

The Mechanics of Rebuilding a Failed State

The Governance Challenge in Liberia

Abiodun Bashua¹

INTRODUCTION

Liberia suffered almost 14 years of a brutal civil war that ended officially with the signing of the Comprehensive Peace Agreement (CPA) on 18 August 2003, in Accra, Ghana, between the three warring factions, namely the former Government of Liberia (GoL), Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL). Prior to the signing of the CPA, the parties to the conflict signed the Agreement on Ceasefire and Cessation of Hostilities (ACCH) in Accra on 17 June 2003. The civil strife affected the whole country, leaving several families traumatised, mentally and/or physically; displaced almost half of the total population, who sought refuge in bush and urban camps or in neighbouring countries; and destroyed almost the whole of the country's infrastructure.

The situation is so bad that the UNDP has not been able to obtain data on the country's human development index (HDI) for several years. The task of rebuilding Liberia is therefore a major challenge, which requires sustained efforts by national, regional and international stakeholders. To be successful, however, such efforts must be focused and coordinated in order to put in place the foundations of a new Liberian state based on good governance, rule of law and respect for human dignity, and sustainable economic development.

OVERVIEW OF THE RULE OF LAW

The 'rule of law' is a *sine qua non* for sustainable peace and stability, as well as economic, social and political development. Liberia, like other war-torn countries, experienced a disintegration of the rule of law that

has led to a situation where violence, arbitrary killings and human rights abuses go unpunished. This in turn has led to mob justice and general lawlessness. In accordance with the provisions of the CPA, the UN Security Council in Resolution 1509 (2003) established the UN Mission in Liberia (UNMIL) and gave it a solid mandate for the re-establishment of the rule of law.. This includes activities in conjunction with other international partners to assist the National Transitional Government of Liberia (NTGL) to restructure the police force, develop a civilian police training programme, and build a national strategy to consolidate its legal framework as well as judicial and correctional institutions.

The restoration of state authority in post-conflict societies, as in Liberia, is a crucial element in the peace process to ensure the sustainability of the process. Consequently, Resolution 1509 (2003) provided for the establishment of a civil affairs component in UNMIL, under the supervision of the Deputy Special Representative of the Secretary General for Rule of Law, who was charged with four main tasks in support of the implementation of the Liberian peace process. These are, in conjunction with ECOWAS and other international partners, to assist the transitional government in:

- the re-establishment of national authority throughout the country, including the establishment of a functioning administrative structure at national and local level;
- developing a strategy to consolidate government institutions, including a national legal framework and judicial and correctional institutions;
- restoring proper administration of natural resources; and
- preparing for national elections scheduled for no later than the end of 2005.

To assist the attainment of these objectives, the Civil Affairs Section in UNMIL facilitated the establishment² of a task force on restoration of state authority. Chaired by the Minister of Internal Affairs, the task force meets each week to consider the status of the security situation, including progress of UNMIL deployment and disarmament of combatants, and advise the NTGL accordingly. The task force reviews a number of criteria in its deliberations. These include the absence of hostilities; the progress of disarmament and demobilisation; the presence and/or return of Liberian National Police/UN Civilian Police (LNP/UNCIVPOL) to monitor law and order; security cover/presence of UNMIL forces; unhindered access to humanitarian agencies; and sizeable and spontaneous return of refugees.

On the basis of this set of criteria, nine counties (Bomi, Bong, Gbarpolu, Grand Bassa, Grand Cape Mount, Grand Gedeh, Margibi, Montserrado and Nimba) had been declared 'safe' by the NTGL. Consequently, by 15 September 2004, Chairman Bryant had nominated new superintendents for these counties to facilitate the return of government officials and traditional leaders to those areas. The task force is expected to complete its work before the end of 2004. The section has equally facilitated the re-opening of immigration and customs checkpoints at strategic border points, in collaboration with the military and CIVPOL, in order to curtail illegal cross-border movements of persons and goods, including weapons and possible recruitment of ex-combatants.

At county level, civil affairs officers have been deployed in all 15 counties. In collaboration with relevant ministries, and other UN agencies and international non-governmental organisations (INGOs), the civil officers are facilitating the establishment and fostering of recovery, reconciliation and reintegration activities for ex-combatants, returnees and IDPs. Contacts with relevant stakeholders have been initiated in assisting the NTGL in restoring proper administration and control over the country's natural resources.

Liberia's economy has largely been controlled by foreign multinational corporations (MNCs) such as the Ohio-based Firestone Rubber Company. In the 1800s Firestone entered into an agreement with the Liberian authorities, which gave the company near-monopoly over the country's vast rubber resources, perhaps the single most important sector of the economy. (Liberia had the world's largest rubber plantation.) Other sectors of the Liberian economy such as mining also fell to Western MNCs, with the import and retail of merchandise left in the hands of a sizeable Middle Eastern diaspora, mostly of Lebanese and Syrian stock. Migrant communities from the sub-region, especially Guinea and Mali, controlled small businesses and participated in the retail sector.

OVERVIEW OF GOVERNANCE

Bad governance is generally considered one of the root causes of conflicts in countries where the apparatus of state authority scarcely functioned in an effective and democratic manner. Liberia is no exception. For instance, before the outbreak of the conflict in 1989, revenue collection, accountability and the utilisation of national revenue on social programmes such as education and health had almost collapsed. This meant that salaries for civil servants had fallen into arrears, at

times for periods of over 18 months. In this milieu, public services became increasingly inefficient and poorly motivated, with most civil servants seeking employment in foreign countries or with international organisations and NGOs.

The situation was compounded by the concentration of government powers and executive functions at national level. Excessive centralisation of administrative functions undermined the institutions of local government and excluded grassroots participation in development management, with the consequent neglect of development activities at county levels. This aggravated social tensions and, among other factors, resulted in the devastating conflict.³

As a result of the conflict, the country lost substantial institutional capacity in terms of institutional expertise, manpower and the socio-economic infrastructure needed to support the task of nation-building. Public and private institutions are unable to effectively utilise and retain human capacity, while the system required for efficiency, effectiveness and transparency is absent.

Consequently, there is an urgent need to assess the capacity gap that is required for national development, and to formulate and implement appropriate policies and programmes to address the country's capacity development needs, among others.⁴ While the CPA and the Liberian constitution recognise and provide for a three-tier system of governance – executive, legislature and judiciary – the national capacity deficit and unbridled love of power and corruption make the attainment of this objective nearly impossible. It is therefore urgent and imperative to establish for post-conflict Liberia a system of governance that is transparent and accountable and will uphold human rights and the rule of law, in order to consolidate the gains and sustain the peace process.

TRANSITION CHALLENGES

Significant progress has been made in Liberia since the deployment of UNMIL commenced on 1 October 2003. With the presence of peacekeeping troops across the country and substantial progress in the disarmament and demobilisation process, security has improved considerably. Humanitarian access has increased, paving the way for the organised return and resettlement of refugees, along with large number of internally displaced persons (IDPs), to their home communities.

To this end, UNMIL is working closely with the NTGL, ECOWAS, the AU and other international partners to enhance the implementation

of the CPA. Although the disarmament of ex-combatants has reached the phenomenal record of over 95,000⁵ (as of 20 October 2004), including 10,000 children, there is continuing concern that most of the ex-combatants have not handed over most of their weapons, raising fears that they are either being sold to other groups in neighbouring countries or are being stockpiled for future engagements.⁶

In addition, many challenges still lie ahead. The capacity of the NTGL to deliver basic services and extend civil administration throughout the country remains limited.⁷ The process of restoring effective administrative structures will require continuing engagement with development partners in terms of the provision of technical expertise and funding to enable the requisite rehabilitation and equipping of governmental institutions, and to strengthen administrative capacity. Unfortunately, continued division within the transition government, particularly in a major faction, as well as the seeming lack of public management skills by key functionaries of state, tends to hamper the implementation of key aspects of the CPA in a manner that fosters reconciliation and enhances political stability.

The on-going wrangling over the appointment of county superintendents for Bomi, Bong, Grand Bassa, Grand Cape Mount, Montserrado and Nimba counties is a case in point. Until Liberia's political elite change their tactics and do away with the corrupt system that brought the country to its current abyss, the peace process will continue to be fragile and unsustainable.

The capacity of Liberia's legal, judicial and corrective systems is very limited as a result of the years of conflict and neglect, typified by rampant disregard for the rule of law by successive regimes since 1979 or prior to that. Many of the courts are not functioning because they have been looted or destroyed. The public have thus lost confidence in the judiciary and would take the law into their own hands rather than seek legal redress.

Greater international support than hitherto will be required if a solid foundation for an independent and credible judiciary is to be put in place in the transition period. Substantial resources are required for the rehabilitation of the court system in and outside Monrovia, as well as for training judicial officers, particularly prosecutors and magistrates, in order to alleviate current long detention periods for the citizens, even for minor offences.⁸

UNMIL has continued to consult with representatives from the national legal and judicial system, UN agencies, interested international partners and civil society on ways and means of strengthening the judicial system.

Efforts aimed at securing funds to support small-scale infrastructural rehabilitation work are on-going. Resources from UNMIL's quick impact projects have been used to facilitate the rehabilitation and reopening of the Law School at the University in Monrovia, enabling some 400 law students to continue their education.⁹

As part of its training activities, UNMIL, in collaboration with national and international stakeholders, has developed medium- and long-term training programmes for justices of the peace, magistrates, circuit and specialised court judges. These programmes commenced in late August. The mission also plans, in collaboration with the Ministry of Justice, to embark on a programme of drafting and revising laws, and intends to organise workshops and public education seminars to help sensitise the public on the new and enhanced role of the judiciary in nation-building and the importance of rule of law.

While UNMIL forces have reached full capacity and are now deployed throughout the country, thus enhancing the protection of civilians and vulnerable groups, human rights abuses and a culture of impunity continue in various parts of the country.¹⁰ In several areas throughout the country, civilians continue to live in fear of armed elements who were recently disarmed, are yet to undergo a reintegration programme or are still to be disarmed because the disarmament process has not reached their area. Abuses and intimidation of civilians are being perpetrated by all the factions – LURD, MODEL and GoL – in varying degrees of severity throughout the country. The abuses are particularly severe and rampant in the western and south-eastern counties (Grand Kru, River Cess, Gbarpolu and Nimba, among others) where UNMIL forces are not yet fully deployed.

The situation is significant and worrisome because UNMIL peacekeepers had been deployed in most of these areas and there had been allegations and reports that some of the atrocities are committed in the physical vicinity and sometimes presence of the blue berets who fail to intervene, because they are either not instructed by their commanders to do so or consider that such acts, random as they might appear, are not in their “mandate and concept of operations”.

UNMIL's military have been criticised by several international NGOs working in Liberia, including human rights organisations and local civil society groups and the National Transitional Legislative Assembly (NTLA) for over-concentration on the protection and security of its personnel and assets in Monrovia and its environs to the detriment of the civilian population in the hinterland where the mission is relatively thin

on the ground.¹¹ It is essential that these reports, if verified, should be addressed in a comprehensive manner so that the peacekeepers can react robustly and effectively in any given situation of abuse or intimidation of the civilian populations.

With regard to security sector reform, Resolution 1509 (2003) mandated UNMIL to assist the transitional government in restructuring the LNP, to develop a civilian police training programme and to assist with the training for a new Liberian National Police (LNP). In recent months several core initiatives undertaken by UNMIL to reform the security sector have begun to bear fruit.¹² After the LNP Academy was re-opened on 12 July by Chairman Bryant, training commenced for the first group of 132 cadets in July and a further group of 150 in August 2004. The cadets, comprising internal applicants from the LNP as well as external candidates, were thoroughly screened and vetted during the recruitment process. The three-month training programme includes classroom and field training. The first set of recruits graduated from the academy on 10 September 2004.

In spite of UNMIL's massive support and assistance, however, the LNP was still very severely handicapped as it continued to lack basic equipment and logistical support, including stationery and mobility, to facilitate its effectiveness. Additional funding will be required for the rehabilitation of the academy and the expansion of its capacity so that the current intake of 150 recruits per session can be increased to 600. The expansion would help to ensure that a projected 1,800 officers will be trained before the national elections in October 2005. Given the level of assistance and support required, bilateral international donor support (as for instance was provided by the UK government to Sierra Leone) will be required to attain the objective and sustain the expected LNP strength of 3,500 to be recruited and trained by UNMIL by the end of the transition period in 2005.

The greatest challenge in Liberia today is probably the inability of the present regime to carry out the urgent governance reforms that are required to ensure and guarantee sustainable peace and stability. The long years of civil war were preceded by decades of bad governance exemplified by over-centralisation of power, corruption, nepotism and widespread mismanagement of the economy and polity. In the last decade of the 1990s almost all government institutions, including the armed forces and police, became moribund and ineffective, with consequent insecurity of lives and property, displacement of about half of the population, massive destruction of the public and private

infrastructure, and failure to secure an enabling environment for growth and development.

Unfortunately, the CPA was rather hastily carried out because of undue publicity and overemphasis on the fate of Charles Taylor, after his 'premature' indictment by the Special Court for Sierra Leone. As a result, the CPA, in its implementation, proved to be nothing more than a 'sharing of spoils' between former belligerents of GoL, and the rebel forces of LURD and MODEL. As a result of the power- and position-sharing agreement, all the key public positions in the country were doled out among the former belligerent forces who, up to now, still believe that they are in power in order to serve their factional interests rather than the supreme interests of the Liberian people. There is therefore a serious lack of national cohesion, which is manifested in the fractured nature of the NTGL.

Ostensibly, the CPA tried a delicate balancing act to ensure representation of all factions in all the strategic ministries and agencies, in order to ensure collaboration and cooperation among the parties. But ministers, deputies and assistants in the same ministry continue to operate independently of one another. The highest authority of the state is even occasionally held to ransom by a controversial minister. For instance, rifts within certain factions are played out on the national stage, often with factional representatives taking advantage of crisis within their organisations to use their position of authority as they deem fit. Not only does the public display of factional infighting seriously undermine the credibility of the NTGL, it also hampers its activities, with the civilian population bearing the brunt.

In addition, in the first year in office relations between the various arms of government have been almost controversial and full of friction, with threats and accusations the usual order of business. The leaders of the NTGL and the NTLA virtually run parallel institutions. The public displays of rivalry and allegations by one against the other are almost legendary in the level of intensity and the recriminations that are publicly exhibited.

It will appear that rather than focusing on personality failures, there is a need for a structural review and reform of the Liberian constitution, with a view to addressing some of the fundamental issues of power and its usage by incumbent political power-holders. This is essential if a system of governance that wishes to be transparent, accountable and uphold human rights and the rule of law is to have a chance of taking hold in the country.

The existing constitution requires extensive revisions to prevent future abuses of power and a return to the 'status quo ante'. The president has extensive and very wide-ranging powers of appointments and dismissals, including the appointments of all county officials, as well as powers of dismissal over paramount, clan and town chiefs who are originally expected to be elected by the registered voters in their own localities (Article 54 of the Liberian constitution). It was to such constitutional powers and authority that Chairman Bryant resorted when naming new superintendents for the six most populous counties in August 2004. The appointments were made without adequate and extensive consultations with all relevant stakeholders, as dictated by current realities as well as the spirit of the CPA.

THE ROLE OF CIVIL SOCIETY

Civil society groups and organisations have a key role to play in promoting peace, stability, democracy and socio-economic development, if the current peace process is to be sustainable. One can even go further and state that the future of Liberia depends on strengthening the capacity of civil society to enable it to play this crucial role and engage effectively in governance and socio-economic development. However, to attain this lofty objective, a number of constraints will have to be addressed.

Liberia has a legacy of decades of corrupt, inefficient, weak and unaccountable government. As a result, the population had no meaningful say in the formulation and implementation of state policies. Successive governments, civilian and military, concentrated power in Monrovia, and national politics was characterised by "a cult of personality centred on the President of the Republic". Unfortunately, the practice appears to remain in place despite the departure of Charles Taylor and the extensive involvement of the UN in the current peace process.

During the early years of conflict (1990–1997) civil society groups collaborated on common issues such as disarmament and elections. On occasion, they threatened to withdraw cooperation or reject any faction that came to power through the barrel of the gun. In spite of frequent marginalisation by the various warlords, the ultimate endorsement and/or tacit acceptance of the result of the elections by civil society groups was critical to the transition from war to peace in 1997.

Among the major civil society groups that existed or developed during the war years was the Inter-Faith Mediation Committee (IFMC), an amalgamation of the Liberian Council of Churches (LCC) and the

National Muslim Council of Liberia (NMCL). Both now operate under an umbrella known as the Inter Religious Council of Liberia (IRCL), but maintain their distinct entities. In addition, the civil war gave birth to a number of human rights and women's groups such as the Catholic Justice and Peace Commission (JPC), the Centre for Law and Human Rights Education (CLHRE), and the Liberia Women's Initiative (LWI). Today civil society groups proliferate in the country. Thus, the 14 years of conflict has left in their wake a society of citizens that have become more aware of their role and of decisions and processes that impact on their lives.

Since the signing of the CPA Liberians have been politically awakened and are beginning to make demands and build a groundswell of social mobilisation for accountable leadership. Hitherto neglected segments of the population, such as youth and women groups, are more conscious of and interested in participating in decision-making processes, aimed at ending their marginalisation and exclusion from such processes.

In his days in power Taylor ruthlessly pursued a policy of crushing, jailing and infiltrating civil society groups, including media groups; he also drove several prominent human rights activists into exile. The situation, however, is changing. As Chairman Bryant found out during a visit to Buchanan, Grand Bassa, on 4 September 2004, community-level civil society organisations are beginning to express concerns about transparency and accountability in governance matters. This growing awareness ought to be incorporated into a coherent and coordinated programme in a constructive manner in order to maximise its impact and role.

Given that civil society groups in Liberia remain weak and ineffective in terms of their organisation, strategy and technical capacity, there is an urgent need to assist them to develop their capacities in order to enhance their critical role, which, as noted earlier, is germane to the future stability and sustainability of the peace process. Support for civil society groups is required in three main areas: peace-building, national reconciliation and democratisation. Urgent international assistance will be required to encourage the development of a human rights culture, promote democracy and facilitate national reconciliation through civil society groups.

UNMIL and the UNDP are currently engaged in developing a framework for the coordination and effective contribution of civil society organisations to the recovery process. It is perhaps fair to report that, since the ascension of the NTGL, women's organisations, NGOs,

civil society organisations and groups have become more vibrant and visible in their campaign for peace, good governance and the rule of law. An international conference was recently held in Monrovia with the view to highlighting the role of women in the peace process. The Civil Society Movement of Liberia, the Liberia NGO network (LINNK), the Mano River Women Network for Peace (MARWOPNET) and Women in Peace-building Network (WIPNET) are all working with the NTGL and development partners in consolidating the peace process. They are particularly active in the DDDR programme, as well as peace-building advocacy in the Mano River basin and Guinea's Forestiere.

THE ROLE OF THE INTERNATIONAL COMMUNITY

Since the establishment of UNMIL, the international community has continued to render considerable support to the Liberian peace process. This was graphically exemplified by the pledges made at the International Reconstruction Conference on Liberia in New York in February 2004 at which about US\$520 million was pledged to support the post-conflict recovery efforts in the country. As at the end of 20 October 2004, about US\$354 million of this amount had been redeemed.¹³ Indeed, the shortfall was partly because of the belief that there is not sufficient national capacity to handle the total pledges at the present time. In addition, there appears to be reluctance on the part of major donors because the transitional government is not demonstrating sufficient political will and seriousness in tackling the twin issues of corruption and bad governance that have plagued the country for more than two decades.

With a population of about three million, 80% of whom live below the poverty line, and where unemployment remains at the abysmal level of 85%, about half of Liberia's population continue to depend on international food aid and assistance. As part of efforts to revamp and build state institutions, the NTGL and successor governments should work towards establishing transparent accounting and auditing mechanisms to ensure that all government revenues are used to improve the lives of the people. As noted in a recent Amnesty International report on Liberia,¹⁴ "while it is important that the international community provides financial and technical support, the NTGL has a primary responsibility to ensure that post-conflict reconstruction is based solidly on good governance, the rule of law and respect for human rights". The report also stated that "unless the NTGL is seen to

be steadfastly committed to these objectives, support and goodwill from the international community will quickly wane”.

But the implementation of the RR component of the disarmament programme is currently facing severe resource constraints. While the projection for ex-combatants to undergo the reintegration programme after their disarmament and demobilisation was a total caseload of about 60,000 including 15,000 child combatants and personnel associated with the fighting forces, 95,000 combatants have so far been disarmed (as at 20 October 2004).¹⁵ The figure is expected to rise to about 100,000 by the end of the disarmament programme at the end of October 2004.

However, preparations for the reintegration and resettlement programme do not appear to match the need for immediate commencement of this important aspect of the DDRR. The greatest constraint had been resource limitations. Of a total estimated requirement of US\$44,093,368, only US \$6,340,000 had been committed by mid-September, of which only US\$1.6 million had been disbursed, leaving a funding shortfall of US\$42,493,368. Additional funding is therefore urgently needed for the reintegration programme in order not to jeopardise the gains of the disarmament process with the risk of ex-combatants relapsing to their ‘old ways’ if they are not successfully reintegrated into civil society in a timely manner.

POLICY RECOMMENDATIONS

Whereas the UN Security Council mandates for peacekeeping operations in Africa and elsewhere in recent years have been based on robust use of all necessary means, based on Chapter VII of the UN Charter, such mandates have not provided sufficient and necessary protection to civilians in situation of armed conflicts, particularly in the post-conflict peace-support operations environment. The reasons are many and varied, and ought to be addressed by all relevant stakeholders, including the UN Security Council, major troop-contributing countries (TCCs), and Regional Economic Communities (RECs), such as ECOWAS and the AU.

There seems to be a standardised or general approach to dealing with peacekeeping operations, especially those on the African continent. In many cases the nature and form that UN operations take in post-conflict situations appear to be influenced by relationships among the political leaders of the ‘war-torn’ country rather than the realities on the ground. In ‘failed states’ in Africa, rather than dealing surgically with the situation,

preference appears to be a preservation of the status quo rather than a 'clean break with the past', as is required in such circumstances. In Liberia, and some would argue also in Sierra Leone, the relationships of major international players with key political leaders in these countries to a large extent influenced the nature of the mandate for the UN operations.

Similarly, whereas it was very clear that the various warlords and factions that were contesting for power and influence against Charles Taylor were a motley crew of incongruent and unfocused opportunists, the international community, under the auspices of ECOWAS, literally supervised a 'sharing out of the spoils of war' in Accra rather than taking over the failed state that Liberia presented in August 2003.

The international community and the UN Security Council should have taken a different stance on the Liberian crisis and taken control of the Liberian transition for a fixed period of between two and three years. Had they done so, the current and persistent in-fighting in the NTGL, the struggle for power and pre-eminence between the NTGL and the NTLA, and the power struggles and disarray in some of the factions would have been averted. By August 2003, when the CPA was signed, Liberia was 'up for grabs' and it was clear that none of the major contenders for power had the capacity to hold the country together. Moreover, none of them was intent on serving the interests of the Liberian people. Thus, instead of the CPA, which allocates primary influence on the Liberian polity throughout the period of transition to the same set of individuals that brought the country to its knees, the UN, ECOWAS and the rest of the international community should have taken over the administration of the country for at least three years. In its current form the CPA does not seem to be the best approach to dealing with the protracted conflict. However, getting rid of Charles Taylor seemed to be the singular goal and 'anything else' was acceptable. As a very senior UNMIL official puts it, "we got rid of one Charles Taylor only to do business with 100 other Charles Taylors".

It is becoming increasingly clear to most observers of the Liberian political scene that in spite of its goodwill and sincere intentions, the CPA was a mistake. Even with the best of intentions of those who are expected to implement it, the CPA is unlikely to be the panacea for resolving the Liberian crisis and putting in place the foundations for good governance, accountability and transparency that are essential ingredients for building a new Liberia.

The reverse is indeed the case as all the factions serving in the NTGL continue to pursue their 'factional and individual interests' rather than

those of the Liberian people. Almost halfway through the transition, corruption, nepotism and misplaced priorities remain the hallmarks of the transitional administration. But for UNMIL's presence, law and order would have broken down again as a result of the continued neglect of the interests of the population. Yet, in spite of UNMIL's presence, strikes and demonstrations by various groups have reached a crescendo over issues ranging from the price of rice and cement to the late commencement of the reintegration programme for ex-combatants. One year on, most of the promises made by the transition administration on corruption, job creation and provision of basic services, such as electricity and water, are yet to be fulfilled.

In general, while there have been some improvements in the planning and logistics support of peacekeeping operations, their mandates apparently remain ambiguous and unclear in some key areas. The mandates of peace operations remain silent about clear directives to the management of peace operations on how to react to attacks on civilians or to illegal activities being carried out in an area where peacekeepers are present.

So far in Liberia most contingents claim they are not mandated to react with force unless specifically directed to do so by the force commander, and more often than not by their national contingent commanders. As the recent Gatumba refugee camp massacre in Burundi indicated, UN peacekeepers stationed nearby in the capital, Bujumbura, gave no aid to refugees, because they knew nothing of the attack until it was over. Political leaders in the region have since cited this failure as yet another proof that UN peacekeeping missions still find it difficult to protect civilians "even if mandated to do so". Such negative perceptions centring on a narrow interpretation of Chapter VII mandates raise legitimate concerns and require urgent attention, not only by the Security Council, but also by troop-contributing countries. Contingents need to be reminded and adequately briefed that they are on a peacekeeping mission and may be required to use force to protect civilians in their areas of operational deployment, in accordance with the prescribed mandate. Adequate sensitisation of multinational forces to issues pertaining to the protection of civilians, through training in humanitarian and human rights law, and the protection of the rights of women and children ought to be included in pre-deployment training programmes.¹⁶

Deployment of troops also needs some fundamental review depending on the particular situation. Often peacekeepers are deployed in administrative headquarter towns and cities rather than areas where they might be more urgently required to protect civilians and national assets. In

Liberia, for instance, although UNMIL has reached its full approved troop level (15,000 troops with up to 250 military observers) armed combatants of various factions still hold sway in various parts of the country where the peacekeepers were either yet to be deployed or were deployed in insignificant numbers. Consequently, in some instances, even the presence of UN peacekeepers has failed to deter attacks, intimidation and extortion of civilians and the illegal exploitation of national resources.¹⁷ Hence, deployment strategies and the concept of operations need to be better planned and implemented to guarantee maximum security throughout the affected country, as it would facilitate and enhance early commencement of the tasks of social integration, reconciliation and rehabilitation in the post-conflict situations. Troop-contributing countries equally have to endeavour to release their troops more speedily to avoid undermining the deployment timetable of peace operations as unfortunately has happened in Liberia with UNMIL.

Given the situation described above, the UN Security Council, in deciding on the nature of future peace operations in Africa, should take into serious consideration the appropriateness of the mandate for the new mission. Among other things, there should be an informed assessment of the existing political and security dynamics, especially the ability of the state to carry out its normal functions. In failed states, where central government authority has all but ceased to exist, arrangements for UN-supervised transitional administration should be the norm rather than the exception.

UN peace operations in Liberia would perhaps have been cheaper, but definitely more successful and effective in laying a solid foundation for rebuilding what was essentially a failed state rather than the contraction of non-identical and incompatible interest groups and factions that are brought together under the transition arrangements. Similarly, in conflict situations, an arrangement that does not include the major political leaders is more likely to be successful than current operations such as the UN Operations in Côte d'Ivoire (ONUCI), as it is becoming evident that the major political actors are part of the problem rather than 'arbiters' of a viable and durable solution.

Power-sharing arrangements such as the ambiguous situation in the Democratic Republic of Congo (DRC) with numerous vice-presidents also require a major rethink on the part of the international community. The time may indeed have come for a review of the Brahimi report with a view to considering what the UN should do in resolving the issues of failed states in Africa and elsewhere. More pragmatic and cost-effective

actions to adequately deal with such situations as East Timor and Kosovo are appropriate, or at least constitute one of the viable options in formulating the mandates for African peacekeeping operations.

Another important issue is the relationship between peacekeeping missions and humanitarian agencies. Although there is a strong link between DPKO's strategic planning capacity and the Office for the Coordination of Humanitarian Affairs (OCHA), which acts as a bridge between operational humanitarian actors and the UN peacekeeping operation in the field, substantial divergence of views and a misunderstanding of each other's roles and mandate persist. In particular, extensive collaboration at UNHQ level, between UNDPKO and OCHA, on integrated mission task forces (IMTFs) and working groups, are not replicated at the field level. This is especially so in joint assessment missions, as well as on issues such as the separation of civilians and armed elements, and the use of armed escorts, which often engenders mistrust, rivalry and unhealthy competition.

There is therefore an urgent need to clarify the policies of humanitarian agencies – UN and NGOs – in terms of their interaction. The agencies not only resent the need to rely, occasionally, on the use of armed UN peacekeepers as escorts to deliver aid in certain situations, and the control of their activities as a result of security classifications through the UN Security Coordinator (UNSECOORD) system, but they are equally opposed to the involvement of UN military contingents in the direct delivery of aid. Some of them do not want anything to do with the military.¹⁸

However, the attitudes of the aid agencies in Liberia are mixed. While several agencies rely on UNMIL assets for the delivery of aid, a number of NGOs complain about the:

“... lack of readiness and availability on the part of UNMIL troops to assist with providing security for humanitarian assets and staff. Some NGOs refer to two security incidents in late March and early April in which an UNMIL battalion failed to intervene at illegally set up checkpoints by the LURD rebels and neglected to take other proactive measures, while the security situation was deteriorating. UNMIL, for its part blames the NGOs for their ambiguous and often contradictory positions. On the one hand, NGOs, including those that were looted, expect UNMIL assistance when they are facing security incidents. On the other hand, as they would like to distance themselves from the military, a number of NGOs do not liaise with UNMIL with regards to exchanging security and other information, including their locations.”¹⁹

While the independence of these agencies remains sacrosanct, their *modus operandi* in particular situations demands greater collaboration and cooperation with the peace operation. The extant mutual distrust that is perceivable in most peace operations, heightened in the Liberian situation by the recent integration of OCHA-Liberia into UNMIL requires urgent attention by all parties in order to ensure complementarities among the numerous actors working to achieve the same goals of bringing peace and stability to Liberia.²⁰

Since the signing of the CPA, there have been more than 20 ceasefire violations by the various factions. In almost all of the documented cases, (and there are several others that were not), UNMIL contained the situation and brought it under control, while the offenders were allowed to literally ‘just walk away’. As noted in the ICG report of November 2003, “the UN needs to factor into its mandates a credible threat mechanism warning those who threaten the peace that they will be punished by prosecution before an appropriate court”.²¹ SRSG Klein of UNMIL repeatedly warned the various factions that they would be “dealt with” for continued violations of the peace agreement, and he even addressed a formal letter to Taylor’s immediate successor, Moses Blah, rejecting the idea that had been floated at the time of a blanket amnesty for war crimes.

However, UNMIL does not have the mandate or the resources to adequately translate its threats and warnings into practical and concrete action, that is, force projection. Unlike Sierra Leone, there is no Special Court for Liberia, and the jurisdictional and political issues involved in any action by the UNMIL mission are unclear and ambiguous. In that context, it is no surprise that no one heeded the SRSG’s threats. While UNMIL’s mandate “stresses the need to bring to justice those responsible” for human rights violations and atrocities against the Liberian population, it does not indicate the procedures and mechanisms to implement this important provision. Given the pitiable state of Liberia’s justice and correctional system, it is unlikely that much can be done internally, even if UNMIL were to be mandated to carry out such arrests. The issue is complicated by the inclusion in the transitional government and legislature of individuals who might be guilty of war crimes.

This underscores the need to reinforce existing sanctions and other punitive measures against perpetrators of ceasefire violations with impunity through a series of measures including:

- the exclusion of genocide, crimes against humanity and war crimes from amnesty provisions in ceasefire agreements;

- the inclusion of sexual abuse, such as rape, as a crime against humanity, with appropriate punishment; and
- the establishment and use of effective arrangements at the onset of peace operations for investigating and prosecuting serious violations of humanitarian and criminal law at national level.

The knowledge that impunity and sexual molestation and abuse of women and children, including refugees and IDPs, even by peacekeepers, will not go unpunished will go some way towards reducing the incidence and severity of such atrocities against civilian populations.

A final thought on justice and peace. While it is universally recognised that there can be no peace without justice, the question about the timing of certain actions by the UN in conflict situations in Africa deserves urgent consideration. The timing of the establishment and mandate of truth and reconciliation commissions (TRCs) in post-conflict situations warrants greater attention, for whereas TRCs should continue to be used in documenting and healing wounds through open discussion of the root causes and course of conflicts, setting up war crimes tribunals simultaneously seems to have the opposite effect.

The Special Court for Sierra Leone (SCSL) is facing some difficulties at the time of writing, largely because of the timing of the commencement of its operations. It is debatable whether the SCSL would have been more successful had it been established a year later, and ‘big fish’ indictees such as Taylor and Johnny Paul Koroma would have been easier to deal with. The timing of the indictment of Charles Taylor definitely did not facilitate the operations of the Special Court and the UN needs to be more circumspect in the establishment of war crime tribunals. To wait for an additional year or two before setting up such institutions will facilitate the strengthening of peace processes and reconciliation rather than the continued fragmentation and prolonged internal tensions that the court has brought in its wake, at least in Sierra Leone, and to some extent in Liberia.

NOTES

- 1 Abiodun Bashua currently heads the Civil Affairs Section of the UN Operations in Côte d’Ivoire (UNOCI).
- 2 UNSC Resolution 1509 (2003), 19 September 2003.
- 3 Third Progress Report of the UNSG on UNMIL, S/2004/430, 26 May 2004.
- 4 UN/World Bank joint needs assessment report of February 2004.

- 5 UNDP project document ID 00013436 on capacity building support for governance and economic management.
- 6 Press conference by SRSG Klein on 20 October 2004.
- 7 Amnesty International Report, AFR 34/012/2004, 18 August 2004.
- 8 Fourth Progress Report of the UNSG on UNMIL, S/2004/725, 10 September 2004.
- 9 UNSG's report, 2004.
- 10 UNSG's report, 2004.
- 11 Amnesty International Report, January–December 2004.
- 12 Amnesty International Report, January–December 2004.
- 13 UNSG's Report, 2004.
- 14 SRSG's Klein press conference.
- 15 Amnesty International Report, January–December 2004.
- 16 Klein press conference.
- 17 UN Security Council Resolution S/RES/1460/2003 on Children and Armed Conflict.
- 18 Amnesty International Report, *op cit*.
- 19 Source in possession of author.
- 20 The humanitarian response in Liberia: Some observations by the CVA Coordinator, June 2004.
- 21 Refugees International, *Peacekeeping in West Africa: A regional report*, June 2004; International Crisis Group: *Report on Liberia*, November 2003.