



RETHINKING CONFLICT TRAJECTORIES

South Africa and Kenya revisited

KISIANGANI EMMANUEL N

South Africa and Kenya experienced various forms of conflict and gross human rights abuse between 1948-1994 and 1963-2002 respectively. In both situations, the conflicts were motivated by various factors; these included unequal distribution of socio-economic resources and skewed political relationships. The centrality of human rights abuse and political violence to both situations places similar issues on the agenda for analysis. In both cases opposition to regimes was justified on the basis that the political systems were constructed in such a way that limited alternative conceptions and prevented democratic freedom (until 1992¹ in Kenya and 1994 in South Africa). After undergoing transition to democratic rule in 1994, South Africa engaged the idea of a truth and reconciliation commission as an instrument for dealing with its past conflicts. The South African case animated widespread international interest and after an electoral victory in 2002, the National Rainbow Coalition (NARC) government in Kenya mooted the same idea. By the end of 2004 however the NARC government seems to have lost interest in the truth commission concept; this paper probes the question why? Broadly there is room for alternative interpretations both within and between the two cases on how conflicts were perpetuated and the potency of a truth and reconciliation commission as a viable alternative for dealing with past conflicts. This paper broadly aims to offer a clearer account of conflicts and mechanisms for dealing with them from the conceptual lenses of conflict management theory.

Introduction

South Africa and Kenya celebrated political transitions in 1994 and 2002 respectively. In both cases the new governments were seen as significant breakthroughs in the realm of democracy because their predecessors had imposed widespread structural violence and appallingly heavy burdens on the majority of their populations. Indeed, it is conceivable to deconstruct causal assumptions between socio-economic and political aspects and the nature of conflicts in both countries. The

endemic political violence to which both situations were subjected is a common thread. Before opening up to multiparty politics, regimes in the two countries defined political opposition as subversion and engaged their opponents in intractable political ground rules that invited various forms of violence. Alternative conceptions to the political establishment were denied the political space through repressive laws and partisan security.

The patterns and dynamics of violence and injustices were not always similar. In South

KISIANGANI EMMANUEL N is currently a PHD candidate in the Department of International Relations, University of the Witwatersrand.

Africa the social life of the majority of the population was disrupted and this made the situation much more critical in terms of agency and victimhood compared to Kenya. A crucial dimension in Kenyan conflicts was the aspect of economic injustice. The country witnessed economic mismanagement and mega-corruption that stemmed from government misuse of its institutions and political power. Added to this were the repressive legislation and systematic violations of individual rights that provided the broad basis of structural violence to Kenyan society.

This paper aims to do two things: first, to draw a trajectory of the nature and character of the conflictual behaviour of the two societies prior to their various transitions; and second, to reconceptualise mechanisms for dealing with intra-state conflicts. It resists the familiar notion that conflict is always synonymous with manifest violence.

The conflicts in South Africa and Kenya

South Africa and Kenya have both experienced widespread conflicts in their histories. During [the periods 1960–1994 (for South Africa) and 1963–2002 (for Kenya)] periods repressive rules and authoritarian systems evolved and sank the two countries into pervasive structural conflicts. An important reason for the intractable nature of South Africa's conflicts was the manipulation of territory and populations by well-organised minorities. By means of partition and racial classification South Africa was constituted into majorities and minorities, and through a combination of force and ethnic solidarity the majorities fought the minority government in the name of exercising the right of self-determination.¹ Armed struggle against the apartheid regime was justified because the political system was constructed in a way that limited democratic space through repressive laws and partisan security forces. When the National Party came to power in 1948, it had the aim of suppressing the emergent black opposition, which threatened the continuation of white domination. The interests of the white

working class were to be met by reversing the growing migration and permanent settlement of black workers in urban areas. On that basis the regime began to implement draconian measures, which were largely a reformulation and elaboration of previous policies. From that point South Africa was set on a path of intractable conflict and violence whose effects transcended the democratic transition of 1994 and are still being felt today.

Kenya, on the other hand, attained its 'independence' from Britain in 1963 and has, in sweeping terms, generally avoided overt armed conflict as compared to neighbours such as Somalia, Ethiopia, Uganda and Sudan. The intervening decades after Kenya's independence, however, pointed to a deepening sense of economic and political dilemma. It led to the looting and squandering of the country's resources and the virtual silencing of its people.² The Kenyatta and Moi regimes both created government structures that denied citizens their basic democratic rights and kept them perpetually subordinate. Kenyatta, a charismatic leader, commanded broad respect and loyalty at the time of independence. By December 1964 signs of disenchantment had started to manifest themselves as the ruling party, the Kenya African National Union (KANU), began to suffer from internal divisions and then were revealed more quickly as Kenyatta succumbed to authoritarian rule. Determined to be the boss, Kenyatta could not tolerate political rivalry, and politicians in the country competed with one another to sing praises to the president with a view to attracting his favour. The mid-1960s saw the Kenyatta government institute various constitutional amendments. For example, parliament was relieved of any involvement in issues of national elections and presidential verdicts and any other say over Kenyatta's conduct and use of power. As the terrain for political debate was progressively restricted, it became increasingly difficult to publicly register dissent. Government critics used parliament as a platform for public debate to publicise major political issues. At the heart of these political differences were questions of political power and the distribution of national resources.

Kenyatta allowed himself and his close friends to accumulate power, land and wealth, and Kenya became a country marked by stark contrasts between the majority, who were poor, and a few extremely rich individuals.

During Kenyatta's rule public figures such as Pio Gama Pinto, Tom Mboya and J M Kariuki were mysteriously assassinated and many others were detained without trial. This trend continued after Moi took over power in 1978. His administration coincided with an economic slowdown following the imposition of structural adjustment programmes at the behest of the World Bank and the International Monetary Fund in 1980. Economic difficulties increased, setting off protests by students and strikes by workers. In August 1982 Kenyan Air Force officers attempted a coup d'état against Moi, accusing his government of corruption and tyranny. The failure of the coup was followed by a crackdown on real and imagined dissidents. The subsequent period was a tense political chapter in Kenya as widespread protests and arrests showed signs of a far deeper discontent. Tainted by corruption, human rights violations and a sluggish economy, Kenya's image as a model for the region was tarnished. The murder of Foreign Affairs Minister Dr Robert Ouko in February 1992 unleashed pent-up feelings against the political establishment.

Broadly, the authoritarian systems of Kenyatta and Moi were constructed in a way that encouraged personal rule and precluded democratic competition and accountability. Political space was denied to alternative political conceptions through repressive laws and authoritarian leadership. As ideological expression was stifled, politics increasingly became personalised and tribalised. The oppressive socio-economic and political structures denied people their aspirations and perpetuated frustrations and latent but insidious violence. A society in which basic needs are out of reach of its majority becomes frustrated; frustration normally leads to resentment and, as happened in Kenya, manifests itself in societal disturbances such as political demonstrations and disturbances. Conflict originates and feeds on this frustration and over time can escalate into intractable physical violence.

Questions have been raised over whether South Africa in the apartheid era was a plural or an identical society. Adam and Moodley consider that South Africa was not a genuinely plural society, because by the 1980s little cultural distance separated the urbanised population groups.³ However, Lisphart disagrees and argues that ethnicity continued to be a strong factor in many facets of the South African society.⁴ Mathews gives two main reasons for South Africa being prone to violence. First, South Africa was a deeply divided society characterised by significant racial, religious, ethnic and linguistic divisions.⁵ He argues that such societies are notorious for their political instability and contends that, unlike dissatisfied individuals who do not share identity, groups with a specific identity and a common set of grievances can mobilise support by appealing to those who identify with them culturally and racially. Second, South Africa was susceptible to instability because of its modernisation process. Mathews describes the essential features of that process as rapid economic growth and the absorption of traditional patterns of life by urbanisation and by the large jumps in literacy, education and media exposure. This kind of modernisation heightened the potential for disruption and violence in a deeply divided society, since many of the people who relocated to the more developed urban areas experienced a new awareness of improved forms of life. They became aware of their relative deprivation. Traditional values, family and social institutions were disrupted and lost their binding influence.

Broadly, it is difficult to attribute the origin and subsequent development of conflict and violence in South Africa to a single reason. Many elements were decisive in the starting and escalation of the conflicts. In most group conflicts, leadership is critical in the polarisation and escalation of that conflict. Group members must be convinced that their grievances can be attributed to the perceived adversary. The element of leadership is important because it played a critical role in the manipulation of the legal system and eventually polarised the various groups in South Africa. This paper contends that South African socie-

ty was prone to violence and confrontation because of racial and ethnic polarisations that combined with deepening socio-economic and political conditions that exacerbated over time to make the conflict much more violent and intricate.

Conflict and violence: comparing cases

A comparative trajectory shows that South Africa and Kenya experienced various forms of conflict and violence between 1948 and 1994 and 1963 and 2002 respectively. The terms 'conflict' and 'violence' are often used synonymously and the distinction between the two should be discussed briefly. Conflict arises where there are incompatible goals or issues, while violence refers to the actual damage or violation caused to a person's character, feelings, rights, property or interests. There are various forms of violence, for example overt violence, which is physically manifest and easily recognised, and the latent form of violence that is indirect and less dramatic but quite insidious. People may be denied their rights without immediately realising the upshot of the damage to their lives. If a conflict is seriously deep and is not prevented from escalating, it may enter a phase of overt violence.⁶ This distinction is important because it helps to delineate the various forms of conflict and violence that permeated the two cases under discussion.

Conflicts are a phenomenon of human relationships and are evident in all societies. South Africa and Kenya suffered from structural or indirect violence. While South Africa experienced widespread volatile manifest conflict, Kenya had only occasional similar incidences. In most cases of physical violence, the underlying causes of the confrontation are often in place long before the outbreak of violence. An escalation of violence, particularly in South Africa, was often preceded by a perceived incompatibility of socio-economic and political interests between groups, asymmetric inter-group power relationships, and triggers that served to mobilise or rally a group around its grievances.⁷ Conflicts often continue even when the issues that initially gave rise to them

have been forgotten or become irrelevant. That is why it is possible to contest the often-used term 'post conflict' because it gives the impression that it is possible to stop a conflict in its various manifestations at once. In fact, efforts aimed at de-escalating a conflict or settling it are not sufficient to eliminate it. A conflict normally has a formation of many parties, each with a stake and clashing goals, incompatibilities, disharmonies, each crying for some management or resolution.⁸ To move the society toward a path of peaceful coexistence, there is a need for activities aimed at social transformation and reconstruction and that address the underlying causes of a conflict and prevent it from re-erupting.

In Kenya the dominant form of violence was structural, typically built into the structure of social, cultural and economic institutions. There were cases of manifest violence, however. For instance, political confrontations and ethnic clashes resulted in many deaths. A society commits violence against its members when it forcibly stunts their development and undermines their well-being.⁹ It is possible that victims in society do not realise that the structure of their relationship is generating conflict. A possible basis for structural conflicts arises when individuals are restricted from achieving their full potential.¹⁰ This form of violence permeated Kenyan society during the Kenyatta and Moi regimes. It worked slowly to erode humanistic values and impoverished human lives. South Africa, on other hand, experienced structural and overt forms of violence on a large scale.

South Africa and Kenya: conceptual problems

Kenya did not experience a pronounced system of racial segregation and therefore its case invites limited conceptual appeal on the question of race. In South Africa, however, the evolution of apartheid emerges as a complex conceptual problem. Various conceptual obstacles have tended to impede a clear analysis of South Africa's conflicts during the apartheid era. Often the conflicts are reduced to a question of class or of race, in the sense

that South Africa's social order is assumed to be explicable by one of these phenomena operating in isolation.

Rethinking apartheid

Apartheid in South Africa emerged at the levels of ideology and state policy (the racial allocation by the state of political, social and economic roles). Ashforth states that apartheid was pre-eminently a racist system of controls on movement and residence framed in a state ideology, which interpreted political and social rights in terms of nationalist principles relating to people and places.¹¹ In terms of the social structure, racial tensions in South Africa were closely related to ethnicity and were significant in exacerbating the conflicts. Attitudes between social groups with different physical characteristics created prejudice. Prejudice resulted from learning and this learning was closely related to the attitudes of similar ethnic or religious groups towards an antigroup or outgroup. It created a process of channelling hostility against a definite target and contributed to specific intensity or hostility. In South Africa there was the development of symbolism and prejudice against 'a symbolic colour', which continuously enforced the prejudice (black has everything negative and white is positive and vice versa).¹²

Halisi states that the major fault lines in the South African society were not racial divisions, but class divisions that were reinforced by racially inclusive legislation and administrative fiat.¹³ He argues that racial proletarianisation meant an intersection of race, class and power relations into a political culture that shaped social conflicts and cooperation. Harold Wolpe argues that it is not sufficient to say South Africa was a racist society.¹⁴ He observes that race, although of central importance, operated in specific ways and did not eliminate class formation. It was the class formation articulated with racial divisions and with deliberately fostered ethnic rivalries that resulted in intense violence and confrontations. Indeed, the situation was highly complex and though class-consciousness was not automatic, competition among classes and

groups played an increasingly important role in heightening tensions in South Africa.

Logically, it may not be right to account for the conflicts in South Africa by reducing them to class or race. The evolution of apartheid in South Africa poses significant questions related to the relationship between class, race,¹⁵ the capitalist economy and white domination. This paper argues that class, race, the capitalist economy and white domination stood in a contingent relationship to one another. In consequence it is possible to divide the sources of conflicts in the apartheid era into various categories – structural, class, political and social – all of which were intertwined. Economic tensions often intensified social and political tensions and vice versa.

For Kenya most of the literature on the various forms of violence and gross human rights abuses has been presented as sensational commentaries. Most of the accounts were presented by the media and in other forms of literature as occasional disturbances. There was little attempt, if any, to look for explanations and causes in order to place the various forms of gross human rights abuses and political violence within their historical and socio-economic links. The overwhelming priority given in the examination of the conflicts and violence to descriptive accounts with little attention paid to the structural conditions of such conflicts fails to capture the causal sequences and complexities of conflicts. As a result, significant questions about the character and trajectory of those conflicts cannot be posed or investigated. Literature suffering from these obstacles cannot properly capture and appreciate the significant and intricate nature of conflicts and violence. It ultimately suffers in terms of diagnosis of the causes of the conflicts and cannot prescribe correct or adequate mechanisms for conflict management and peace building.

The structural dimension of conflict

In terms of South African society, Herbert Adam observes that in the early 1970s South Africa displayed the classical Marxist prerequisite of a pre-revolutionary situation, an

extreme gap between advanced forces of production and obstructive modes held together by the chains of an outdated political superstructure.¹⁶ Peter Randall argues that the overall structure of South African society constituted by the various cleavages was mutually reinforcing in generating conflict.¹⁷ Indeed the social-economic and political boundaries between the various groups, racial and otherwise, affected each other to the extent that conflicts arising at one level or in one sphere over specific issues were rapidly generalised to other areas so that there was likely to be intense group conflict and forceful regulation of group relationships. For instance, agitation for political changes by Black Nationalist movements easily fed such issues as blacks workers' rights.

The structural phenomenon of superimposition, that is, the convergence of lines of group conflict, had such grave political consequences.¹⁸ It was because of racial cleavages largely coinciding with the lines of economic exploitation, political domination and social stratification that the society assumed such explosive significance. Broadly, structures that generate conflict in society can interact in various forms: economic, social, psychological, religious and legal. This is important because conflicts are intricate and dynamic phenomena and do not lend themselves to definition in single parameters. In Blalock's words, conflicts are ubiquitous and come in many forms and involve vastly different kinds of parties.¹⁹ In both South Africa and Kenya the stakes in the conflicts and violence escalated over time, incorporating tangible and intangible issues that cannot be ascribed to one social sphere.

Conflict management and peace building

It is also important to distinguish between root causes and triggers of conflict. Root causes refer to the underlying fundamental incompatibilities of a conflict, whereas triggers constitute more proximate events or factors that cause a conflict to escalate. In South Africa and Kenya the pathological conditions of violence and human rights abuses were

widely seen to have common roots in discriminatory and unequal socio-economic and political relationships. Triggers, on the other hand, related to day-to-day events such as political speeches and police arrests. In South Africa as well as Kenya, ethnic and identity affiliations have often been blamed for prompting the structural and overt forms of violence. However, even in cases linked to such occurrences, they cannot solely explain the advent of conflict and violence. Identity affiliations may have played a critical role in the conflictual behaviour. They may have acted as a unifying force and trigger mechanism, but certainly the underlying incompatibilities also intermarried with socio-economic and political factors. This understanding can make a useful contribution to dealing with sources and dynamics of conflict, as well as to coordinating efforts aimed at stability and peace in society. For preventive action, triggers must be identified and tackled effectively. To create sustainable peace and a long-term solution to a conflict, the root causes must be addressed and eradicated.

An overwhelming priority given to descriptive accounts of conflicts and violence in South Africa and Kenya produces relatively little guidance about the complex nature of conflicts and mechanisms for resolving them. Protracted social conflicts are generally not single-issue situations.²⁰ As in South Africa and Kenya, they inherit a past that acts as a heavy burden on the future. The conflicts involved questions of identity, symbolic meaning, control over resources and a sense of meaningful security. In dealing with such conflicts attention should be paid to addressing the underlying causes and transforming and reconciling the conflictual behaviour. Rupesinghe observes that those involved in such processes should seek to create a framework that includes changing the terms of the conflict and the constituency of that conflict (a process he calls non-violent social transformation).²¹ Changing terms can be useful if it involves addressing the socio-economic and political factors informing the conflicts and undoing the effects of the conflict on society.

The conflicts in South Africa and Kenya in

some measure involved dominated groups trying to liberate themselves from oppressive systems, while dominant groups attempted to maintain the status quo. Such conflicts are normally characterised by inequalities in the distribution of power and resources. Various approaches have been advanced to deal with conflicts of this nature. Reychler has outlined two such strategies.²² The first associates mechanisms for dealing with conflict with structural transformation. This is the Marxist school prominently articulated by Karel.²³ According to Reychler, marxists take the proletariat of the world as their main objects. He states that Marxists do not see violence as a priori negative, but they recognise the justification of the use of violence if it is relevant to historical progress. The liberation movements in South Africa and opposition movements in Kenya could also fall into the Marxist school. At various points they resorted to violence as a means of changing oppressive structures and fairness, and justified the approach as being necessary.

The second approach identified by Reychler is the world order model, as articulated by Mendlovitz.²⁴ This model holds that peace cannot be realised unless improvements are made with respect to poverty, social justice, ecological instability and alienation or identity crises. These views closely relate to those of Burton, who emphasised the contribution of human needs to the discourse of conflict management and peace building.²⁵ According to Burton it is the nature of human beings to be driven by basic needs such as identity, development and security. He observes that, in the end, human beings refuse to compromise the fulfilment of these needs, thereby leading to universal decay in authoritative processes unable to satisfy them. Burton singles out identity as a basic human need that cannot be frustrated in its drive for fulfilment without serious consequences. In the two case studies under investigation, the frustration of basic needs was certainly at the heart of their conflicts.

Conflict management approaches such as negotiation and bargaining are appropriate in dealing with aspects of conflicts relating to interests. Aspects such as power sharing are

amenable to such negotiation and bargaining processes, since they involve dealing with interests. But deep-rooted conflicts caused by the frustration of irrepressible drives such as the desire to live, the need for food, and identity crises may not be exclusively determined by such approaches because these are issues bordering on human dignity and are generally treated by human beings as matters of life and death. It is appropriate that responses to such conflicts connect into the review of institutional and normative environments accordingly and making them more responsive to the problem of human needs. Apart from the spectrum of human needs, Van der Merwe and Odendaal point to the need for these approaches to be indigenous.²⁶ They argue that the process of conflict management must adequately appreciate the behaviour of contending parties as determined by their various histories and cultures. Van der Merwe and Odendaal were writing in the context of negotiations toward the first multiparty elections in South Africa and observed that the process had to contribute to resolving conflicts in such a way that it involved people at grass-roots level in building the new South Africa.

Frei takes up the discussion on the interaction between conflict and history and states that conflict is one of the many forms and phases of the development of a specific history.²⁷ Conflict is objectively determined by historical and socio-political conditions of the epoch and of the particular period within that epoch. The conflict itself may have deeper and more distant historical roots, which may also be much more diversified. Conflicts, particularly those with an intra-state character, reveal the influence of subjective factors and peculiar and unique features, and approaches to dealing with them should not be considered only along predetermined lines. Conflicts are dynamic, they have a life of their own, and one must resist the temptation of introducing mechanisms and institutions appropriate to one experience to another context. Instead, such mechanisms may be fashioned so that they are relevant to the new situation. This underlines an important factor in the practice of conflict management and

peace building: the need for innovation. In order to break historical cycles in conflict situations, the role of victimhood must be dealt with. Montville has observed that the collective historical memory of victimisation continues to create aggressive behaviour unless a mourning process has been completed, which requires that victimizers accept responsibility for their acts or those of their predecessor governments and in some way ask for forgiveness from victims while allowing victims to recognise the injustice.²⁸ This points to the idea of truth and reconciliation as an urgent field for inquiry. (This debate will be taken up in subsequent paragraphs.)

Saunders and Slim discuss the question of relationship as a basis for conflict and its long-term solution.²⁹ They state that where there has been protracted conflict, the focal point for conflict management should be a sustained dialogue that seeks to build mechanisms that engage the conflicting sides with one another as 'human in relationship'. To them, sustained dialogue has positive contributions because it augments the view that legitimised relationships in conflict situations can be facilitated by addressing the question of relationships that build reconciliation. Conflict management and peace-building strategies should seek to address the underlying causes of conflicts and violence to ensure that they do not recur. Conflicts begin and continue when the important interests or needs of one or more parties are frustrated, threatened or remain unfulfilled. Appropriate conflict management and peace-building techniques should involve efforts aimed at social, political and economic reconstruction, observance of fundamental human rights and elimination of discriminative systems.³⁰ An examination of political violence must analyse two interrelated sets of factors:³¹ first, the underlying causes that give rise to potential for disorder, such as an overwhelming perception of racial disadvantage, discrimination or environmental decay; and second, trigger events, which may not be directly related to the underlying causes.

It is important to place the conflicts in South Africa and Kenya within the social con-

text in order to explain how they became institutionalised. At times the governments deliberately violated legal frameworks inscribed in the constitutions or codified new rules and structures in the legal framework in order to coercively preserve the status quo. The repressive tendency corresponded to the structural necessity to intimidate the victims of injustice and unequally distributed wealth. The persistence and aggravation of inequalities subjected citizens to more structural violence. It is therefore plausible to argue that while tangible issues such as human rights violations underpinned the conflicts in South Africa and Kenya, structural realities, socio-economic and political, formed a very important dimension. These structures were reinforced by legal measures and inhibited the development of the dominated groups and consequently led to latent and manifest violence. The South African and Kenyan governments sought to manage the resultant conflicts through coercion and brute force, which did not succeed in bringing peace. It only polarised and separated people without addressing the real causes of the conflicts.

In managing structural violence and conflicts the focus should be on improving people's lives with respect to social justice, poverty, alienation or identity crisis and ecological instability. The goal should be to transform the phenomenon of conflict lodged in human relationships to ordering structures of human community. This calls for a reconstruction of the social organisation and realities. If the basis of conflict is the denial of particular needs, then the resolution process must identify those needs and include ways of answering them. Peter Wallestein observes that resolving conflicts requires decentralised structures and ways in which psychological, economic and relational needs can be satisfied.³² 'Post-conflict' (for lack of a better term) social reconstruction may involve a broad range of short- and long-term political, institutional and developmental activities that are directed at ameliorating the root causes of the conflict. It encompasses reconstruction and developmental efforts that are carried out to specifically prevent recurrence of the conflict. Cousens and Kumar observe that peace-building efforts

should focus on those factors that allow stable political processes to emerge and flourish.³³

Conflict settlement processes

Negotiations in South Africa played a significant role in moving the country toward a peace accord and democratic elections. Indeed, reforms to the apartheid system began more than a decade before the 1994 elections. In the early 1980s there was increasing international pressure for sanctions against South Africa. As a consequence, the apartheid regime held negotiations with African nationalists (including Nelson Mandela in prison) but balked at the idea of allowing Africans to participate in the political system. There were various constraints to the negotiations that took place. These included the threatening intergroup perception to the degree that the various racial groups and their sympathisers viewed each other as being determined to preserve or alter the basic rule of relationships among sectional interests to their decided advantage, or perceived their rival in menacing terms.³⁴ Each group saw its survival – culturally, socially, politically and economically – as being threatened to the core, and the elites and their constituents therefore responded defensively. The ANC, for example, was viewed by the apartheid regime not as a liberation movement, but as a terrorist organisation intent on destroying the white-run state. The ANC and other political organisations on their part saw themselves as liberators and the apartheid regime as an enemy who had destroyed their livelihood. Such perceptions fed on themselves, leading to a negative reciprocity expressed in terms of fearful and aggressive behaviour.

Another barrier to negotiations related to divergence on the core issues of concern. These consisted not only of questions of interests but also of matters of basic values and belief. What was perceived to be at stake in the South African conflict was not distributive interests that are negotiable, but matters of principle. For the dominant whites, issues such as the maintenance of group rights, separate schools and racially distinct residential

areas had developed to a point where they entailed basic values on which whites did not wish to compromise. For African nationalists, majority rule the complete ending of white minority power and privilege, and individual rights were principles over which no accommodation seemed possible.

Third, the high-powered disparity in favour of white minority interests gave them a distinct edge in power relations. So long as racial relations reflected this striking power imbalance, the dominant minority had little incentive for concessions, while the majority were unable to make effective claims upon the state. Again the perception of victory made many Africans reject the likelihood of compromise on issues they regarded as critical. Compromise offered little incentive to alter existing structures of relations in fundamental ways. The remaining alternative, for all its apparent costs, was a protracted struggle.

Rene Lemarchand contends that South Africa was one of the most extraordinary political transformations of the 20th century where people defied the logic of their past and broke all rules of social theory to forge a powerful spirit of unity from a shattered nation.³⁵ He maintains that on the eve of its transition South Africa was 'a ranked' society in that it had a vertical pattern of stratification in which the politically dominant group controlled access to health, education and status. South Africa therefore opted for a transitional formula that brought incumbents and opponents to the negotiating table, in what Samuel Huntington calls a transplacement (a democratisation process that is produced by the combined actions of the ruling regime and resistance groups, with the latter willing to negotiate a change of regime but unwilling to initiate it; it thus needs to be pushed into a negotiated settlement through internal or external forces).³⁶ South Africa saw power sharing as a more promising method for managing intergroup conflicts.

Unlike South Africa, Kenya's widely acclaimed 2002 transition arose purely from an election contest. The democratic transition that followed the 2002 general elections in Kenya prompted lessons and comparisons

with the much more ramified processes of negotiation and reconciliation process that took place in South Africa. Both situations had shown signs of emerging from various forms of violence and gross human rights abuses. South Africa had experienced pronounced and protracted conflict when compared to Kenya. In both cases internal and external pressures contributed to moving the two countries toward their transitions to democratic rule. South Africa faced international economic sanctions, while Kenya had been subjected to 'reform' conditionalities by the Bretton Woods Institutions. The question of economic injustice evolving from mega-corruption in government institutions was more explicit in Kenya than in South Africa. Such things mean that the needs and mechanisms for peace building and social reconstruction should be understood and pursued in ways relevant to the two contexts.

In most intra-state conflicts, often inefficient, unfair and discriminatory policies play a role in alienating the loyalty of the people and thereby dividing the society along economic, ethnic, religious or regional lines. In dealing with such conflicts, the underlying causes must be addressed in a way that supports relational collaboration at all levels of society. Addressing these problems requires ongoing institutional capacity to see them through. Short-term efforts engineered by the international community may be beneficial, but the metamorphosis required in the process is most effective when it comes from or is built into the established foundations of the society.

Truth and reconciliation

The concept of truth and reconciliation as an instrument for peace building has stirred widespread international interest in the recent past. Several countries, including Argentina, Chile, El Salvador, Peru, Ghana, Uganda, Sierra Leone, South Africa, Guatemala, Rwanda and Kenya, have adopted or at least attempted to take up diverse forms of truth and reconciliation commissions to galvanise the process of transition from a past of human

rights violations and violence to a future that is supposed to be guided by democratic ideals, the rule of law and peaceful coexistence.

South Africa's Truth and Reconciliation Commission (TRC) greatly enhanced the truth commission agenda in Kenya and many other countries worldwide. The uniqueness of the truth commission in South Africa was because of the prominence and appeal of two of its leading players, Nelson Mandela and Archbishop Desmond Tutu and in part owing to the commission's proceedings, which were held in public. The TRC had a huge mandate, including the amnesty provision whose conditionality and specificity were not only ground breaking, but sometimes very controversial, particularly when it came to the thorny questions of how justice was to be pursued.³⁷

In Kenya, on the other hand, the work of transitional justice has not been so visible. Expectations were high after the widely praised democratic elections in 2002 that resulted in the defeat of the former ruling party KANU. KANU had been in power for 39 years and its rule had been characterised by human rights violations and massive corruption. The National Rainbow Coalition (NARC) government had campaigned on the platform of anti-corruption and the promise to establish a comprehensive truth commission or similar body to facilitate accountability for past economic crimes and violations of human rights. After taking over power, the NARC government appointed a task force in April 2003 to collect views on the need for and structure of a truth commission. In its final report of October 2003, the task force recommended the formation of a truth, justice and reconciliation commission (TJRC) to look into crimes and human rights violations since 1963.³⁸ The impetus with which the idea was pursued in the two countries is dissimilar, however.

The TRC and the TJRC

South Africa made substantial progress on the implementation of a truth commission, unlike Kenya, which has stagnated at the recommendation stage of the task force.

South Africa's TRC

Briefly, the TRC sought to investigate details of violations of human rights from 1960 to 1994, to identify the nature and extent of those violations, and the individuals and institutions that perpetuated or participated in the perpetuation. The TRC report was expected to lead to institutional reforms and reparations to victims. The perpetrators of crimes who confessed and sought forgiveness were entitled to amnesty by the commission. The TRC was supposed to bring to light the truth about South Africa's past. It also strove to build a foundation for reconciliation through the illumination of truth, which was supposed to be sought in a way that promoted reconciliation. The commission did not emphasise retributive or criminal justice but rather 'working things together'. Insights gathered through the TRC's investigative process were supposed to lead to the transformation of the institutional framework of government. Indeed the TRC report records massive human rights abuses and makes important recommendations for reparations to victims.³⁹ There was opposition to the final report from senior officials in the ANC and the National Party, however, when both parties were implicated in human rights violations. The current South African president Thabo Mbeki argued that the ANC was involved in a liberation struggle and whatever ensued during that struggle could not be categorised as human rights violation. Former President F W de Klerk argued that his government had not deliberately perpetuated human rights violations and he personally was unaware of the accusations levelled against his regime by the report. These assertions by both sides of the divide lend credence to the observation that the TRC at least exercised some degree of impartiality in its work.

Kenya and the TJRC

The task force appointed by the government of Kenya recommended, among other things, that by June 2004 the president should establish a TJRC of no more than eleven commissioners to investigate violations against individual and community rights between

1963 and 2002. It also recommended that the commission be vested with powers to bar the guilty from holding public office and to seize fraudulently acquired property. The commission was expected to have powers to summon anyone and to grant amnesty to those who willingly surrendered stolen wealth. Victims of injustice were to be redressed through compensation, restitution and reparations.

Today, the NARC government's commitment to implementing the task force's recommendations seems to have lost impetus. By January 2005 there was little sign that the government would move toward implementing the task force's recommendations. Given the enthusiasm with which NARC advanced the idea of a truth commission during its campaigns, the question many observers have been asking is why nothing substantive seems to be happening and whether Kenya will hear the truth about past crimes. But the government has instituted several mini-commissions to look into a series of specific crimes and other issues outside the recommendations of the task force. This has raised fears that the NARC government, currently bogged down in internal wrangling and accusations of corruption, is no longer willing to implement a broad-based TJRC. In part this is because the NARC government itself is populated by members of the two former regimes, some of whom were alleged to have participated in the perpetration and perpetuation of economic crimes and ethnic violence in 1992 and 1997. It is argued that the government cannot implement a TJRC without incriminating itself. Second, increased tensions and wrangling in the ruling coalition have led the Kibaki government to engage in the politics of survival where political clout and support are procured at the expense of transparency and accountability.

TRC and TJRC: a comparison

While Kenya's TJRC seems to have stagnated at the level of the task force's recommendations, the South African TRC has made tremendous progress since its inception in 1995. The TRC has received very favourable

reviews, particularly from outside South Africa.⁴⁰ Inside South Africa, on the other hand, the TRC's work remains a controversial subject. There are debates about whether it advanced questions of truth, justice and reconciliation or undermined them. Some people have dismissed the TRC as a sensationalist circus⁴¹ while others have viewed it as nursing a bias toward the ANC, despite Mbeki's opposition to parts of the TRC report.

Various scholars and commentators have criticised the TRC, among other issues, on its investigative processes (that there was no collaboration of evidence), amnesty (that this provision sacrificed justice) and reconciling South Africans. (Reconciliation is a process rather than an event and depends on individual dispositions. Critics argue that the TRC could only facilitate the process and not allege that in itself it was reconciling people, as its name suggests.) (These appraisals will be revisited later.)

Truth and reconciliation as a paradigm for peace building

Certainly South Africa's TRC made greater progress in carrying out its mandate, and its structures and processes provided a more ambitious and promising innovation in truth and reconciliation as model, compared with the Kenyan version. The amnesty provision was a middle ground and central incentive in moving the perpetrators in particular and the previously conflicting parties in general out of their hardened positions. In other words, the price for historical truth and the presumption of reconciliation involved a significant compromise in the pursuit of criminal justice.⁴²

Broadly, there is no single formula for constructing a truth commission. The structure, mandate and other details of such commissions are/should be dictated by the particular circumstances of each individual country. However, by and large, truth commissions have included investigations, amnesty for confessed criminals, prosecution of the worst offenders who refuse to cooperate, and compensatory settlements for victims. As a paradigm for peace building, truth commissions generate a variety of reviews, ranging from

legal, moral to those suffused in religious and social science critiques.⁴³

This paper contends that truth and reconciliation as a mechanism for peace building goes beyond conflict settlements toward a point that addresses those relational components of reconciliation. It is true that the mechanism carries new challenges, but it at least embodies pragmatism and principle in terms of transcending traditional approaches, especially those that expired with the cessation of physical hostilities or the signing of peace agreements. Truth commissions are designed to be processes that build durable blocks for sustainable peace and ensure non-repetition of past crimes. It is increasingly obvious that the real challenge for most countries emerging from transition (including South Africa and Kenya) is to build a society that is truly participatory and fulfils the basic needs of its people. Truth commissions can act as bridges toward that form of society. They are points of departure for a process of transformation that seeks to fulfil rather than frustrate the enjoyment of human needs. But they are not enough in themselves. If structural inequalities continue to prevail, new fissures will be generated that give rise to alienation and new forms of conflict. The various countries where truth commissions have been established (including South Africa) there are indications that far-reaching challenges are still to be met. In some cases, such as Chile, political turmoil still prevails. In South Africa political violence has subsided tremendously although structural violence has shaded into criminal activities, especially in such poor areas as Soweto.

Prospects

This paper sought to investigate the various forms of violence and injustices that characterised two countries, South Africa and Kenya, between 1948 and 1994 and 1963 and 2002 respectively. It aimed to balance historical accounts of the South African and Kenyan situations with a conceptual exposition of conflict management theory. The paper generally observed that the conflicts in the two

countries were not single-issue situations. The sources of violence and gross human rights violations were diverse and complex. They permeated the various facets of society and were mutually reinforcing in pronouncing the conflictual behaviour. At the time of transition (1994 in South Africa and 2002 in Kenya) both countries showed signs of emerging from various forms of repression, authoritarianism and violence. A comparative interest in the two cases has been fuelled by Kenya's wish to create the momentum for a truth commission on the lines of the model that South Africa pursued after its transition in 1994. It is safe to assume that violence and gross human rights violations played a central role in shaping the two countries' interest in the idea of a truth commission.

Notes

- 1 Section 2A of Kenya's constitution was repealed in this year, although the basic single-party structures were retained.
- 2 See A M Johnston, Self determination in a comparative context: Northern Ireland and South Africa, *Politikon* 17(2), December 1990, pp 5-22.
- 3 See The Kenyan authors of this book have decided to remain anonymous because they still live in their country, in *Independent Kenya*, Zed Press, 1982, p xi.
- 4 H Adam and K Moodley, *South Africa without apartheid: dismantling racial domination*, Berkeley: University of California Press, 1986, p 20.
- 5 A Lisphart, The ethnic factor and democratic constitution making in South Africa, in E J Keller and L A Picard, *South Africa in Southern Africa: domestic change and international conflict*, Boulder and London: Lynne Rienner, 1989.
- 6 A S Mathews, *Freedom, state security and the rule of law: dilemma of the apartheid society*, Cape Town, Juta, 1986, p 284.
- 7 See J Galtung and C G Jacobsen, *Searching for peace: the road to transcend*, London, Sterling, Virginia, Pluto Press, 2000, p 107.
- 8 The Conflict Management Program, Conflict Management Toolkit: Approaches, Paul H Nitze School of Advanced international Studies, Johns Hopkins University, 2001.
- 9 See J Galtung, *Peace by peaceful means*, London, Thousand Oaks, New Delhi: Sage, 1996, chapter three.
- 10 J Galtung, *Peace and social structure: essays in peace research*, vol III, Copenhagen, Christian Ejlers, 1978.
- 11 M Mwagiru, *Conflict: theory, process and institutions of management*, Nairobi, Watermark, 2000, pp 3, 24-35.
- 12 A Ashforth, South Africa: reconstructing an imperial state, in M Cohen and M Kelson, *Africa today: crisis change*, New York, Javan R Dee, 1992, pp 370-371.
- 13 G Feliks, *World politics and tension areas*, New York, New York University Press, 1966, p 43.
- 14 C R D Halisi, Racial proletarianization and political culture in South Africa, in Keller and Picard, op cit, pp 49-68.
- 15 H Wolpe, *Race, class and the apartheid state*, Paris, Unesco Press, 1988, p 5.
- 16 The term 'race' is used to refer broadly to those social categorisations which were based on biological notions.
- 17 H Adam, *Modernizing racial domination: the dynamics of South Africa*, Berkeley, University of California Press, 1972, p 4.
- 18 P Randall, *South Africa's political alternatives*, Report of the Political Commission of the Study Project of Christianity in Apartheid Society, Johannesburg, Ravan Press, 1973) p 10; see also L Kuper, *Plural societies: perspectives and problems*, Berkeley, California University Press, 1971, p 20.
- 19 R Dahrendorf, *Class and class conflict in industrial society*, Stanford, Stanford University Press, 1989, pp 214, 316-317.
- 20 H M Blalock, *Power and conflicts: toward a general theory*, Newbury, Sage Publications, 1989.
- 21 K Rupesinghe, The disappearing boundaries between internal and external conflicts, in E Boulding, *New agendas for peace research: conflict and security re-examined*, Boulder, Lynne Rienner, 1992, p 61.
- 22 Ibid.
- 23 L Reychler, *Patterns of diplomatic thinking: a cross-national study of structural and social psychological determinants*, New York, Praeger, 1979, p 119.
- 24 See K Karel, On Marxist theory of war and peace, cited in Reychler, op cit, p 119; see also K Karel, On Marxist theory of war and peace, *Journal of Peace Research* 1, p 29.
- 25 S Mendlovitz, *On the creation of a just world order: preferred worlds for the 1990s*, New York, The Free Press, 1975, p 296.
- 26 J W Burton, Conflict resolution as a political system, Working Paper 1, Center for Conflict Analysis and Resolution, George Mason University, 1989, pp 3-23.
- 27 H W van der Merwe and A Odendaal, From confrontation to mediation, in E Boulding (ed), *New agendas for peace research*, Boulder, Lynne Rienner, 1992, p 145.
- 28 D Frei, *International crises and crises management: an East West symposium*, West Mead, Saxon House, 1976, p 2.
- 29 J V Montville, Epilogue: the human factor revisited, in J N Montville, *Conflict and peace making in multi-ethnic societies*, Lexington, Lexington Books, 1989, pp 532-540.
- 30 H Saunders and R Slim, Dialogue to change con-

- fliction relationships, *Higher Education Exchange*, A Kettering Newsletter, 1994, pp 43-56.
- 31 See G Evans, *Cooperating for peace: the global agenda for the 1990s and beyond*, StLeonard's, Allen & Unwin, 1993, p 39.
- 32 M Lipton, Reform: destruction or modernization of apartheid, in J Blumenfeld, *South African crisis*, London, Croomhelm, 1987, p 109.
- 33 P Wallestein, *Understanding conflict resolution: war, peace and the global system*, London, Thousand Oaks, New Delhi, Sage, 2002, p 39.
- 34 E M Cousens and C Kumar, *Peace building and politics: cultivating peace in fragile societies*, Boulder, London: Lynne Rienner, 2001, p 183.
- 35 See D Rothchild, From exhortation to incentive strategies: mediation efforts in South Africa in the mid 1980s, in Keller and Picard, op cit, pp 33-35.
- 36 R Lemarchard, Managing transition anarchies: Rwanda, Burundi and South Africa in comparative perspective, *The Journal of Modern African Studies* 32(4), p 58.
- 37 S Huntington, *The Third Wave: democratisation in the twentieth century*, London, Norman, 1991, p 114.
- 38 See Amnesty International, Truth and justice: unfinished business in South Africa, Human Rights Briefing Paper, February 2003.
- 39 See D Taylor, Will Kenya hear the truth? <www.news24.com/news24/africa/features>, 22 April 2004.
- 40 Visit <www.doj.gov.za/trc/>.
- 41 See C Jenkins, The South African Truth and Reconciliation Commission: a breakthrough for Africa? Paper presented at the 2003 Centre for African Studies Annual Conference on 'Remarking Law in Africa', University of Edinburgh.
- 42 Ibid.
- 43 See P Conway, Truth and reconciliation: the road not taken in Namibia, *The Online Journal of Peace and Conflict Resolution* 5.1, Summer 2003 (published by Tabula Rasa Institute).