comprehensive engagement with the data generated and collected by the Commission during its operational life.

As with so many of the violations committed inside South Africa, it is clear that the bulk of what happened in the region, in terms of violations perpetrated as part of South Africa’s destabilisation programme, was not subject to primary investigation, related research or amnesty processes by the TRC. The Commission did not convene specific public hearings to explore this aspect of its mandate, and did not request or receive any submissions from neighbouring countries. In retrospect, this was a significant omission, as an opportunity was lost to gather and assess the perspectives of many of those affected within these countries.

Evidently, the Commission collected a considerable amount of information that has not been put into the public domain. This is a generic problem relating to the Commission’s archival records. Despite advocacy efforts to ensure that proper attention is given to the processing and arrangement of the TRC archive, mining the archive to determine what other records are available is currently only possible through the employment of ‘access to information’ legislation.

In addition, there are still considerable parts of South Africa’s security force and foreign affairs archives that have not been accessed. These could shed further light on the context and specific circumstances of South Africa’s engagements in the region.

Each of the countries affected by South African destabilisation should seek to carefully record and map the violations visited on particular communities, and the impact of these interventions. Related research agendas in countries particularly affected by South African destabilisation, such as Mozambique and Angola, should ‘allow affected communities a greater voice and thus greater control over the writing of their histories of

this terrible period, as part of the process of coming to terms with it, not simply as victims, but as actors too'.¹⁵⁴ It is therefore still necessary to develop a detailed temporal and spatial map of destabilisation incidents in each of the countries affected by South African interventions. This provides a template against which further related truth recovery initiatives and analysis can take place. This should necessarily include details on 'experiences of occupation' in Southern Angola and Namibia, as well as an assessment of the implications of South African policy on domestic developments and agendas: politically, economically, socially, environmentally, and so on.

Understanding the import and impact of South African destabilisation on southern African countries also requires a thorough interrogation of the available literature. This does present Pretoria's engagement in the region as 'ubiquitous and possibly omnipotent'. Efforts to map violations and calculate the cost of destabilisation have certainly been impressive, but it has been argued these should be interpreted in the context in which they were written. For example, one account, 'is not a scientific report. Rather it is a lawyer's brief for the prosecution. The verdict is foreordained: guilty as charged and the sentence is more sanctions.'¹⁵⁵ Certainly, many of those involved in documenting and advocating detail about South Africa's culpability shared political sentiments that fell under the broad rubric of anti-apartheid activism. This does not, however, necessarily mean their research and analysis was faulty, or has no value. Indeed, such research provides a useful template for further engagement.

Understanding what role destabilisation has played in the former Frontline States will require examining the interface between internal and external dynamics. In this regard, it is important for each country to examine internal agency, the role and impact of 'hosting' liberation movements in the region, as well as the role of other armed formations that were deployed outside of host countries, such as Zimbabwean troops in Mozambique during war between FRELIMO and RENAMO. There have been (largely anecdotal) allegations of atrocities committed by the Zimbabwean military in Mozambique, who were deployed ostensibly to protect Zimbabwe's economic interests along the Beira corridor. In addition, the extent to which apartheid destabilisation was employed to deflect attention from domestic agency in provoking internal opposition requires investigation.

Perhaps the most difficult area for further investigation relates to issues of collaboration – who was involved and how, and what impact this had in terms of facilitating South African destabilisation, both in South Africa and affected countries.

The TRC, as elsewhere, has provided a framework of issues and concerns that require further engagement and interrogation. The TRC was never intended to be the last word on the matter, but rather to provide a springboard from which further enquiry, disclosure and revelation could be pursued, and opportunities to do so, both in South Africa and affected countries, remain to be taken.

Notes and References

¹ Guus Meijer, 'Introduction lessons from the Angolan Peace processes' in *From Military Peace to Social Justice? The Angolan Peace Process*, ed. Guus Meijer (Conciliation Resources, 2004), <http://www.c-r.org/our-work/accord/angola/introduction.php>.

² Guus Meijer and David Birmingham, 'Angola from Past to Present' in *From Military Peace to Social Justice? The Angolan Peace Process*, ed. Guus Meijer (Conciliation Resources, 2004), <http://www.c-r.org/our-work/accord/angola/past-present.php>.

³ Vivi Stavrou, *Breaking the Silence: Girls Forcibly Involved in the Armed Struggle in Angola* (Christian Children's Fund, 2006), http://www.crin.org/docs/Angola_CIDA_Full_Report.doc.

⁴ Hector Igbikiowubo, 'Angola: Oil Production – Country Beats Nigeria Again', *AllAfrica.com*, 16 June 2008.

⁵ Tony Hodges, 'The Role of Resource Management in Building Sustainable Peace' in *From Military Peace to Social Justice? The Angolan Peace Process* (Conciliation Resources, 2004).

⁶ Hodges, 'The Role of Resource Management in Building Sustainable Peace'.

⁷ Angola Press Agency, 'Angola: Country Admitted as OPEC Member' (2006).

⁸ Transparency International, Corruption Perceptions Index (2008).

⁹ World Bank, Building Capacity for Better Results, 'Angola Interim Strategy 2007–2009' (2005).

¹⁰ Hodges, 'The Role of Resource Management in Building Sustainable Peace'.

¹¹ Meijer and Birmingham, 'Angola from Past to Present'.

¹² Carlinda Monteiro, 'Peace and Reconciliation' in *From Military Peace to Social Justice? The Angolan Peace Process*, ed. Guus Meijer (Conciliation Resources, 2004), <http://www.c-r.org/our-work/accord/angola/contents.php>.

¹³ Estimates of the number of children orphaned in the conflict vary widely, with UNICEF reporting more than 100 000, and Christian Children's Fund reporting more than 1 million. These huge discrepancies highlight the lack of demographic data in the country. See <http://www.christianchildrensfund.org/content.aspx?id=170> and <http://www.unicef.org/angola/protection.html>.

¹⁴ 'Angola: Humanitarian Country Profile.' *IRIN Humanitarian News and Analysis*, March, 2007, <http://www.irinnews.org/country.aspx?CountryCode=AO&RegionCode=SAF>.

¹⁵ Estimates of the total number of children forcibly recruited to act as soldiers and support staff for the armed forces vary widely. Because many soldiers came of age during the course of the fighting, most estimates, which are based on the number of child soldiers who went through demobilisation programmes, are not fully reflective of the total number of children who were involved in the conflict over the 27-year period.

¹⁶ Human Rights Watch, *Forgotten Fighters: Child Soldiers in Angola* (2003).

¹⁷ Stavrou, *Breaking the Silence*.

¹⁸ UNICEF Angola Country Profile (2008), <http://www.unicef.org/angola/education.html>.

¹⁹ UNICEF Angola Country Profile (2008).

²⁰ Angola Landmine Monitor Report 2007. International Campaign to Ban Landmines, <http://www.icbl.org/lm/2007/angola.html>.

²¹ Henda Ducados, 'Angolan Women in the Aftermath of Conflict' in *From Military Peace to Social Justice? The Angolan Peace Process*, ed. Guus Meijer (Conciliation Resources, 2004); Krishna Kumar, 'Women and Women's Organizations in Post-Conflict Societies: The Role of International Assistance' (Center for Development Information and Evaluation, United States Agency for International Development).

²² Ducados, 'Angolan Women in the Aftermath of Conflict'.

²³ Ducados, 'Angolan Women in the Aftermath of Conflict'.

²⁴ IFAD, 'Angola – A Review of Gender Issues in Support of IFAD's COSOP Formulation Process and Field Diagnostic Study' (IFAD Report No. 1328-AO, 2002); Ducados, 'Angolan Women in the Aftermath of Conflict'.

²⁵ Lusaka Protocol, Lusaka, Zambia, 15 November 1994.

²⁶ Luena Memorandum of Understanding: addendum to the Lusaka Protocol for the cessation of hostilities and the resolution of the outstanding military issues under the Lusaka Protocol. Luena, Angola, 4 April 2002.

²⁷ Carlinda Monteiro, 'Peace and Reconciliation' in *From Military Peace to Social Justice? The Angolan Peace Process*, ed. Guus Meijer (Conciliation Resources, 2004).

²⁸ Monteiro, 'Peace and Reconciliation'.

²⁹ Monteiro, 'Peace and Reconciliation'.

³⁰ J Gomes Porto, Imogen Parsons and Chris Alden, *From Soldiers to Citizens: The Social, Economic and Political Reintegration of UNITA Ex-Combatants* (Pretoria: ISS Monograph Series No. 130, 2007).

³¹ Nicky Hitchcock, 'Disarmament, Demobilisation & Reintegration: The Case of Angola' (ACCORD, 2003).

³² Porto et al., *From Soldiers to Citizens*.

³³ Porto et al., *From Soldiers to Citizens*.

³⁴ World Bank 2003, paragraphs 21, 91 and 92

³⁵ Bonn International Center for Conversion and Institute for Security Studies, *Sustaining the Peace in Angola: An Overview of Current Demobilisation, Disarmament and Reintegration* (2003).

³⁶ Bonn International Center for Conversion and Institute for Security Studies, *Sustaining the Peace in Angola*.

³⁷ Stavrou, *Breaking the Silence*.

³⁸ Human Rights Watch, *Forgotten Fighters: Child Soldiers in Angola*.

³⁹ Bonn International Center for Conversion and Institute for Security Studies, *Sustaining the Peace in Angola*.

⁴⁰ Elin Skaar, José Octávio and Serra Van-Dúnem, Angola Instituto de Pesquisa Económica e Social, *Courts under Construction in Angola: What can they do for the Poor?* (2005).

⁴¹ Skaar et al., *Courts under Construction in Angola*.

⁴² Skaar et al., *Courts under Construction in Angola*. There is, however, another dispute resolution body through which people may present complaints: the Human Rights Commission, which was established by the executive and located in the National Assembly. The Commission works broadly on human rights and civil rights, offering advice on a wide range of issues, such as land issues, housing rights and violation of labour rights. It also offers free legal aid. The Commission handles between 200 and 300 cases per year, which is the majority of the cases brought before it.

⁴³ Carolina Cenerini (2008), 'Access to legal information and institutions', *Tales from Angola: SAN LAND RIGHTS IN HUILA PROVINCE*, Working Paper, <http://www.fao.org/participation/Cenerini2008Angola.pdf>.

⁴⁴ Porto et al., *From Soldiers to Citizens*.

⁴⁵ The reference to reparation here is interesting given the context in which it is used, and that it was not mentioned by other respondents (in terms of individual reparations for past human rights violations), despite its importance as a tool of transitional justice and an obligation of international law.

⁴⁶ The only other comment on this issue by respondents (and a common one) was that ANC cadres were reluctant to engage in combat in Angola, which was not seen relevant to their cause – this reluctance extended to refusing to protect the perimeter of their own camps.

⁴⁷ Dr Brazao Mazula, former principal of Eduardo Mondlane University, first chairperson of the National Election Commission, and presently Executive Director of the Centre for the Study of Democracy and Development.

⁴⁸ Dr Irae Baptista Lundin, lecturer at the Centre for Strategic Studies at the Institute for International Relations in Maputo.

⁴⁹ Terezinha da Silva, the national co-ordinator of Woman and Law in Southern Africa.

⁵⁰ Tomas Vieira Mario, head of the Southern African Research and Documentation Centre (SARDC) and Chair of the Media Institute of Southern Africa (MISA).

⁵¹ Meredith Turshen, 'The Political Economy of Rape: An Analysis of Systematic Rape and Sexual Abuse during Armed Conflict in Africa' in Caroline Moser and Fiona Clark (eds), *Victims, Perpetrators or Actors: Gender Armed Conflict and Political Violence* (Zed Books: London, 2001), p. 57.

⁵² Mbendi: Information for Africa, Mozambique Overview.

- ⁵³ Victor Igreja and Beatrice Dias-Lambranca, “Restorative Justice and the Role of Magamba spirits in post civil war Gorongosa, central Mozambique” in Luc Huyse and Mark Salter, *Traditional Justice and Reconciliation after Violent: Learning from African Experiences* (IDEA, 2008)
- ⁵⁴ Helena Cobban, *Amnesty after Atrocity?: Healing Nations after Genocide and War Crimes* (Boulder: Paradigm Publishers, 2006)
- ⁵⁵ Igreja and Dias-Lambranca, “Restorative Justice and the Role of Magamba spirits”, p82
- ⁵⁶ Igreja and Dias-Lambranca, “Restorative Justice and the Role of Magamba spirits”, p.66.
- ⁵⁷ Victor Igreja, ‘Memories as Weapons: The Politics of Peace and Silence in Post-Civil War Mozambique’ *Journal of Southern African Studies*, 34, 3, (2008) pp.539-556.
- ⁵⁸ Samora Machel. 1973. Opening address at the first conference of the Organizaçao de la Mulher Moçambicana, March 4 in Mozambique.
- ⁵⁹ Carol Thompson, ‘Mozambique: Soldiers of Misfortune’, *Southern Africa Report*, Vol 13 No 2, March 1998, p. 22.
- ⁶⁰ Carol Thompson, ‘Mozambique: Soldiers of Misfortune’, p. 22.
- ⁶¹ Carol Thompson, ‘Mozambique: Soldiers of Misfortune’, p. 22.
- ⁶² See Igreja and Dias-Lambranca, “Restorative Justice and the Role of Magamba spirits”.
- ⁶³ Jessica Schafer, *Soldiers at Peace: Veterans and Society after the Civil War in Mozambique* (New York: Palgrave Macmillan, 2007).
- ⁶⁴ United Nations, S/2004/616, August 2004, ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies’,
<<http://daccessdds.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement>>.
- ⁶⁵ Including the Institute for Public Policy Research, Breaking the Wall of Silence, National Society for Human Rights, the Ovaherero-Ovambadero Council for Dialogue 1904, the CGE and the Women’s Leadership Centre.
- ⁶⁶ An umbrella organisation for groups of ex-detainees from SWAPO camps.
- ⁶⁷ TRC Report, volume 2, chapter 2, p.78
- ⁶⁸ By 2004, German aid to Namibia amounted to \$14 million per year.
- ⁶⁹ Sam Nujoma, *Where Others Wavered: The Autobiography of Sam Nujoma – My Life in SWAPO and My Participation in the Liberation Struggle of Namibia*, first published in 2001.
- ⁷⁰ TRC report, Volume 4, chapter 8
- ⁷¹ TRC report, Volume 2, chapter 2, *The State outside South Africa between 1960 and 1990*.
- ⁷² According to the South African TRC report, ‘These operations included providing extensive infrastructure for the Democratic Turnhalle Alliance (the South African government’s alternative to SWAPO), conducting an extensive disinformation campaign, and embarking on campaigns to intimidate voters, disrupt meetings and so forth’ (TRC Report, Volume 2, Chapter 7, p. 702).
- ⁷³ The name of this organisation translations as Action Against 435.
- ⁷⁴ This was a covert Special Forces organisation that operated during the apartheid era under the authority of Defence Minister General Magnus Malan. See http://en.wikipedia.org/wiki/Civil_Cooperation_Bureau.
- ⁷⁵ Anton Lubowski was the Secretary General of SWAPO; he was murdered outside his house in Windhoek in September 1989.
- ⁷⁶ In-Depth: Justice for a Lawless World? Rights and reconciliation in a new era of international law, NAMIBIA: Reopening old wounds, IRIN; June 2006,
<http://www.irinnews.org/InDepthMain.aspx?InDepthId=7&ReportId=59464>.
- ⁷⁷ http://www.bmz.de/en/press/pm/2007/november/pm_20071106_124.html.
- ⁷⁸ Terms of reference – Consulting Services for a Design and Feasibility-Study ‘The Special Initiative’ – The Republic of Namibia – National Planning Commission and German Development Bank – December 2006, p. 2.
- ⁷⁹ http://www.bmz.de/en/press/pm/2007/november/pm_20071106_124.html.
- ⁸⁰ <http://www.newera.com.na/article.php?articleid=1931>.
- ⁸¹ Sidney Harring, ‘The legal claim for German Reparations to the Herero Nation’, Dec 2007,
<http://academic.udayton.edu/race/06hrights/GeoRegions/Africa/Nambia01.htm>.

-
- ⁸³ *Apartheid Terrorism – The Destabilisation Report*, A report on the devastation of the Frontline States prepared by Phyllis Johnson and David Martin for the Commonwealth Committee of Foreign Ministers on Southern Africa, Forward by Kenneth Kaunda, p. xi, The Commonwealth Secretariat, London, 1989.
- ⁸⁴ *The Case for Mandatory Sanctions*. Paper submitted to the International NGO Conference for Sanctions against South Africa, Geneva, 30 June–3 July 1980, <http://www.anc.org.za/un/unc/sanctions.html#1>.
- ⁸⁵ *The UN and the Struggle against Apartheid – a chronology*, prepared by E. S. Reddy, former director of the United Nations Centre against Apartheid, www.undp.org.za.
- ⁸⁶ *The Roots of Crisis in Southern Africa*, Ann Seidman, Africa World Press, New Jersey, 1984, pp. 4–6.
- ⁸⁷ *Beggar Your Neighbours – Apartheid Power in Southern Africa*, Joseph Hanlon, Catholic Institute for International Relations, London, 1986.
- ⁸⁸ *Destructive Engagement – Southern Africa at War*, edited by Phyllis Johnson and David Martin, Zimbabwe Publishing House for the Southern African Research and Documentation Centre, Harare, 1986.
- ⁸⁹ *The UN and the Struggle against Apartheid – a chronology*.
- ⁹⁰ Preamble of the Promotion of National Unity and Reconciliation Act, No 34. 1995, www.doj.gov.za/trc, go to ‘legal background’ link.
- ⁹¹ *Beggar Your Neighbours*, p. 2.
- ⁹² *Apartheid Terrorism*, p. 1.
- ⁹³ TRC Final Report, Volume Two, Chapter Two, para 4.
- ⁹⁴ *Beggar Your Neighbours*, p. 13.
- ⁹⁵ *Beggar Your Neighbours*, p. 22.
- ⁹⁶ *Apartheid Terrorism*, p. 6.
- ⁹⁷ *Beggar Your Neighbours*, p. 27.
- ⁹⁸ *Apartheid Terrorism*, p. 5.
- ⁹⁹ *Beggar Your Neighbours*, p. 39.
- ¹⁰⁰ *Beggar Your Neighbours*, pp. 1–5.
- ¹⁰¹ *Beggar Your Neighbours*, p. 3.
- ¹⁰² *Beggar Your Neighbours*, p. 29.
- ¹⁰³ Testimony of R. F. ‘Pik’ Botha at State Security Council Hearings, 14 October 1997, www.doj.gov.za/trc, Special Hearings link.
- ¹⁰⁴ *Apartheid Terrorism*, pp. 7–9.
- ¹⁰⁵ *Apartheid Terrorism*, pp. 11–12.
- ¹⁰⁶ *Apartheid Terrorism*.
- ¹⁰⁷ *The ‘Human Face’ of Destabilisation: The War in Mozambique*, Diana Cammack, Review of African Political Economy, No 40, 1987, p. 67.
- ¹⁰⁸ *The ‘Human Face’ of Destabilisation*, p. 73.
- ¹⁰⁹ *Beggar Your Neighbours*, Chapter 1–3.
- ¹¹⁰ These details are taken from a ‘Memorandum Presented by SADCC to the 1985 Summit of the Organisation of African Unity’, Appendix 1, *Beggar Your Neighbours*, pp. 265–270. These examples relate only to incidents occurring up to 1985.
- ¹¹¹ *Apartheid Terrorism*, p. 11. See also *Contraband – South Africa and the international trade in ivory and rhino horn*, De Wet Potgeiter, Queillerie Publishers, Cape Town, 1995.
- ¹¹² ‘Memorandum Presented by SADCC to the 1985 Summit of the Organisation of African Unity’, p. 270.
- ¹¹³ Often referred to as the ‘Final Report’, five volumes were compiled and handed to former President Nelson Mandela on 29 October 1998. A final codicil to this was submitted to former President Thabo Mbeki in March 2003.
- ¹¹⁴ It should be noted that the South African History Archive subsequently exposed (in 2001) that the military had withheld over 80 per cent of its archival records from the TRC, by making available three ‘series’ of documentation, when in fact their archive held over 40 ‘series’. (See *Paper Wars*, forthcoming publication of the South African History Archive on experiences of utilising the Promotion of Access to Information Act, Wits University Press, 2009).
- ¹¹⁵ TRC Final Report, Volume One, Chapter Eight, *The Destruction of Records*.
- ¹¹⁶ TRC Final Report, Volume Two, p. 92, para 187.
- ¹¹⁷ TRC Final Report, Volume Two, p. 43, paras 5 & 7.
- ¹¹⁸ TRC Final Report, Volume Two, p. 55 para 49.
- ¹¹⁹ TRC Final Report, Volume Two, p. 58, paras 57–58.

-
- ¹²⁰ TRC Final Report, Volume Two, pp. 58–9, paras 60–65.
- ¹²¹ TRC Final Report, Volume Two, p. 59, paras 66–67.
- ¹²² TRC Final Report, Volume Two, p. 60.
- ¹²³ TRC Final Report, Volume Two, pp. 61–84, paras 73–157.
- ¹²⁴ TRC Final Report, Volume Two, pp 86–92, paras 163–188.
- ¹²⁵ TRC Final Report, Volume Two, pp. 93–95, paras, 189–199.
- ¹²⁶ TRC Final Report, Volume Two, p. 95, para 201.
- ¹²⁷ TRC Final Report, Volume Two, pp. 144–154.
- ¹²⁸ TRC Final Report, Volume Two, pp. 154–160, paras 464–499.
- ¹²⁹ TRC Final Report, Volume Two, pp. 143–144.
- ¹³⁰ Testimony of R. F. ‘Pik’ Botha at State Security Council Hearings.
- ¹³¹ Testimony of R. F. ‘Pik’ Botha at State Security Council Hearings.
- ¹³² Testimony of R. F. ‘Pik’ Botha at State Security Council Hearings.
- ¹³³ Testimony of Adriaan Vlok at State Security Council Hearings, www.doj.gov.za/trc – see link to ‘Security’ in ‘Special Hearings’ section.
- ¹³⁴ *TRC Investigations Chief warns military to co-operate*, SAPA, Cape Town, 22 September 1996.
- ¹³⁵ *Submission IRO the former SADF*, compiled by the SANDF Nodal Point, presented by Major General B. Mortimer, www.doj.gov.za/trc/submit/sandf.
- ¹³⁶ *Submission IRO the former SADF*, Part 4, paras 19–20.
- ¹³⁷ *TRC slates military submission*, SAPA, Cape Town, 17 June 1997.
- ¹³⁸ *Submission to the Truth and Reconciliation Commission*, by General M.A. de M Malan (undated), www.doj.gov.za/trc – see ‘Military’ section in ‘Human rights violations, submissions and transcript’, para 10.2.
- ¹³⁹ *Submission to the Truth and Reconciliation Commission*, by General Malan, para 12.3 – taken from address in Parliament by General Malan on 29 May 1985.
- ¹⁴⁰ *Submission to the Truth and Reconciliation Commission*, by General Malan, para 12.4 – taken from address in Parliament by General Malan on 4 February 1986.
- ¹⁴¹ *Submission to the Truth and Reconciliation Commission*, by General Malan, para 17.
- ¹⁴² *Testimony of Magnus Malan*, State Security Council Hearings 4 & 5 December, 1997, www.doj.gov.za – see file on ‘Magnus Malan’ in ‘Special Hearings’ section dealing with the State Security Council.
- ¹⁴³ TRC Final Report, Volume Two, Chapter Two, p. 152, para 454.
- ¹⁴⁴ Armed Forced Hearings, SADF, 8 October 1997, www.doj.gov.za/trc .
- ¹⁴⁵ General Viljoen, Armed Forced Hearings, SADF, 8 October 1997, www.doj.gov.za/trc.
- ¹⁴⁶ TRC Final Report, Volume Six, Section Three, Chapter One, p. 182, para 9.
- ¹⁴⁷ TRC Final Report, Volume Six, Section Three, Chapter One, pp. 185–6, paras 22–23.
- ¹⁴⁸ Angola (2), Botswana (14), Lesotho (8), Mozambique (5), Namibia (10), Swaziland (29), Zambia (2) and Zimbabwe (1) – TRC Final Report, Volume Six, Section Three, Chapter One, p. 188, para 31.
- ¹⁴⁹ TRC Final Report, Volume Six, Section Three, Chapter One, p. 188, para 31.
- ¹⁵⁰ TRC Final Report, Volume Six, Section Three, Chapter One, pp. 193–197, paras 52–73.
- ¹⁵¹ TRC Final Report, Volume Six, Section Three, Chapter One, pp. 212–216, paras 135–154.
- ¹⁵² TRC Final Report, Volume Five, Chapter Six, para 16.
- ¹⁵³ TRC Final Report, Volume Two, Chapter Two, paras 1–2, www.doj.gov.za/trc – link to ‘Final Report’.
- ¹⁵⁴ Review of *Apartheid’s Contras*, by Jeremy Grest, *Journal of Southern African Studies*, Volume 16, Number 1, January 1998, pp. 145–147.
- ¹⁵⁵ Review of *Apartheid Terrorism*, by Paul Moorcroft, *Journal of Southern African Studies*, Volume 16, No 4, December 1990, pp. 778.

