

SECURITY BRIEF

BURUNDI: THE PRETORIA PROTOCOL

Events in the week following the signature on 8 October 2003 of the Pretoria Protocol on Political, Defence and Security Power Sharing in Burundi might support the argument of those who dismissed it as yet another dishonoured agreement in a conflict littered with useless bits of paper. The killing continued within days of President Domitien Ndayizeye and Pierre Nkurunziza of the National Council for the Defence of Democracy–Forces for the Defence of Democracy (CNDD-FDD) inking the agreement in the presence of President Thabo Mbeki and his deputy, Jacob Zuma. The worst of these incidents involved the beheading of a local mayor, an event later blamed on Nkurunziza's rebels.

The criticism levelled at the South African mediation style is that from the days of former president Nelson Mandela's intervention it has created the impression of relentless pressure. Zuma, to whom Mandela passed the baton, has admitted as much. "How else do you think they got us to the Codesa talks and kept us there?" he said earlier this year, drawing parallels with South Africa's complex transition process from Apartheid to democracy. "Pressure is everything".

The Pretoria process epitomised this arm-twisting approach. Mbeki dispensed with pleasantries in the scheduled plenary on 5 October 2003. After brief 'proximity talks' he moved quickly to intensive negotiations limited to

himself, Zuma, Ndayizeye and Nkurunziza. The approach produced results in the shape of a military and security agreement in the first session that lasted from 4pm on Sunday until 7am on Monday. The complex series of political power sharing issues were trashed out overnight Monday and in a seven-hour session on 7 October.

Exhausted, Ndayizeye and Nkurunziza were plainly less than happy when the signing ceremony finally took place at 2am on 8 October 2003. In fact, the happiest man at the Presidential Guest House was Thabo Mbeki whose personal intervention is credited with the success of the negotiations. Zuma was also in excellent spirits. His position as mediator 'under repeated threats by Nkurunziza and his supporters in Tanzania and Uganda' was underpinned by the Pretoria success.

And there is no arguing that it was a considerable success. On reflection, Nkurunziza has likened the agreement to 'sunshine after rain' while, from his side, Ndayizeye's *Front Pour la Democratie au Burundi* (FRODEBU) has responded to the sceptics. FRODEBU executive secretary Jean de Dieu Mutabazi observed that the agreement has in fact committed Nkurunziza to a process that he patently has the ability to jeopardize. Nkurunziza came away with 40% of the army command, 35% of the police brass and many political posts.

On the defence and security levels, it was agreed that the new defence force will be known as 'The Burundi National Defence Force' (BNDF) to be established according to

a Forces Technical Agreement due to be finalised soon. CNDD-FDD combatants will move to areas designated by the Joint Ceasefire Commission under the supervision of the African Mission in Burundi (AMIB) while an unspecified number of Burundian Armed Forces' troops (BAF) will be exempted so as to protect the state against the FNL. As pointed out earlier, it was agreed that the Integrated General Staff and the Officer Corps of the new BDNF would be composed of 60% from the BAF and 40% from the CNDDD-FDD. Allocations of command posts will be on the basis of the ethnic balance as stipulated in the Arusha Peace and Reconciliation Agreement. The composition of the non-commissioned officers as well as the rank and file will be determined by the Integrated General Staff, depending on the size of each party and on the agreed balance.

On a political level, the CNDD-FDD is given four ministries including the important position of Minister of State. In the National Assembly the CNDD-FDD was given 15 seats, while at Provincial and local level it was given three governorships and 30 administrator posts. In addition, Nkurunziza came away with five local government advisors and, on an international level, two Ambassadors posts and six advisory posts.

Not surprisingly, this agreement caused immediate resentment in the CNDD-FDD of Jean-Bosco Ndayikengurukiye and the National Liberation Front (FNL) of Alain Mugabarabona. The leaders of these smaller rebel groups have not enjoyed similar spoils since signing on for the transitional process in October 2002. The sceptics' main argument is that the FNL of Agaton Rwasa (smaller but arguably more active than the CNDD-FDD) remains aloof from the process. The South African approach has been largely to ignore this and rely on international pressure to drive the last rebel groups into a process as it achieves critical mass. Mbeki referred to Rwasa's group as a 'small problem' and said it was 'already making overtures to be included'. In reality there is no evidence that the Rwasa group is involved in anything more than 'talks about talks' with intermediaries in Caux, Switzerland.

The South African strategy has arguably succeeded with Ndayikengurukiye, Mugabarabona and even to some extent with Nkurunziza. None of the rebels want to be seen as spoilers and risk losing support from Burundians who have suffered more than 300 000 casualties in 11 years of civil war. However, the FNL remains problematic because its cadres regularly strike at the capital before melting back into the region known as Bujumbura rural. Significantly the Pretoria agreement has left no room for an accord with Rwasa's FNL. This will mean that if and when the last of the rebel groups is roped into the process, the agreements of Pretoria this year, and even of Arusha 2001, will have to be unpacked to greater or lesser extent.

The immediate priority remains containing, disarming, demobilizing, resettling and reintegrating the rebels. Resentful government troops and the lack of capacity blocked this after Nkurunziza signed the ceasefire on December 2 last year. The African Union force (AMIB) approaches completion: South Africa has had 1600 troops there since May and in early October, 845 Ethiopian were in place. With financial support from the United States, Ethiopia is expected to fully deploy 1300 troops. A tenth of Mozambique's commitment of 228 troops is in Bujumbura thanks to financial support from the European Union. These 3128 Africans are tasked with the cantonment of the rebels and, more generally, with creating conditions conducive for the deployment of a UN peace-keeping operation. Meeting the world organisation's strict criteria for sending blue helmets would necessitate the FNL signing a ceasefire and an end to the skirmishes still killing Burundians and driving them from their homes.

NEW CHALLENGES FOR A 'NEW' MONUC

As a consequence of the 2003 crisis in the Eastern Democratic Republic of Congo (DRC), particularly in the district of Ituri, the United Nations Security Council finally granted the United Nations (UN) Mission in the Democratic Republic of Congo (MONUC) the mandate and means commensurate with

the grave humanitarian and security situation on the ground. Resolution 1493, adopted unanimously on 28 July 2003, has authorised MONUC to use “all necessary means” to fill its mandate, increasing its military strength to 10, 800 personnel. With a significantly enlarged mandate, the new MONUC is now expected to play a key role during the transition, having been tasked by resolution 1493 with the coordination of all UN system activities in the DRC as well the facilitation of the work of other national and international agencies present in the country.

In this regard, the signature of the ‘Final Act’ at Sun City on 2 April 2003 demonstrated a reinvigorated commitment by the Congolese to national reconciliation and the peace process. This renewed momentum gave the international community the necessary confidence to commit itself fully to the peace process in the DRC, a commitment made explicit by the adoption of Security Council Resolution 1493, particularly the granting of a Chapter VII mandate to the mission. In fact, MONUC was granted a robust mandate largely as a result of requests made by the International Emergency Military Force (IEMF) deployed in Ituri. Well aware that the sending of an emergency force to Ituri had not been agreed upon by all belligerent parties, the French Government requested from the Security Council that the IEMF be equipped with a Chapter VII mandate. Later on, the Security Council gave the same powers to MONUC in order to ensure balance with the IEMF, from which MONUC had to take over. Since such a mandate could not be geographically limited to the Ituri district, MONUC as a whole was finally made a Chapter VII operation.

What will this enlarged and more robust mandate change in practice? First and foremost, the new mandate has introduced a significant change in mindset and led MONUC to reinterpret its role in the DRC. While the previous rules of engagement did not allow MONUC to enforce the peace by, for example, interposing peacekeepers between the parties in conflict, resolution 1493 effectively changes MONUC from a static deployment to a responsive, mobile and influencing operation.

According to Ambassador William Swing, the Special Representative of the Secretary

General of the UN in the DRC, the mission’s principal responsibility is to accompany and assist the Congolese people to achieve sustainable peace leading to democratic elections. MONUC’s vision is clear: a democratically elected government and a country where the rule of law will finally allow the Congolese people to exploit and develop the vast and rich resources of their country. In order to fulfil its new mandate, role and vision, MONUC developed five core programmes that will guide the mission in the immediate future. These are:

- **Peace and security:** aimed at stopping the killing and ending the violence, ‘the *sine qua non* for all that follows’ as stated by one MONUC official. The focus of the peace and security programme is centred on a number of activities, namely: stabilising the district of Ituri and the Kivu Provinces; enabling 300,000 Congolese refugees to return; ensuring effective DDRRR/DDR; enforcing the arms embargo; and promoting the normalisation of regional relations.
- **Facilitating the transition:** leading to free and fair elections. MONUC’s Neutral Force has already filled the security void in Kinshasa and will now begin to focus greater attention on supporting the national electoral framework, as well as the normal functioning of transitional government institutions. An electoral assistance unit has been created within MONUC, and MONUC is already serving as convener of electoral assistance efforts.
- **Rule of law and human rights:** aimed at ending impunity and the ‘culture of impunity’ as well as assisting in the development of stable government institutions. Police training and criminal justice capacity building have been initiated in Ituri and will soon begin in the Kivus. In addition, MONUC is supporting the establishment of a National Human Rights Observatory and a Rule of Law Task force to coordinate security sector reform.
- **Improving human conditions:** focused on programmes that address the tragic legacy of war. MONUC’s priorities are, within the sustainable peace programme: humanitarian assistance; support to the reintegration of child soldiers; addressing sexual

violence and HIV-AIDS; and, finally, support for the International Criminal Court and for the establishment of a Truth and Reconciliation Commission.

- **Support and management:** to reform and restructure MONUC dynamically so that it can address all of the above effectively and efficiently.

LAND REFORM IN ANGOLA

One of the main aims of the liberation struggle in Southern Africa was the redistribution of land to redress historical and racial inequalities. In fact, Southern Africa's first independent governments recognised and often proclaimed the centrality of an equitable distribution of land for the well being of the black majority, essential for the development of their nascent states, at the core of strategies centred on the reduction of poverty and inequality. Moreover, throughout the colonial period, the use and regulation of land ownership in Southern Africa resulted in racially skewed land distribution systems, dual tenure systems and severe degradation of communal areas. Yet, achievements since independence in most of these countries have fallen far short of expectations. At present, and in addition to festering land redistribution issues in several countries of the region, most notably Zimbabwe, land grabbing by elite groups (even where new legal frameworks protect existing local land rights) has become the most pressing issue, leading to protest and a revival of calls by civil society on their governments to make good their liberation promises.

Since before independence, Angola has been struggling with issues related to land access, equitable distribution of land and tenure security, the legislative history of Angola having resulted in a succession of injustices against the rights of traditional communities and the sustainability of their economies. It is only now, as peace spreads across the country, that attention is being focused on addressing land-related inequalities. During war, land is worth little in commercial terms, but now that security issues are no longer paramount, the appropriation and regularisation of natural resources in strategic areas has become a fundamental concern.

Angola is now in a position to realise its tremendous potential, but it faces the monumental challenges of post-conflict reconstruction and development. The crisis has, by and large, passed, but urgent challenges of resettlement and food insecurity remain with some 2.7 million people still classified as "food insecure". Establishing food security is a vital step in moving from humanitarian relief towards broad-based development. Of particular importance is the need to develop sustainable livelihoods, and to diversify and expand the agricultural and non-agricultural base of rural households.

Independent Angola adopted its first 'land law' in 1992. While it contains many positive aspects, it is not rooted in any formal or written land policy, and is therefore not so much a land law as a set of regulations for access and ownership. However, it fails to include community traditions or customary law rights of small farmers, or recognise squatter rights. A highly controversial process of privatisation of the previously large state sector began, with new forms of "state" patronage emerging as a few wealthy individuals gained control over vast natural resources to finance their development activities. In general, the tendency was to recreate the pre-independence large-scale commercial farm structure, increasing the growing cleavage between legality and legitimacy (social acceptance) of the laws.

In July 2002 the government introduced a draft Land Act and Territory Law to the National Assembly, barely four months after the peace settlement. However, because the obligatory three-month period set aside for public consultation was widely challenged, the government bowed to pressure by civil society organisations for further discussion. However, by late 2003 little progress had been made. A critical issue is whether the proposed land reform will contribute to addressing the country's urgent needs and the expectations of civil society, and whether instability could be triggered if these expectations are not met. More specifically, the challenges of the proposed land law relate to its potential to contribute positively to broad-based recovery, or alternatively the risk that it will compound current land issues, potentially triggering conflict by aggravating old, underlying structural tensions.

This brings into the equation the sources of potential grievances and the conditions that could shape the emergence and the character of conflicts around land, particularly at local level. Equally important are questions around the intent of the proposed land law, namely: who benefits and why? Evidence is mounting of just how potentially explosive an issue property rights is in Angola at present. Land activists maintain that the draft law gives greater priority to the economic rather than the social value of land, and the government, which aspires to private sector-led economic development (large commercial farms), is unable to accommodate both views. But there may be more to this approach than meets the eye: as more land becomes available for farming and as its commercial value and potential are realised, there are signs that wealthy politically connected elites—groups and individuals—are staking claims to tracts of land that are contested for agriculture use. Often, these claims camouflage a real interest in the potential of land for mineral exploration.

Land tenure is not only a development issue; it is also a rights-based issue. That is, rights to land are not just a source of economic production, but are also a basis of social relationships and cultural values, a source of prestige and often power. Key to ensuring the credibility of peace will be to change the character of economic policies that presently tend to favour a narrow elite. If these economic policies are not broad-based, in a situation where the elite strengthens its position while poor communities stagnate, inequality will be sustained. The donor community has a vital role to play. There is no place for hubristic sentimentality or sanctimonious moralizing. Donors need to think strategically and be visionary in the way that they provide support to civil society. They should be more constructive and positive in engaging with government. Ultimately though, the future lies in the hands of Angolans themselves. The vision of a future democratically accountable government that is dedicated to broad-based, poverty-reducing development must be effectively supported by concrete actions. Failure to deliver on these expectations could threaten Angola's recent peace and undermine its hopes of development.

SWAZILAND: GENERAL ELECTION 2003

The 18th of October 2003 was election day in Swaziland. This comes after Swaziland's King Mswati III dissolved Prime Minister Sibusiso Dlamini's cabinet as part of preparations for general elections, and appointed Paul Shabangu, a senior government official, to run all government ministries during this period. Even though major disturbances did not occur, Swaziland labour federations and the Swaziland Democratic Alliance called for a boycott of the election. In fact, results from parliamentary primary elections demonstrated that Swazi voters want change, showing a new propensity for political action in the kingdom. Voters retired several cabinet ministers appointed by King Mswati III, as well as most incumbent members of parliament. Most cabinet ministers, including Prime Minister Sibusiso Dlamini, chose not to stand for election and pinned their hopes on King Mswati, who has the prerogative to appoint 10 members of the 65-member House of Assembly, and 10 Senators of the 30-member House of Senate. Some civil society groups like the Swaziland Law Society, the Swaziland Coalition of Concerned Civic Organisations, and human rights groups also called for a boycott of the general elections as the new Parliament may effectively be dissolved with the ratification of the new draft constitution at the end of October.

The Kingdom of Swaziland, which gained its independence from Britain in 1968, can best be described as an absolute monarchy, making it the last such government in sub-Saharan Africa. The monarchy is a dual one with the King or *Ngwenyama* (lion) ruling in conjunction with the Queen Mother or *Ndlovukazi* (she-elephant). On 12 April 1973, when Mswati's father, King Sobhuza II, suspended the constitution, all political parties were banned. Before the banning, Swaziland had a Westminster-style constitution, which it adopted at independence. At that point the King was empowered to nominate one-fifth of the House of Assembly and half of the senate, along with the Chief Justice and Prime Minister. Through the King's order-in-council of 1978, Swaziland adopted a dual system of

governance characterized by a mixture of the traditional Swazi system with Western political systems. In pursuit of this unique governance system, the kingdom has endeavoured to develop modern political and administrative structures whose electoral and operational legitimacy are rooted in and complemented by traditional institutions.

At the centre of the system is the Tinkhundla, a non-partisan system that blends the Swazi traditional system with the modern Westminster system. This unique representative system of government is predicated on decentralisation of power and decision-making. Designed to facilitate the harmonious practice of both Western and traditional styles of government, the Tinkhundla introduced the election of parliamentary representatives from specific constituencies (communities in their respective chiefdoms, a cluster of which form an Inkhundla). The Inkhundla is the first entity for the co-ordination of development at local level, reporting to the Swazi National Council Standing Committee on traditional matters. It constitutes effectively a second level of government, where a local council, composed of a chairman (Indvuna yeNkhundla) and a committee made up of Bucopho (those elected to represent each chiefdom) administers its affairs.

Complementing this structure is Parliament, which comprises elected members from 55 Tinkhundla as well as 10 members appointed by the King. In addition, the King appoints 20 members of Senate to ensure representation of special interest and minority groups, together with 10 that are elected by the House of Assembly. The King also appoints the Prime Minister and together they appoint the Cabinet Ministers. Elections for the House of Assembly were last held on 16 and 24 October 1998. Balloting for the House is done on a non-party basis. The local council of each constituency nominates the candidates, and for each constituency the three candidates with the most votes in the first round of the voting are narrowed to a single winner by a second round.

In 1998, elections for the House had a low voter turnout. This was largely a result of actions by the country's opposition, particularly the

more radical Peoples United Democratic Movement (Pudemo) and the Swaziland Youth Congress, who, united under a common front called the Swaziland Democratic Alliance (SDA), called on voters to boycott the polls in protest against the 25-year-old ban on political parties. Although the elections were held in a peaceful atmosphere, for the first time there was a serious opposition.

Nevertheless, a relatively peaceful parliamentary election on 18th of October 2003 was characterized by a voter turnout that appeared slightly greater than that of the last parliamentary election in 1998. This election produced a new crop of MPs that includes the head of a banned opposition political party, the Ngwane National Liberatory Congress (NNLC), former Prime Minister Obed Dlamini.

Another notable outcome from this election was the sharp increase in the number of women legislators, with a total of five women elected MPs. In the previous poll no women were elected to the last parliament from the kingdom's 55 constituencies. Together with the King's appointment of two women, this outcome has raised the representation of women in the House of Assembly to 11 percent.

As required by law, King Mswati must appoint ten additional MPs, including two women before Parliament sits in February 2004. Most political observers view the King's most recent appointments as a reward to those who have been loyal to the monarchy, arguing that the list of palace MPs was more conservative than members chosen for the previous parliament in 1998. This view is backed up by the fact that the average age of MP's is older, and all are well-known traditionalists who have served the palace faithfully in the past.

An IRIN report seems to indicate that "the hopes of political progressives that the traditionalists in the new parliament would be balanced by self-avowed members of political reform groups, who are among the elected MPs, suffered a setback with a High Court decision to delay the swearing-in of former Prime Minister Obed Dlamini." Dlamini is having his election victory challenged by an election opponent. About 20 percent of all election results have been challenged in court.