GOVERNANCE AND SECURITY POLICY IN AFRICA
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Article 2, approved by the United Nations,

General Assembly in Resolution A/RES/35/55

5 December 1980
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Forward
by
Dr Abdalla Hamdok

Africa is increasingly focusing on strengthening governance and security as pathways to achieving political and economic stability. The first decade of the twenty-first century has been characterized as the “decade of Africa’s economic and political renewal”. There is consensus that in spite of the global economic crunch, Africa to a large extent achieved remarkable progress in economic growth while at the same time expanding the scope for democratic governance in a large number of countries.

However, the noticeable economic growth has not translated into the alleviation of Africa’s critical human security challenges such as poverty, disease, refugees which have been exacerbated by intra-state conflicts, terrorism and political instability in some regions of the continent. Many of the recent conflicts on the continent are related to violent contestations over elections and post-election turmoil, marginalization of communities, inequalities in distribution of resources and wealth and human rights abuses that all reflect on the wanting status of governance on the continent.

Responses to these challenges have by and large been inadequate in many countries and more and more the continent is recognizing that security issues are also an “intellectual challenge1”, meaning that there is a need to develop an African narrative, based on high quality research

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1 African Union Tripoli declaration on the Elimination of Conflicts in Africa and the Promotion of Sustainable Peace, Tripoli, Libya, 31 August 2009. Para 19
which can withstand the rigors of scientific inquiry. The knowledge needs to translate into policy options which can inform African policy makers and guide them into solutions that truly reflect the realities of the continent. These solid research based policies need also to be cognizant of the roles played by external actors and factors in search for valuable partnerships.

This policy monograph aims to contribute to this endeavor as it contains policy options based on empirical research on various critical issues ranging from inter-state disputes, national and sub-national issues to cross cutting issues such as gender, and empowerment of vulnerable groups, undertaken by 13 PhD Candidates from 11 Universities in Sub-Saharan Africa under the collaborative project by the University for Peace Africa Programme (UPEACE) with the support of the International Development Research Center (IDRC). It is the result of a deliberate effort by the UPEACE-IDRC program to nurture and develop a symbiotic relationship between the policy spheres and the research arena on the critical issues of governance and security in Africa.

As chair of the advisory board of this capacity building project with the responsibility of guiding the research agenda of the grantees without influencing their policy options, it is my hope that this policy monograph will stimulate debate among policy makers and other stakeholders and contribute to reflections and actions on ways to harness research undertaken by Africans in Africa to accelerate Africa’s quest for transformative growth, peace, stability and sustainability.

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Acknowledgment

This monograph is sponsored by the International Development Research Center (IDRC) through the University for Peace, Africa Programme’s Project to strengthen research capacity for Governance and Security in Sub-Saharan Africa at the doctoral level.

UPEACE Africa Programme is immensely grateful for the continued support from IDRC in strengthening research capacity in Africa.

Samuel K.Ewusi
PREFACE

by

Dr Jean Bosco Butera

Over the past six years, the Africa programme of the University for Peace (UPAP) has worked to strengthen the research and publication capacity of higher education and research institutions in Africa on issues of peace, governance, security and development with the financial support of the International Development Research Center (IDRC). Through this collaboration 56 doctoral students from 26 Universities in Sub-Saharan Africa have benefitted from academic and financial assistance to enable them complete their doctoral studies and publish articles in the African Peace and Conflict journal as well as other refereed journals. Academic support has been in the form of training workshops in research methodology and writing for academic and policy publications as well as mentorship to enhance their overall research and publications capacity.

The capacity building programme has been undertaken in two phases with the first phase (2007-2011) focusing on issues of Peace, Conflict and Development involving 26 recipients and the second phase (2011-2014) focusing on issues on governance and security.

A strong emphasis is put on linking research to policy. In this vein, an advisory board composed of senior policy makers working with
prominent policy institutions at national, regional and continental level guides the research agenda of the capacity building programme towards policy relevance. In the context of knowledge dissemination, PhD researchers were requested to submit a full-length academic article to the APCL, and also produce at least two policy briefs based on their research findings. This requirement assured that from the outset of the scholarship period, the researchers keep in mind how their information will be relevant to policymakers and other public authorities in areas of governance and security.

In order to achieve this, the PhD researchers receive training in writing policy briefs that are published as policy monographs that contribute to addressing topical policy issues on the continent and serve as a practical path for policy-relevant circles.

This policy monograph titled – Governance and Security Policy in Africa is the first of the UPEACE AFRICA POLICY Servies Launched by the University for peace, Africa Programme as part of the project to strengthen, governance and security in Africa. The monograph Published grammrally, will address topical issues in governance and security in Africa. The policy briefs contained in this monograph issue are a product of the PhD students’ empirical research translated into policy options and incorporated into a monograph series “Governance and Security Policy in Africa”. It is our intention, like the Africa Peace
and Conflict Journal, to distribute the monograph series freely to governance and security institutions, think tanks, regional organizations as well as higher education and research institutions with the hope that it will strengthen the knowledge of policymakers with solid research based findings, methods, and recommendations on good governance and security in Africa, and increase state-society interaction.
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Carlos Shenga is currently finalizing his Ph.D. in political studies at the University of Cape Town, South Africa- graduation expected to be in June 2014. His Ph.D. thesis compares longitudinally, over a period of 15 years, the first three multiparty legislatures in Mozambique in terms of how well Mozambican legislatures have developed institutionally and mobilized better-qualified legislators as a way to better perform its functions.

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**Godfrey Maringira** is a final year PhD Fellow in the department of Anthropology and Sociology at the University of the Western Cape South Africa. He is interested in Military research, particularly on what the
military does to soldiers and what soldiers do to the military. Godfrey Maringira is also a two-time PhD Fellow of the Next Generation Social Sciences in Africa (2012-2014). Maringira has published in his research area of interest.
LIST OF ABBREVIATIONS

AMMOZA-  Affected Military Men of Zimbabwe Association
AU -  African Union
AUHIP -  Africa Union High Level Implementation Panel
CIPEC -  Commission of Inquiry in to the Post Election Violence
CPA -  Comprehensive Peace Agreement
CUEA -  Catholic University of Eastern Africa
ELECAM -  Elections Cameroon
EMB -  Electoral Management Bodies
GoS-  Government of Sudan
GRSS -  Governent of Republic of South Sudan
ICC -  International Criminal Court
ICJ -  International Court of Justice
IDRC -  International Development Research Center
ILO -  International Labour Organization
INEC -  Independent Electoral Commission
KICD -  Kenya Institute of Curriculum Development
MCP -  Malaei Congress Party
MDC -  Movement for Democratic Change
MPs -  Members of Parliament
NRC -  National Republican Convention
NVS -  National Value System
OAU -  Organization of African Unity
ODM -  Orange Democratic Movement
PDP -  People's Democratic Party
PEV -  Post Election Violence
PNU -  Party of National Unity
R2P -  Responsibility to Protect
SADC -  Southern African Development Community
SDP -  Social Democratic Party
SDSA -  Sudan Domestic Servants Act
SPLA -  Sudan People's Liberation Army
UPAP -  University for Peace, Africa Programme
UN -  United Nations
ZANU -PF-  Zimbabwe Africa National Union-Patriotic Front
INTRODUCTION

Governance and Security Policy in Sub-Saharan Africa: from Empirical Research to Policy Options

Dr Samuel Kale Ewusi

It is indisputable that, research input is critical for effective policy formulation and implementation in Africa as it is the world over. However, there is growing consensus in Africa that there is a huge communication gulf between researchers, mostly in academia, and policy circles. On the one hand, policy makers are not always informed about on-going research whilst, on the other hand, researchers may lack the necessary knowledge of the most pressing policy questions that would make their research more relevant.

Most often, policy makers turn primarily to international organisations, international research institutes, local think tanks or their technical experts to obtain information and analysis as policy inputs. It is abundantly clear that these sources, though relevant, are grossly inadequate. While local universities and research institutes across Africa produce relevant research that may be used for policy input, the interaction between policy makers and researchers at universities either does not exist or is, at best minimal.

1 Samuel Kale Ewusi is the Research Coordinator of the Africa Programme of the United Nations Mandated: University for Peace
In African countries where research plays an important role in informing policy, academic researchers lag behind think tanks and other research mediators in influencing the policy-making process. This is due to academic researchers facing a dual challenge: First, academic researchers need to be relevant to funding agencies in terms of research impact which is increasingly important in both securing research funding and the assessment of inputs and; second, academic researchers have always been the last ‘go-to’ place for politicians and other decision makers to seek policy input. Therefore, academic research mainly serve as a vehicle for attaining academic qualifications. Consequently, relevant cutting edge research from the academia ends up on university library shelves and the vicious cycle of waste continues.

There is a fundamental question that is raised by this reality; why do policy makers often regard academic research as not fit for purpose? In an attempt to respond to this critical question, Judy Sebba has advanced several arguments including the failure of academic research to produce clear outcomes without caveats; the reluctance of academic researchers to go further and identify policy implications, and the failure to communicate their research to non-specialists in a user friendly way.²

An examination of the arguments advanced by Sebba reveals that, if academic researchers are to influence policies, they have to understand their role as builders of society by migrating their research into the

realm of policy development and identifying the policy implications of their research by communicating their findings in short non-jargonised briefings. Furthermore, academic researchers at universities in Africa sometimes fail to recognise the important role of social networking in the promotion of their work and investing time to build stronger relationships with the policy community.

In a bid to confront these challenges faced by African academic researchers and bridge the gap between academia and policy makers, the Africa Programme of the United Nations mandated University for Peace (UPEACE), in collaboration with Canada’s International Development Research Centre (IDRC), initiated a six year project which involved both academic and financial support at the doctoral level on issues of peace, conflict, development, governance and security.

IDRC’s drive to ensure that research undertaken by Africans in Africa informs and influences policy is the bedrock of this policy monograph. It comprises thirteen policy briefs derived from empirical research from the doctoral theses of the contributors who address issues as diverse as inter-state conflict, to sub-national security and governance challenges. The monograph is divided into four parts:

Part one contains two policy briefs dealing with inter-state disputes: Sudan and South Sudan over the Abyei region, and Tanzania and Malawi over the Lake Malawi/Nyasa border. With regard to the former, Zeru Getachew of Addis Ababa University examines the core issues and challenges facing the search for a durable solution to the dispute between Sudan and South Sudan over the ownership of the oil rich
Abyei region by the African Union and other stakeholders. Based on extensive fieldwork in the Abyei region as well as interviews conducted with government officials in both Sudan and South Sudan he provides some critical policy options worth considering by all stakeholders. The little known dispute between Tanzania and Malawi over their shared border on Lake Malawi (also called Lake Nyasa by Tanzania) is addressed by James Zotto of the University of Dar Es Salaam. In trying to understand the root causes of the conflict, James adopts a historical approach by tracing maps and border delineation treaties between the Germans and the British from colonial times. Based on that historical insight and taking into consideration all African Union border conventions and declarations, James provides policy options for the governments of Tanzania, Malawi and the African Union for the resolution of this occasionally ‘dormant’ conflict.

Part two contains four policy briefs dealing with thematic governance issues of accountability, elections and elections management. Prisca Kamungi, a Kenyan studying at the University of Witwatersrand, South Africa examines the applicability of the principle of ‘the Responsibility to Protect’, through Agenda One of Kenya’s

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3 The Responsibility to Protect is an initiative of the United Nations started in 2005 that requires the international community to intervene in states without their consent when a state is unable and unwilling to protect its citizens especially in cases of genocide, war crimes and crimes against humanity.
National Accord,\textsuperscript{4} signed by political parties in Kenya following the country’s 2007 post-election violence. She provides policy options on how to strengthen this conceptual provision to fight against the issue of impunity that has characterised political violence in Kenya. Tatenda Mukwedeya, a Zimbabwean doctoral candidate at the University of Witswatersrand, reflects on why the Movement for Democratic Change (MDC) in Zimbabwe lost popularity and the 2013 general elections to the incumbent ZANU-PF. His brief provides policy implications for other opposition political parties across Africa.

The third policy brief in this section is that of Josiane Touse from the University of Yaoundé II who examines the persistent challenges to electoral integrity in Cameroon in spite of a new biometric system designed to prevent electoral malpractices. She argues that despite the important role of information and communication technology in reducing electoral fraud, the Cameroon electoral commission (ELECAM), the government and the opposition parties, as well as voters, still have a long way to go in perfecting the use of the system. Kingsley Orievulu of the University of Witswatersrand examines the need for electoral reforms in Nigeria. He highlights the importance of enhancing credible citizenship participation as pathways to strengthening the legitimacy of elections in Nigeria.

Part three contains four policy briefs dealing with sub-national and

\textsuperscript{4} The National Accord and Reconciliation Act of 2008 is an act of the National Assembly of Kenya necessitated by the 2007 Electoral Crisis
national issues in Nigeria, Mozambique, Malawi and Kenya. Timothy Obaje of the University of KwaZulu Natal examines the effects of the conflict in the state of Jos in Nigeria and its effect on the neighbouring Kogi State. He argues that although Kogi State is known to be relatively peaceful, there are indications that conflict has spread from Jos and he recommends the Kogi State government take concrete measures to protect the peace dividend. Carlos Shenga from Mozambique, currently studying at the University of Cape Town in South Africa, argues on the basis of his doctoral research undertaken in Mozambique that the executive branch represented by the President needs to be more accountable to parliament to ensure an adequate separation of powers.

Michael Jana from Malawi but studying at the University of Witwatersrand, South Africa brings in an interesting concept of ‘domino legitimacy’ in Malawi in his doctoral research. He argues that the failure of local government in service delivery in Malawi creates legitimacy challenges for parliament, which is the next level of government. Therefore legislative strengthening of local governance capacity will improve legitimacy for parliament. Ann Rita Njiageh of Catholic University of Eastern Africa explores the critical connection between drama festivals in Kenya and the search for sustainable peace; she provides recommendations for sustaining and harnessing this educational activity for the purpose of promoting peace in Kenya.

The fourth part of the policy monograph comprises three policy briefs dealing with crosscutting issues of gender and empowerment. AyukFonjock Justine Etah from the University of Buea provides policy advice on how to make local councils in Cameroon women friendly
through affirmative action in relation to women friendly issues and the implementation of numerical values associated with international gender conventions ratified by Cameroon. Hadelzein Elfatih from Sudan University of Science and Technology addresses the current challenges of domestic workers in Sudan in her doctoral research and policy brief. She strongly argues for the review and amendment of Sudan’s current Domestic Servants Act in line with the International Labour Organisation’s ‘Convention 189’ which prescribes ‘Decent work for domestic workers’. Finally Godfrey Maringira of the University of Western Cape in South Africa confronts the challenges faced by Zimbabwean soldiers in exile in South Africa following the 2000 post-elections violence. As a Zimbabwean, he maintains that, trained soldiers living next door to Zimbabwe in fear of persecution upon return to their homeland pose a security threat to both Zimbabwe and South Africa. In his brief he calls for a negotiated situation where these deserted soldiers could be granted asylum to enable them re-join their families and contribute in different capacities to the development of their country.

As indicated earlier, this monograph is the first step in creating an avenue for academic research to reach policy makers. The policy briefs are derived from empirical research undertaken in the doctoral studies of the contributors. While I have attempted to group the briefs into themes, this categorisation is not mutually exclusive as some briefs could also fit within the other categories.

The monograph is therefore intended to provide policy makers with further insights into the issues addressed and, in some cases, alternative
policy options to facilitate their work. We hope it will serve to encourage other academics to derive policy briefs from their own fieldwork and make their findings available to policy makers in an easily digestible form. By being consistent in the delivery of policy relevant briefings, academic researchers will in the long run find relevance within the policy fraternity.
PART ONE: INTERNATIONAL DISPUTES

Brief 1.
Tackling the political economy of conflict over Abyei by Getachew Z. Gebrekidan

Brief 2.
Management of the Tanzania-Malawi border dispute: the quest for policy interventions by James Zotto
BRIEF 1

Tackling the Political Economy of Conflict over Abyei

Getachew Z. Gebrekidan

Executive summary
The African Union High-Level Implementation Panel (AUHIP) has come up with a proposal to identify eligible voters in the Abyei referendum which the Government of Sudan (GoS) and Humr Misseriya have completely rejected because its implementation has the potential to see the Abyei joining South Sudan. The situation has become more complicated as the Ngok Dinka and Humr Misseriya continue to have strong reciprocal relations with their respective governments. For example, encouraging the Humr Misseriya to see Abyei as ‘their’ area for grazing cattle and other development projects helps the GoS control the South Kordofan and Blue Nile states from severe rebel threat. The GoS has also encouraged the Humr Misseriya to settle in the northern part of Abyei as a strategy to claim ownership of the oil resources. The pursuit of such economic interests has driven conflict between the governments of Sudan and South Sudan over ownership of Abyei and has derailed the referendum on Abyei’s future status. To rectify the situation, the two governments need to work for their mutual benefit based on the agreed principles in the Abyei protocol and the AUHIP proposal. Proceeding along these lines could lead to the building of durable peace in Abyei and other contested areas across the border of the two states.
Introduction

As the Abyei protocol of the Comprehensive Peace Agreement (CPA) indicates, the territory of Abyei is defined as the area of the nine Ngok Dinka chiefdoms (not Misseriya Arab nomads) transferred from Bahr el Ghazal to Kordofan by the Anglo-Egyptian condominium rule in 1905 for administrative and security reasons. The protocol stipulates that the residents of Abyei cast a ballot to decide whether Abyei is to remain in the Sudan or join South Sudan. In support of this, the AUHIP proposed holding a referendum on Abyei’s political future in October 2013. However, the GoS rejected the proposal claiming that it excluded pastoralist Misseriya’s participation in the referendum. This rejection has emanated from the reality that it would adversely affect the economic (oil) interest of the GoS and would lead the government into serious conflict with the pastoralist Misseriya people should it accept the proposal. On the other hand, the Government of the Republic of South Sudan (GRSS) is increasing diplomatic pressure on the international community to take action against the GoS to accept the proposal.

Defying referendum and persistence of settlement controversy

The Abyei protocol indicated the right to participate in the Abyei referendum be given to the residents of Abyei, but it does not clearly define who should be considered a resident. To get around this, the AUHIP’s

proposal defines residents of Abyei as those ‘having a permanent abode within the Abyei Area.’\textsuperscript{6} In other words, Misseriya herders are not considered residents as they do not have a permanent abode in Abyei and are therefore not eligible to vote. While the GRSS and the Ngok Dinka community immediately accepted AUHIP’s proposal, the GoS and the Misseriya community refused as it became clear that the AUHIP plan of referendum on Abyei would almost certainly result in a popular vote to join South Sudan. It could be argued that the Misseriya community refused the proposal as it would hamper their political and economic interests.

The GoS has designed a plan to work with and use the Humr Misseriya to ensure control of the South Kordofan and Blue Nile states. The GoS is aware that the Humr Misseriya have a fear of losing grazing and water access rights if the AUHIP is fully implemented,\textsuperscript{7} and has connected its threat of lack of security in South Kordofan and Blue Nile states with the future economic situation of the Misseriya community in the Abyei area. Accordingly, it has encouraged them to look to Abyei as ‘their’

\textsuperscript{6} Small Arms Survey 2013,\textit{The Crisis in Abyei}. Geneva: Human Security Baseline Assessment (HSBA)

\textsuperscript{7} Their fear emanates from past experiences when it became difficult to separate ‘traditional rights’ from national politics. For example, after the CPA, the Humr Misseriyahas complained against harassment from the Sudan People's Liberation Army (SPLA), such as grazing time restrictions, requirements to disarm, and taxes, which have often led to clashes at the Unity and Warrap State borders. Sudan Tribune 2011,\textit{Abyei: Predicting the Future}: available at\{www.sudantribune.com/Abyei-Predicting-the-future,38887\} accessed 23 September 2011
area, for grazing cattle and other development projects. As a strategy, the government has been recruiting militias and arming them to take all necessary actions both to secure the area for themselves and fight against rebels. Moreover, the GoS has been settling Humr Misseriya in the northern part of Abyei to take up permanent presence beyond the seasonal migration period with the intent to claim the right to participate in the referendum. If this section of Humr Misseriya is given voting rights in the referendum, the GoS will vigorously continue flooding the north of the territory with pro-government Humr Misseriya in order to swamp the number of Ngok Dinka thereby securing the territory for the Sudan.

Intrinsically, unless the incumbent regime encourages the Humr Misseriya to claim the area, it may face a serious challenge to get political and military support from the community, especially to control rebel movement in the South Kordofan and Blue Nile states. Some of them may even be pushed to join the rebel movement in fighting against the government. For example, some disgruntled former fighters have built alliances with the Justice and Equality Movement against the regime by claiming that they are politically and economically marginalised by the government. However, it is apparent that administratively the Humr Misseriya should not be considered permanent residents in the Abyei

8 ibid


10 Concordis International 2010, More than a Line: Sudan’s North-South Border. US Institute of Peace
area because now they are permanent residents in South Kordofan, particularly in Muglad, Babanusa and the surrounding area. Similarly, the new Misseriya settlers in the northern part of Abyei cannot be considered permanent residents as they are politically manipulated to do by the GoS. It is also logically inconsistent for the Abyei protocol and AUHIP proposal to guarantee the Humr Missiriya’s grazing rights in Abyei if they are not to be counted as permanent residents.

Despite the fact that the CPA placed most of the contested oilfields (Heglig and Bamboo) outside of Abyei, the GoS still wants to preserve access to current and future oil revenues in Abyei. As a strategy, for example, the Humr Misseriya militias have been used by the GoS in the northern part of the territory to remove the Ngok Dinka inhabitants and settle in the area thereby opening a path to the exploitation of oil reserves. Moreover, although the provision of the Abyei protocol stated that the oil revenue from Abyei should be divided among the two governments and the two communities, the GoS is still unilaterally channelling the oil extracted from the Diffra oil field.

From the evidence above, political and economic factors have created a strong state-society intermingling between the GoS and Humr Misseriya. Likewise, there is no doubt that strong historical, political, economic and cultural connections between the Sudan People’s Liberation Army


12 Craze 2011
(SPLA) and the Ngok Dinka, have influenced the SPLA’s responses to the Abyei issue. It is also one of the principal reasons why the GRSS may not agree to any ‘solution’ to the crisis that sees the Abyei and its resources remain in the Sudan. In this regard the GRSS has been working with both internal and external stakeholders to ensure that the Abyei joins the South Sudan.

**Recommendations**

The GoS needs to accept and implement the Abyei protocol but to minimise an adverse effect on the result of the 2015 elections in both countries, the referendum should be rescheduled to after the 2015 national elections. This will help to prevent any temporary political and economic interests exploited by the two governments. To effect the proposal, enforcement mechanisms either at AU Peace and Security Council level or UN Peace and Security Council level should be designed. To help overcome the impasse over the status of the Abyei there is a need for an urgent, coordinated and strong commitment from the Intergovernmental Authority on Development and other partner countries and organisations (such as the EU, the US, Japan and Canada) that signed as witnesses and guarantors to the Abyei protocol provisions implementation.

To avoid the fear of the Humr Misseriya over their future grazing, there should be a special treaty on a soft border. The treaty should also include a provision that allows Humr Misseriya, who already have
permanent abode in the northern part of Abyei, to establish a special administrative zone in Abyei. Similarly, to prevent further mistrust and fear between the Humr Misseriya and the Ngok Dinka, both states and other concerned institutions should work together to disarm militias and other armed local people.

- The GoS should stop supporting the settlement practice of Humr Misseriya in the northern part of Abyei to take up permanent abode beyond the seasonal migration period.
Executive summary
Tanzania and Malawi are at loggerheads over the Lake Nyasa frontier. Whereas Malawi maintains that the boundary is situated on the shore of the lake on the Tanzanian side, Tanzania claims that the boundary is in the middle of the lake. The dispute has been constructed in the interpretation and application of the 1890 Anglo-German treaty, article I (2) that describes the boundary between the two states as passing on the shore of Lake Nyasa in former German East Africa (now Tanzania). Malawi recognises the 1890 Anglo-German Agreement as an absolute reality for its shared boundary with Tanzania, and further maintains that this is a legal boundary inherited following the Organisation of African Unity’s (OAU) declaration of boundary inheritance in 1964. In contrast, Tanzania holds that this treaty was incomplete and faulty since no boundary demarcations were made, nor were certain articles implemented (article VI, for example) which required the two states to consider local requirements. In 1923 and by consent of the League of Nations, the British administration shifted the boundary from the Tanzanian shore to the middle of Lake Nyasa. Tanzania bases its claims on evidence found in documents, including colonial maps and reports, which depict the boundary between the two colonial states as passing in the middle of the lake. Claims from both countries suggest that
their shared boundary is vague and problematic. For a long time, both countries paid little attention to the resolution of their border dispute. Recently, however, the two countries have made a commitment to tackle the Lake Nyasa border question by forming a team of experts to undertake a boundary study and initiate resolutions, but these attempts have not been successful. Therefore it is now important for the countries to seek international mediation to resolve their dispute and avoid further escalation by agreeing on permanent solutions. International solutions have proved successful in resolving issues of contested boundaries in other areas, between Nigeria and Cameroon over the Bakassi Peninsular, and between Ethiopia and Eritrea over the Ogaden, for example. Such international solutions can be sought from the Southern African Development Community (SADC), African Union (AU) and the International Court of Justice (ICJ), or from commissioned international dignitaries as third party mediators. This policy brief intends to provide recommendations for adoption by Tanzania and Malawi to help manage their disputed Lake Nyasa frontier. The paper traces the background of the dispute, its current status and finally makes recommendations for improved dispute management.

**Background to the Lake Nyasa border dispute between Tanzania and Malawi**

Since gaining independence, Tanzania and Malawi have experienced periods of dormant and active border disputes over the Lake Nyasa
boundary.\textsuperscript{13} Article 1(2) of the 1 July 1890 Anglo-German Treaty described the boundary of the two colonial powers as passing by the shore of the Lake Nyasa from the course of the River Ruvuma to the northern bank of the mouth of the River Songwe, in German East Africa (present day mainland Tanzania).\textsuperscript{14} However, official sources drawn from maps and reports, indicate that the boundary was not demarcated on the ground by the two powers and is depicted differently - shoreline, middle line, boundary - on both sides of the lake where no boundary appears.

Part of German East Africa - later named Tanganyika and granted mandated status (modern day mainland Tanzania), and Nyasaland (now Malawi), were administered by Britain after the First World War. While reviewing the boundaries of Tanganyika, Britain shifted the border between Tanganyika and Nyasaland from the shore to the middle of the Lake Nyasa.\textsuperscript{15} The League of Nations, then overseer of the mandated territories, consented to this territorial shift. Consequently, at the time of independence of mainland Tanzania and Malawi in 1961 and 1964 respectively, their shared border was not clear.

\textsuperscript{13} The term ‘dormant’ refers to the period in which the parties to the dispute do not raise border claims although the dispute has not been resolved; i.e. latent claims. The term ‘active’ refers to the period in which the conflicting parties raise border claims and are in conflict that impairs their relations; i.e. open border claims.

\textsuperscript{14} British National Archives 1890 Anglo-German Agreement, Bundes/Federal Archives, Germany

\textsuperscript{15} Tanzania national archives handbook of Tanganyika: history, British Rule, 1919-54; Tanzania National Archives 1923, draft of annual report Tanganyika Territory accession no. AB 30.
Malawí legislation renamed the lake as Lake Malawi in 1967. The contested boundary alignment represented an active dispute that continued from 1967 to 1975, and during this time the relationship between the two countries was strained.\textsuperscript{16} However, from 1975 to 2011 relations became more cordial, but without any consensus to manage the dispute.\textsuperscript{17} It could be argued that this long dormant dispute was a result of the post-administrations of Julius Nyerere and Kamuzu Banda (the first independence presidents of Tanzania and Malawi) being more occupied with internal economic development rather than engaging with international politics that would hinder domestic economic plans. While this domestic focus played an important role in building strong economies within the states and fostering economic cooperation, the countries’ leadership failed to undertake politically and legally binding border dispute negotiations to manage and resolve the dormant disagreement.


\textsuperscript{17} Mihanjo, E 1999, Transition to Capitalism and Reproduction: the Demographic History of Lake Nyasa Region, 1850s-1980, PhD thesis, University of Dar es Salaam
Current status

In 2012 the Lake Nyasa boundary issue re-emerged as an active dispute. Still the debate is based on where the boundary between the two states lies. While Malawi calls for the reaffirmation of the Anglo-German Treaty cited above, Tanzania recognises the middle line boundary in Lake Nyasa. However, what we see from both claims is that neither the shoreline boundary nor the middle line boundary was demarcated on the ground and no evidence shows the existence of either boundary apart from documentary descriptions. While the boundary is still under contention, any development initiated by one party is regarded as a threat to the sovereignty of the other. For instance, Malawi’s decision to grant a license for oil exploration in the lake angered Tanzania who regarded this move as an unjust invasion of its territory.

18 Mirondo, R 2012, Lake Nyasa/ Malawi Dispute, in The East African Newspaper, 6-12 October 2012, pp.1/3; Kaguo, B 2012, Mgogoro wa Mpaka na Malawi (Border Dispute with Malawi), in Majira Newspaper, 8th August 2012, pp.1/4. Similarly, throughout 2012 media houses such as British Broadcasting Corporation, Tanzania Broadcasting Corporation, Malawi Broadcasting Corporation and Nyasa Times

19 For clear state positions on the border, see presentations of the Committee of Government Experts from both Tanzania and Malawi: Lungu, S 2012 Position of the Malawi Government on the boundary reaffirmation along Lake Malawi, presented to the meeting of government experts, Mzuzu, Malawi, 20-27 August 2012; Mayunga, D S 2012 Review of legal and other documents relating to delimitation and demarcation of international boundary between Tanzania and Malawi, presented to the meeting of government experts, Mzuzu, Malawi, 20 August 2012. Also see, minutes of the meeting of the Joint Committee of the Council of Ministers for Boundary Issues between Tanzania and Malawi, Dar es Salaam, 17 November 2012.

20 Malawi issues oil Exploration License in Lake Nyasa, The Guardian Newspaper, 7 August 2012
Tanzania’s production of new maps indicating newly established regions and districts, which continued to show the southern district’s (Nyasa district) border with Malawi as being in the middle of the lake was regarded as a move toward extension of the former’s territory which the latter claims as its own legal possession.\textsuperscript{21}

Currently, the dispute is a central focus for both states because the contested frontier area potentially has oil and other resources that may offer economic benefits. Thus, the shift from the politically and sometimes personally motivated border dispute in the early post-independence period to a more resource contested boundary complicates the matters of negotiation between the two states and increases the likelihood for an escalation of the dispute. While access to valuable natural resources is a feature in the dispute, the efforts of the two states to manage it have failed. Meetings between experts and the foreign ministries of the two countries have not reached an agreement on the alignment of the boundary. Thus it is imperative for further international attention and mediation to avoid escalation of the dispute.

\textsuperscript{21} The East African, 6-12 October 2012.
Approaches

This paper has used documentary evidence including reviews of the current literature, archival sources gathered from the Tanzanian and British National Archives, and unstructured interviews. It is from these sources that the study has established the actions and reactions of state and non-state actors in the shaping of this dispute, as well as the conflicting evidence that has helped escalate tensions. These resources have been central to understanding the pertinent issues to be addressed in order to resolve this long-standing issue.

Recommendations

The Tanzania-Malawi border dispute has been given little attention in terms of its management. Several attempts by the two countries have failed to negotiate a successful solution. Given its history, the dispute may lead to a fully-fledged war if the issues are not managed effectively. This paper recommends further international mediation for the management of the Tanzania-Malawi border dispute as follows:

1. Both countries to write a joint application for regional and extra-regional international mediation. At the African regional level, an approach to SADC should be made together with an AU arrangement to mediate the dispute. SADC and the AU to form a boundary commission of experts to study and exhaust all evidence available in treaties, maps and reports, and physically visit the contested area to establish barriers/advantages at the border and determine whether boundary demarcation signs exist along the two contested
boundaries. Based on the evidence gathered, the commission should produce recommendations for the new boundary. The proposed new boundary should be adopted by the two states and a description of the border established along with new maps, ground survey and demarcation by permanent physical objects such as pillars, beacons or established measurements such as nautical miles. The new boundary agreement should make clear issues of collaboration such as management of alluvials, floods, utilisation of resources, and cross-border movements.

2. The two states, with the aid of the AU, to take the matter to the ICJ to analyse the conflicting claims based on the practice of the utti possidetis principle as applied to this boundary. The case should take into consideration the setting of a new frontier by taking note that the lake has expanded. The shoreline and waterline boundaries currently claimed by the two states do not exist on the ground because no demarcation has been undertaken. The new boundary must be described in a new treaty, alignment should be demarcated on the ground by permanent physical objects, and documents be deposited in the archives of both states, AU, and SADC for further reference and evidence.
PART TWO: ACCOUNTABILITY, ELECTIONS AND ELECTIONS MANAGEMENT

Brief 3.
Implementing the responsibility to protect through agenda one of Kenya’s national accord by Prisca Kamungi

Brief 4.
Reflections on the MDC’s defeat in the July 2013 election in Zimbabwe by Tatenda G. Mukwedeya

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Electoral reforms and the credibility of elections in Nigeria, 2015 and beyond by Kingsley Orievulu
Implementing the Responsibility to Protect through agenda one of Kenya’s National Accord

Prisca Kamungi

Executive summary
UN member states adopted the World Summit outcome document and the Responsibility to Protect (R2P) in 2005, reaffirming political commitment from both states and the international community to protect civilians from crimes against humanity, genocide, ethnic cleansing and war crimes. Following Kenya’s 2007 post-election violence, Agenda One of the National Accord outlined policy actions to implement R2P through measures to stop violence, disband ethnic militia and prosecute persons responsible for crimes against humanity committed during the crisis. Progress has been made; the violence was halted, a majority of the displaced returned to their homes, and most illegal groups disappeared. However, international intervention is still needed because a critical part of Agenda One has not been implemented; few people have been held accountable for the violence. Legislative attempts to establish a local tribunal to try high-level perpetrators have failed, and over five thousand cases against low-level offenders remain pending before magistrates’ courts. The prosecutor for the International Criminal Court (ICC) has observed that ‘the court should be seen as a tool in the R2P toolbox’
through its role in fighting impunity for atrocity crimes.\textsuperscript{22} The ICC and R2P address the need for national capacity building to prevent atrocity crimes, and the ICC acts only when states are unwilling or incapable of acting themselves. In Kenya, the deadline for establishing a local tribunal was extended several times but legislators chose The Hague. In 2010, the ICC prosecutor commenced investigations on crimes against humanity committed in Kenya.

This policy brief explores the efficacy of Agenda One as a tool for the implementation of R2P in Kenya. Although Agenda One conceptually embraces the R2P, there are significant gaps in terms of preventing and responding to alleged mass atrocities in Kenya. These relate to the highly ethnicised political context in Kenya, slow reforms in security sector institutions, and public aversion to criminal justice for crimes linked to political mobilisation. Drawing from survey data and interviews carried out in Kenya between 2009 and June 2013, this brief argues that for R2P to be realised, the government of Kenya must address tribalism in social service delivery and political party formation, undertake fundamental reforms in the security sector institutions, and effectively respond to the justice and reconciliation needs of victims and societies that experienced the violence.

\textsuperscript{22} ICC Prosecutor-elect Fatou Bensouda talks of the Court’s role in R2P. January 19 2012. Available [http://www.youtube.com/watch?v=suJIXssGzL0], accessed 4 November 2013
Introduction
Violence broke out in Kenya in December 2007 following a dispute over the presidential election results. The two main parties, Mwai Kibaki’s Party of National Unity (PNU) and Raila Odinga’s Orange Democratic Movement (ODM), each claimed to have won the election. In the ensuing crisis, over 1,000 people were killed and more than 600,000 were displaced. Although Kenya was initially reluctant to accept international intervention, the African Union appointed an international mediation team led by Kofi Annan to negotiate an end to the crisis, and a Peace Accord was signed on 28 February 2008. This was cited as the first successful application of R2P. The Accord identified four agenda items through which the coalition government could stop atrocity crimes and prevent their recurrence. Agenda item one, outlined measures to stop violent acts, disarm and disband ethnic militia and hold perpetrators of the violence accountable.

Agenda One: the ICC and prevention of atrocity crimes
Under Agenda One, a Commission of Inquiry into the Post Election Violence (CIPEV) was established, and it recommended that a local tribunal be set up to try powerful individuals responsible for instigating or financing the violence, which was fought along ethnic lines. The commission further recommended that if the coalition government manifestly failed to set up such a tribunal, the international community, through the ICC, should assume responsibility to investigate and

prosecute Kenyans who bore the greatest responsibility for the atrocities. Three legislative attempts to establish the local tribunal failed in 2009 and consequently the ICC commenced investigations on crimes against humanity in Kenya. The ICC prosecutor named six suspects for investigation. Two of the suspects declared their intention to run for the presidency and deputy presidency in the March 2013 general elections.

Their campaign theme changed the narrative on accountability and cast them, and their respective tribes, as victims of a grand political conspiracy to exclude them from power, and a racist, neo-colonial disregard of Kenya’s sovereignty. They said prosecution imperilled reconciliation and disregarded institutional reforms. Despite the analyses and caution about the consequences of voting for suspected perpetrators of crimes against humanity, they got 50.07 per cent of the vote, and won.24

This victory has implications for R2P and the prevention of atrocity crimes in Kenya. Drawing from survey data and interviews carried out in Kenya shortly after the March 2013 elections, it is argued that in Kenya’s ethnicised political context, public perceptions of culpability for violence are restricted by expressed ethnic and political party affiliations. Furthermore, people in regions susceptible to recurrent political violence, including victims, tend to support pragmatic, elite-
driven strategies believed to be likely to prevent escalation of violence and/or propel one of their own to power to guarantee access to patronage resources.

**Electoral violence and the pursuit of justice**

Whether to prosecute perpetrators of political violence or forgive and move on is a complex question encountered in post-conflict societies. How this question is handled can perpetuate impunity, rekindle violence or lay the foundation for post-conflict recovery and strengthening of democratic principles, notably respect for the rule of law. After the post-election violence, the complexity of this question was manifest in the amnesty debate, in which the PNU pushed for prosecution while the ODM demanded the release of its supporters and called for a non-retributive truth commission.25 By the end of 2009 the majority of the youth arrested for the violence had been acquitted for lack of evidence. Nevertheless the government did establish the Truth Justice and Reconciliation Commission and the National Cohesion and Integration Commission to promote reconciliation. However, members of parliament failed three times to pass the law required to establish the special tribunal as recommended by the CIPEV under Agenda One.

The acquittal of suspects for lack of evidence and lack of political support for a local judicial process led many Kenyans to believe that only the ICC could combat impunity and break the cycle of atrocities

during elections. Surveys showed that a majority of Kenyans wanted suspects to be taken to The Hague:

Table 1: Local Process or the ICC?

<table>
<thead>
<tr>
<th>Question: should those individuals responsible for post-election violence be tried through a special division of the high court, a local special tribunal, or The Hague?</th>
<th>Aug 2009</th>
<th>Feb 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special division of high court</td>
<td>7%</td>
<td>6%</td>
</tr>
<tr>
<td>Special tribunal</td>
<td>14%</td>
<td>17%</td>
</tr>
<tr>
<td>The Hague</td>
<td>57%</td>
<td>55%</td>
</tr>
<tr>
<td>Shouldn’t be tried</td>
<td>12%</td>
<td>14%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>8%</td>
<td>5%</td>
</tr>
<tr>
<td>Refused to answer</td>
<td>1%</td>
<td>1%</td>
</tr>
</tbody>
</table>

Asked how confident they were that the ICC would prosecute senior persons implicated, 69 per cent said they were confident compared to 24 per cent who were not confident. Most Kenyans thought the ICC was the best way to get justice for victims. Politicians argued that a local process might be used to settle personal scores; open healed wounds or undermine reconciliation. To others, The Hague was the best way to escape accountability because international justice was too slow a process. They coined a catchy phrase, ‘don’t be vague: go to The Hague.’ Parliament passed the International Crimes Act 2008 and the Witness Protection Act 2008 to prepare for cooperation with the ICC. Two of the accused formed an ethno-political alliance - Jubilee Alliance - and
declared their election or non-election ‘a referendum on the ICC.’

The ICC and the politics of the implementation of R2P in Kenya
No sooner had the ICC prosecutor named the six suspects on 15 December 2008 than the narrative changed and pretences of cooperation with the ICC evaporated. A week later, parliament voted to repeal the International Crimes Act and accused the ICC of being part of a grand political conspiracy to predetermine the 2013 presidential election results. Those named said they did not bear the greatest responsibility, and portrayed themselves, and their respective ethnic communities, as victims. The government lodged an admissibility challenge at the ICC and embarked on shuttle diplomacy to rally African states and the UN Security Council to support referral of the Kenyan case back home, arguing that through implementation of agenda I-IV Kenya now had a new constitution, reformed security sector institutions and capacity to conduct investigations locally. Both approaches failed to refer the cases back to Kenya, to a trial venue in Tanzania, or to defer them until after the 2013 elections. They accused the ICC of racism and of targeting Africa and Africans, and urged African Union member states to withdraw en masse from the Rome Statute.

Justice for victims?

Survey data over time shows that justice for victims is the main reason for public support and advocacy for the ICC in Kenya, as shown below:

Table 2: Levels of happiness with the ICC

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Justice for victims</td>
<td>44%</td>
<td>46%</td>
<td>67%</td>
<td>59%</td>
</tr>
<tr>
<td>It will end impunity</td>
<td>21%</td>
<td>22%</td>
<td>8%</td>
<td>16%</td>
</tr>
<tr>
<td>It will reveal the truth about election violence</td>
<td>11%</td>
<td>15%</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>Do not trust Kenyan courts</td>
<td>6%</td>
<td>6%</td>
<td>2%</td>
<td>3%</td>
</tr>
<tr>
<td>It will prevent future violence</td>
<td>14%</td>
<td>11%</td>
<td>5%</td>
<td>12%</td>
</tr>
<tr>
<td>Because the government failed to establish a local tribunal</td>
<td>3%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
</tbody>
</table>

Other reasons also resonate strongly with policy debates elsewhere in Africa and beyond. What is interesting in the Kenyan case is that victims seem not to support prosecution of leaders from their own ethnic community. An assessment of voting patterns show that most victims of the post-election violence in the Rift Valley and Central voted overwhelmingly for Uhuru and Ruto. Individual victims interviewed said they did not perceive the accused as responsible for atrocity
crimes that took place during the post election violence (PEV) and that the promise of a peaceful election was more appealing compared to the risk of renewed violence. Some said they had already received ‘compensation’ and assistance as internally displaced persons and had been healing themselves through prayers and rituals; the long ICC process was likely to intercept their healing process and hinder closure. Moreover, both tribes stood to benefit if their own were in power. Many agreed with their leaders’ claims that the ICC had a neo-colonial agenda and was redundant because the new constitution and agenda I-IV reforms had sufficiently reformed security and governance institutions and reconciled Kenyans.

**Implications and recommendations**

Kenya’s experience shows that while states might support R2P in principle, pragmatism prevails to protect the political interests of ethnic strongmen, often with the support of victims. Institutional reform without requisite political support cannot eradicate but only postpone the risk of R2P crimes; indeed Kenyans dread a political fall-out between the two leaders accused at the ICC. Impunity at all levels, political mobilisation along ethnic lines, and the existence of ethnic militia continue to threaten Kenya’s fragile reconciliation and governance reforms.

This brief makes the following recommendations:
- Despite the on-going cases at the ICC, the Uhuru/Ruto government should demonstrate commitment to fight impunity at all levels. The perception that the two embody impunity can embolden criminals at the local level.
• The judiciary should move to clear all PEV cases pending before local courts. Political leaders should express respect for all decisions and support their enforcement.

• In its actions and utterances in Kenya, the ICC should maintain high levels of professionalism. The outreach department should enhance public education and sensitisation to counteract political rhetoric.

• The human rights and peace-building community need to engage more deeply with victims to ensure that messaging and advocacy activities not only advance international standards but also respond to victims’ expressed needs for justice, healing and reconciliation.
BRIEF 4

REFLECTIONS on the Movement for Democratic Change's defeat in the July 2013 Elections in Zimbabwe

Tatenda G. Mukwedeya

Executive summary

The defeat of the Movement for Democratic Change (MDC), in the July 2013 general election in Zimbabwe offers important insights from which opposition parties within the country and across the continent can draw. Whilst there have been claims that the Zimbabwe African National Union (Patriotic Front) (ZANU PF) massively rigged the vote, the MDC requires an introspection as a political party. This brief details some major weaknesses that led to the MDC’s dismal performance. Essentially, the party lost its focus on the electorate through undemocratic practices in the party, increased social distance from its constituency, and the failure to form an electoral pact with other opposition parties. The brief makes three recommendations. First,

27 The author wishes to thank colleagues at the UPEACE/IDRC workshop (7-18 October 2013) for their feedback on an earlier draft. Conversations with Crispen Chinguno and Stanford Mahati PhD Fellows at Wits University were also pivotal in shaping this paper. Any errors are attributed to my own weaknesses.

28 The Movement for Democratic Change split in 2005. The larger party was and still is led by Morgan Tsvangirai (MDC-T) while the smaller faction was led by Arthur Mutambara and now by Welshman Ncube, and referred to as MDC-N. This brief focuses on the larger MDC led by Tsvangirai which I refer to as the MDC rather than MDC-T.
the MDC should favour an internal direct popular election instead of the Electoral College system, which suppresses popular will. Second, voter registration and education campaigns should not be perceived as events but rather as significant processes in their aspirations towards election victory. The MDC has to start to mobilise the vote now by engaging and enlightening various constituencies in preparation for the 2018 general elections. Finally, the formation of electoral pacts is advisable for opposition parties attempting to wrestle power from a dominant party.

Reflecting on ZANU (PF)’s resurgence and the demise of the MDC

The 2013 harmonised elections in Zimbabwe saw the resurgence of ZANU (PF) which outwitted the main opposition party led by Morgan Tsvangirai. Allegations of vote rigging, election fraud and many other dubious acts of stealing votes were quickly levelled against ZANU (PF) by the MDC backed by the US and other European countries such as the UK, which questioned the credibility of the vote. However, these allegations were watered down by the two observer missions from the African Union (AU) and Southern African Development Community (SADC) which reported that the election reflected the will of the people.

of Zimbabwe. Nevertheless, a shadow of doubt still hangs over the credibility of the election amongst the developed nations and parts of the opposition in Zimbabwe.

Those who have faith in African institutions should move beyond questioning the election’s credibility and rather seek to understand, as this brief does, how the MDC lost the election. This exercise will not only demystify doubts around Zimbabwe’s election but will also shed light on the weaknesses of the opposition in Zimbabwe and offer important lessons to strengthen other opposition parties throughout the continent.

ZANU (PF) learnt lessons from the troubled 2008 elections and was determined to work towards avoiding a return to the same scenario. The party started laying the ground for the 2013 election back in 2009 by systematically running programmes to re-ignite its connection with the electorate. ZANU (PF) parliamentary candidates had regular meetings with their electorate and advocated for agricultural inputs in rural areas and housing stands in urban areas. It developed and promoted policies that resonated with the people, particularly the indigenisation programme. Epitomised in the party’s election slogan, ‘Taking back the economy: indigenise, empower, develop and create employment’, ZANU (PF) ran a popular campaign that resonated with a population

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that had suffered years of economic stagnation. The party then embarked on a voter registration campaign to encourage its supporters to go to the ballot box.

The MDC, on the other hand, seemed complacent and drew confidence from the supposedly mass popular support reflected in its performance during the 2008 election that trumped ZANU (PF). Consequently, the party did not have a systematic voter registration campaign. In addition, the MDC ran a vague campaign without a clearly identifiable programme to fundamentally change the economic prospects of the populace using the catchphrase: ‘A new Zimbabwe: The time is now’. In addition to these weaknesses, there were three factors that led to the MDC’s defeat. They relate to the party’s weak internal democratic practices, increased social distance with the electorate, and failure to form a unified opposition.

**A flawed internal democratic process within the MDC**

A coherent internal democratic system creates unity among members inside and outside the party. In the MDC’s primary elections, branch leaders voted for the party representatives instead of ordinary party members through an Electoral College system. This made the process susceptible to manipulation by a small group of elite leaders against the will of party members. In addition, some senior party officials imposed certain candidates thereby dividing the party’s support base that allowed a more cohesive ZANU (PF) to take back some seats from the MDC. This is not illustrated anywhere better than in Makoni South constituency where Tsvangirai imposed Simba Makoni as the
parliamentary candidate. However the original MDC candidate decided to contest as well, which divided the opposition’s votes allowing ZANU (PF) to win.\textsuperscript{31} There are also numerous cases of candidates who lost in the primaries but who nonetheless decided to contest in the elections, and this further divided MDC votes.

The imposition of a women’s quota stifled the voices of ordinary members in some areas and protected unpopular candidates. This was the case in Chimanimani West district where Professor Charles Nhachi was sidelined in favour of an unpopular female candidate Linet Karenyi who ended up losing to ZANU (PF). An MDC parliament elect in Matabeleland North province in September 2013 admitted that Zanu-PF won the elections and blamed its defeat on the imposition of candidates, a weak election manifesto and shambolic structures, this was a contrast to the ‘rigging’ claims of Mr Tsvangirai.\textsuperscript{32}

**Social distance between MDC and its constituency**

The second factor relates to the increased social distance between MDC officials and their constituencies. Communities complained about the lack of consultation, feedback, development programmes and even courtesy visits by their MDC representatives who were preoccupied with government business.\textsuperscript{33} Feeling disregarded, communities ‘voted

\textsuperscript{31} The Herald 2013 Another MDC-T Province Concedes Defeat, available at \{www.herald.co.zw/another-mdc-t-province-concedes-defeat/\}, accessed 29 November 2013

\textsuperscript{32} Interview with Mrs Moyo in Matobo, 16 Aug 2013

\textsuperscript{33} For more information on this organisation consult the website \{www.elecam.cm\}
for what they know’ as one elderly woman in Matobo district remarked. This meant reverting back to ZANU (PF) after having tested the waters with MDC. The woman lived in Lovemore Moyo’s constituency. He is the former speaker of parliament and residents were generally unhappy with his unavailability and apparent invincibility whilst ZANU (PF) continued with its agricultural support initiatives such as providing seed and fertiliser each agricultural season.

**Disunity within the MDC: divided they fall**

The last point to stress is that there was a failure of the separate MDC factions, led by Tsvangirai and Ncube, to get over their differences. Thus ZANU PF capitalised on their differences to secure a comfortable win. In many constituencies where both MDC and ZANU had almost equal support, ZANU ended up winning because the MDC votes were divided. A rudimentary analysis of the results clearly shows that the MDC could have won about twenty more seats had they been united. The province of Matebeland South is the most dramatic illustration of this whereby the whole province went to ZANU because of the opposition’s division of votes between Tsvangirai’s and Ncube’s MDCs. Of the thirteen seats in the province, only two had a clear ZANU (PF) win whilst simple mathematics shows that the combined votes garnered by the two MDCs could have led the opposition into a majority position. Similar trends transpired in other constituencies such as Masvingo Central.

Lessons to be learnt and recommendations

- Voter registration and education is an ongoing process that should not be regarded as an event in which to be engaged just before elections. Opposition parties must continuously make concerted efforts to ensure that their voters are registered and educated to avoid being turned away.

- Opposition parties should continuously work towards generating legitimacy and unity from the electorate by developing and sustaining effective internal democratic processes. They should favour a direct popular election instead of an Electoral College system, which suppresses popular will.

- Fragmentation of the opposition is common in many countries, but dominant parties, characteristic of many African countries such as South Africa, Botswana and others, will only face a real challenge from a unified opposition. The formation of electoral pacts is therefore recommended for opposition parties.
Executive summary
The introduction of the biometric system in the management of the electoral process is a major innovation in Cameroon. To combat massive irregularities and shortcomings of electoral lists observed in the organisation of elections, the Cameroon government experimented with biometric registration for the September 2013 council and legislative elections. Considered as an appropriate solution to the problem of multiple registrations on electoral lists as well as multiple votes by one citizen, the biometric system has enabled a recompilation of these lists by Elections Cameroon (ELECAM) as a means of combating electoral fraud. However, its success was questioned during the last elections due to observed irregularities. This summary note seeks to consider the strengths and weaknesses of the biometric system in the electoral process and to suggest a number of challenges that the Cameroon government and ELECAM must face before, during, and after these elections, using the new biometric tool. It also aims to provide recommendations for the improvement of the system in the country’s electoral process.
Introduction

Cameroon embraced multiparty democracy in 1990 with a return to a multi-party system. Since then, the political atmosphere has been animated by the organisation of a plethora of council, legislative and presidential elections involving many political parties. However, the frequency of electoral fraud observed during these elections has become a real cause for concern for the government. Aware of this problem and in a bid to overcome it, the government put in place an independent body charged with the organisation and supervision of elections, that is, Elections Cameroon (ELECAM).\footnote{Delegation for Peace, Democracy and Human Rights of Francophonie 2012, available\{www.francophonie.org/IMG/pdf/RapportDDHDP2012.pdf\}, accessed 28 November 2013} Moreover, it introduced a technological innovation - the biometric system.

The year 2011 marked the beginning of a new wave of elections in Cameroon. Indeed, after the presidential elections of 2011 and the senatorial elections of 2013, Cameroonians went to the polls for the third time during the twin legislative and municipal elections of September 2013. This was an occasion for them to choose, for the fourth time, those who would represent them for the next five years within the framework of representative democracy. A major peculiarity of these elections was that they were the first to be organised with a biometric system; a technological innovation launched in Cameroon through the German company, Giesecke Cid. With this new system, Cameroon drew up a new electoral list that included the biometric information of voters. Against this backdrop, an in-depth study was carried out to
understand the problems of biometric innovation during these elections as well as the attendant challenges before and after the 30 September 2013 elections. It also set out to propose recommendations aimed at improving the use of the biometric system in the country’s electoral process.

Electoral fraud
According to Haurio, elections represent a transfer of the public power of citizens to the authorities who will represent them. Therefore to ensure better participation of citizens in political affairs, the maintenance of peace and post-electoral security, it is important to organise elections so that results are a true reflection of the will of the voting population. That is, free, fair and transparent elections. This is possible through a relentless fight against electoral fraud. Yet, according to political parties and independent observers, the majority of elections organised in Cameroon have been fraught with massive irregularities, with electoral fraud being most apparent. Entrenched in the Cameroonian culture, electoral fraud is carried out in violation of the law, to favour a candidate, or a list of candidates, to the detriment of others during the electoral process. It usually occurs during registration on the electoral lists - when a citizen registers many times - as well as during the elections. Cases of fraud are linked to the usurpation of identity, the authentication of the voter and also the inflation of statistics through the introduction of ghost voters. The biometric system was introduced as a new method to combat this kind of fraud during the council and legislative elections of 2013.
Biometric management of elections: a new electoral reform

In its 2012 report on the state of democratic practice, human rights and freedom in Francophone areas the Delegation for Peace, Democracy and Human Rights of Francophonie considered the use of the biometric system as being a factor that directly converged with the reliability of the electoral list and indirectly with the holding of reliable and transparent elections.\(^3\) Its use guarantees the uniqueness of the voter. It is against this backdrop that Cameroon decided to institute a biometric recompilation of electoral lists for the municipal and legislative elections of 2013. This new technology enabled the country to create a new list of computerised and secure voters with cards that included their personal information.

The impact of the biometric system during registration and voting

During the pre-elections phase, biometric registration was done with the aid of a mobile registration kit involving the use of digital print scanners and digital photos which registered the bio-data of applicants and produced biometric voters’ cards. It eliminated the registration of fictitious or dead persons on the electoral lists. Its positive impact was exemplified by the immense contribution of Cameroonian citizens, which demonstrated their high sense of awareness on the issue of citizen participation, as well as a renewal of trust.

During the elections phase, and after having presented his or her national identity card and voters’ card, the voter registered their vote in three stages: signing; affixing the digital print on the attendance sheet with pictures, and placing the tip of the little finger in the indelible ink.
This biometric verification of voters was important because it not only ensured that only eligible persons could vote, but equally and more especially, avoided many votes by the same person. However, despite these advances using the biometric system, the municipal and legislative elections where still the subject of many fraud-related disputes by some political parties.

**Questioning the impact of biometric elections in Cameroon**

At the end of the 2013 legislative and council elections, the electoral procedure through the biometric system raised some questions. It became apparent that, while a solution to electoral fraud had been found, the same complaints existed. Some citizens were authorised to vote using their national identity cards only. Although the law provided that ‘every registered voter shall receive a biometric voter’s card on which his or her names, surname, date and place of birth, affiliation, photo, digital fingerprints, etc. are found,’ the same law authorised voters to vote using their national identity cards. According to some opposition political parties and some independent observers, although voting with the national identity card ensures that everyone votes and hence promotes democracy, it nevertheless creates a situation of insecurity during the elections period. Many problems remained, such as votes from non-registered persons, multiple votes etc., and these were the subjects of post-electoral litigations. The continued absence of a simple transparent verification procedure for the correct identification

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36 The Electoral Code 2012 Paragraph 1 of Article 84 of Law No. 2012\001 of 19 April 2012

37 The Electoral Code 2012 Law No. 2012\001 of 19 April 2012 on Article 103
of voters remains an issue. Although the biometric system has reduced electoral fraud, it cannot counter this type of cheating.

**Conclusion and recommendations**

In 2013, the legislative and council elections called upon Cameroonians to put their trust in politicians and go to the polls, and the use of the biometric system was considered an appropriate solution to establish reliable electoral lists. It did play a key role in reducing electoral fraud but the system had some weaknesses. It is therefore neither a panacea for providing appropriate solutions in the fight against electoral fraud, nor a condition *sine qua non* to ensure the organisation and implementation of free, fair and transparent elections. The following recommendations aim to help resolve the issues:

*For ELECAM*

It will not be advantageous for the organisation to concentrate only on the production of biometric electoral lists; additional training for its agents in the use of new mechanisms and modern tools will require international expertise and assistance. It will also be necessary to look for financial assistance from funding bodies in order to have a budget for the training of political parties and independent observers in the use of this new tool. It is the case that future elections in Cameroon will present an opportunity for political parties, organisations who control and manage the electoral processes, civil society organisations, political authorities and the general population to work together in a bid to meet the challenges required by the biometric system.

*For the Cameroon government*
To guarantee the popularity of the new biometric system and to ensure its local sovereignty, a full budget for its management and implementation needs to be secured, and commitments made for its successful implementation by all political parties, civil society, voters and independent observers.

*For the citizens and political parties*
A change of mentality is necessary. It is possible to win elections through transparent means but not without full respect for the rules of procedure by both voters and political parties.
Executive summary
This policy brief seeks to make a case for the implementation of three additional recommendations made by the Justice Mohammed Uwais Electoral Reform Committee. This is against the backdrop of Nigeria’s electoral history, which is largely notorious for lacking credibility especially in the wake of the fourth republic. Currently reforms are being explored and implemented under the Jonathan administration to bring credibility back to the electoral process and in the same light consolidate the democratic structure of the state. A major milestone was recorded during the last (April 2011) elections, heralded by the appointment of Professor Attahiru Jega’s approach to managing the process, where the People’s Democratic Party (PDP) lost its stranglehold of parliament, the senate, and the House of Representatives for the first time since 1999. This was a new state of affairs in Nigeria’s political story. While these milestones must be cherished, the fact that irregularities such as incidents of ballot stuffing, vote buying and other forms of election rigging were
recorded implies that more needs to be done to guard against going back to the *status quo ante*. This brief suggests the incorporation of three other aspects of Justice Uwais’ report to build upon the systematic framework it proffers for the electoral reform process. These include capacity building among the electorate; sustaining the independence of the Electoral Management Bodies (EMBs), especially the Independent Electoral Commission (INEC); and creating a framework to disable the zero-sum nature of politics in Nigeria. These reforms are urgent considering the oncoming 2015 elections and the future of Nigerian democracy.

### Introduction

Past elections in Nigeria have featured wholesale malpractices. The 1993 annulled polls were described as the fairest of them all in spite of their own context specific issues which included perceived military preference for Presidential candidate nominees for the two state-funded political parties – National Republican Convention (NRC) and the Social Democratic Party (SDP); incessant court cases and injunctions against the commencement as well as release of election results;\(^3\) and widespread administrative and logistical problems that prevented intending voters from registering their ballots.\(^4\)

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40 In fact Lewis 1994 noted that one of the two Presidential candidates, Alhaji Bashir Tofa of the National Republican Convention (NRC) was issued an invalid voter registration card
Major narratives on elections since the return to democratic governance in 1999 show how different interests converge to ensure that elections are rigged to favour a certain candidate. The 1999 presidential election, for example, was claimed to have been rigged in favour of Obasanjo in a ‘demonstration of military solidarity.’\footnote{Omotola, S 2010 Elections and Democratic Transition in Nigeria Under the Fourth Republic. African Affairs 109 (437). p.10} Elections in 2003 and 2007 were largely malpractice ridden beginning with the flawed preparatory processes. Problems such as voter registration, the late release of funds to the INEC, and the INEC’s battles with candidates over their eligibility, the substitution of candidates who won elections with party choices and core electoral rigging and manipulation of results, are all identified characteristics of elections in Nigeria since 1999. The height of these was the 2007 election where winning was described as a do-or-die affair, thus paving the way for broad-level electoral malpractices. It helped ruling parties to gain landslide victories and stifled, weakened and in some cases, even co-opted the opposition.

The April 2011 polls seemed to break this cycle as the opposition took thirteen states at the governorship elections, and the PDP lost more seats.\footnote{International Crisis Group 2011} It showed how much the electorate reacted to the PDP’s inability to deliver the goods. The extent to which the election results reflected the voice of the people accounts for Hilary Clinton’s description of the polls as an ‘historic event’ which ‘marks a dramatic shift from decades
of failed elections.’

This does not imply an impeccable election, but it shows how reforms under the Jonathan administration enabled relatively credible elections. This owes a great deal to the implementation of some of the provisions in the 2008 Justice Uwais Report.

However, imminent challenges within the polity and its political economy make it even more pertinent to consider incorporating more aspects of this report within the on-going reform process especially in terms of the 2015 elections and beyond. This would enhance the drive towards restoring credibility to elections, impact positively on the emergence of credible leaders, and ensure the triumph of the sovereign will of the electorate.

**Electoral reforms and looking towards 2015 elections in Nigeria**

The fact that elections in Nigeria have been described generally to be fraught with irregularities - voter intimidation, vote buying, ballot stuffing, post-election violence and the like – does blight the credibility and legitimacy of the voting system, and Nigeria’s democracy. In fact Nigeria was even rated as undemocratic because of the nature of its electoral processes. An undemocratic situation impacts negatively on the consolidation of this nascent democracy, and it also impacts badly on corruption, development progress, service delivery and even stability

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44 Under the indicator of ‘approval of democracy’ the report insists that taking ‘into account the poor quality of elections (in 2007) the BTI considers Nigeria undemocratic and thus the indicator … does not apply to the country.’ Bertelsmann
and security in and of the state. This is because marginalised groups or disgruntled people could cash in on these issues to heighten socio-political and religious tensions, and create an environment of chaos and disorder. When this happens the economy suffers, and human life and property also fall at risk – this is already being felt in the northern part of Nigeria.  

Against this backdrop, reform was imperative. The government of Goodluck Jonathan can be lauded for the bold steps taken, building on the foundations set out by the Yar’Adua government through the formation of the Justice Mohammed Uwais Electoral Reform Committee in 2007. This committee’s comprehensive mandate went deeper than any other electoral reform by engaging all the legal instruments and constitutional provisions alongside the political context and history of Nigeria. Through these means a number of key areas for reform were identified. These included the nature of the Nigerian state and the impact of the colonial past on the polarisation of diverse ethnic units in political issues; the weakness of democratic institutions; a negative political culture; weak legal and constitutional framework to secure a democratic culture; and the lack of independence and capacity of the EMBs, such as the INEC and the State Independent Electoral


Commissions (SIECs).  

As part of this on-going electoral reform and drawing upon these issues and the recommendations of the report, the Jonathan administration:

- Constituted amendments that reduced INEC’s dependence on the executive by guaranteeing its funding in the federal budget;
- Shortened deadlines for action on petitions contesting election results;
- Reduced quorums for electoral tribunals;
- Detailed requirements in the new electoral act for primaries to strengthen internal party democracy; and
- Regulated the merger of political parties so as to reduce post-election, inter-party ‘carpet crossing.’

These were complemented by the deployment of the National Youth Service Corps as ad hoc staff and returning officers at polling stations. These have in fact been linked to the relative credibility of the election result since there was no high level rigging noted, there was high voter turnout, and the ad hoc staff played sufficient roles to keep the results credible. In fact members of the ad hoc staff, who were found to be compromised, were prosecuted. This was something new.


48 International Crisis Group 2011

49 ibid
Despite the landmark achievements at the 2011 polls, reported areas of pockets of irregularities (especially in the Niger Delta states), the almost immediate upsurge of violence in the north and other incidents, point to the need to more adequately pursue this reform programme to its bitter end. This is needed to consolidate the dividends of democracy, to improve the credibility of elections and, by extension, reduce political high handedness, and improve political and public accountability. It is therefore important to consider incorporating other aspects of the report’s recommendation given the fear of raising more problematic issues in the state should the credibility of elections be reduced again.

**Cashing in or not?**

Justice Uwais’ committee report provides recommendations that have the capacity to transform Nigeria’s democracy. While the benefits are clear from the widespread praise of the 2011 election, neglecting other aspects may have some consequences when considered in the light of the following:

One, whilst the report recognised how political entrepreneurs may cash in on the polarised nature of Nigeria’s political units for specific self-serving interests, it recommends intense capacity building to enhance moral, political and civic responsibility towards the state. This would help reduce the extent to which the electorate are manipulated towards violence and electoral malpractices. However, abandoning this recommendation may deal fatal blows to stability during and after elections.
Two, the report’s insistence on the independence and sustainability of the Election Management Bodies (EMBs) is tied to the credibility and legitimacy of elections in Nigeria. The converse implies that the weakness of these EMBs and other democratic institutions could dissipate the already waning trust in the electoral process thus portending more violent reactions. When put within the context of the 2015 elections and the already volatile socio-political space in Nigeria, it would be very risky for the security of life and property as well as the stability of the state.

Three, the negative culture of politics exemplified in its zero-sum nature prompted the report’s recommendation that political parties which attain a 2.5 per cent threshold of national assembly seats should be eligible for cabinet level appointment. This would mean that the fear of losing out totally would be reduced among politicians and political parties, and this would augur well for accountability and democratic consolidation. Neglecting this recommendation implies that, among political parties, the fear of losing elections would really outweigh the will to pursue the overall good of the state. This also encourages impunity in the use of violence to rig and manipulate election results especially among incumbents.
PART THREE: SUB-NATIONAL AND NATIONAL ISSUES

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protecting peace and its dividends in kogi state: the roles of state institutions

Timothy Aduojo Obaje

Executive summary
Violent conflict is progressively becoming a real threat in Kogi State, Nigeria. The continuing trend of lethal conflict would validate this claim as the inadequacy of state institutions mandated with the task of promoting peace has not helped the course for sustainable peace in Kogi. In order to protect the dividends of ‘peace’ that the state has enjoyed thus far, three main recommendations are put forward in this brief. First, that it is necessary for the state governor and the members of his government to establish institutions that facilitate a proactive role for government in sustainable peacebuilding in Kogi State, for example, an office of the special advisor to the governor on peacebuilding. Second, it is recommended that youths be considered as strategic partners in peacebuilding processes. Finally, it is recommended that there is an urgent need for the state government to devise mechanisms that are capable of guarding against political manipulation of the people’s ethnic differences.
Introduction

There is some truth in the perception that Kogi State is one of the most peaceful states in Nigeria. Although it is composed of a variety of ethnic groups with different religious beliefs, the wave of either religious or ethnic conflict going on countrywide is yet to make its impact in Kogi State. While it is important to acknowledge this relative peace, it is of greater importance to reiterate the state government’s responsibility to protect the dividends of peace. Hence, this policy brief draws the attention of the Kogi State governor and the member of the state house of assembly’s to pertinent policy decisions for sustainable peace.

The myth of ‘peace’ dividends in Kogi State

In recent years Kogi State has increasingly witnessed incidents of violent conflict. For example, it was widely publicised via numerous media outlets, including BBC News Africa,\(^5\) that ‘at least 19 people were killed in a gun attack on a church in the town of Otite’ by gunmen suspected to be members of the Islamic sect, Boko Haram. It was also recorded that a tip off through the National Early Warning System in July 2012 ensured ‘about 1,000 members of the Living Faith Church, Aka Winners Chapel and the Deeper Life Church located along Obehira Road in Okene, Kogi State escaped death from an explosives laden vehicle suspected to be on a suicide mission to the church.’\(^5\) Further,


Kogi State has been infiltrated with Boko Haram and their agents; in 2012, the state security service uncovered a series of hideouts and bomb factories in Kogi State, several of which were supposedly owned by the Boko Haram sect.\textsuperscript{52}

Politicisation of ethnic identities and traditional differences still stand out as the primary causes of conflict in Kogi State. Both the Christian and Muslim perspectives categorically identify ethnicity and clanship among the tribes of traditional rulers as primary sources of conflict.\textsuperscript{53} This is clearly reflected in the political and economic struggle amongst the indigenous ethnic groups.\textsuperscript{54} Reflecting on the 2007 election process and other events, Omotola argues that political battle lines have been drawn between the Igala on the one hand and the Ebira and Okun on the other.\textsuperscript{55} This is due to political exploitation of ethnicity in state politics.

For example, not everyone has welcomed the Igala ethnic group, which


has produced all the governors since the democratic dispensation in 1999. This has led to the emergence of what may be called an Okun-Ebira coalition that has sought to wrestle political power from the Igala resulting in various eruptions of violent conflict for reasons closely related to ethnic struggle.\(^56\) In another ethnic related incident, ‘an armed group believed to be loyal to Senator A T Ahmed, the spearhead of power shift from Kogi Central, disrupted the celebration of Democracy Day on 29 May 2005 at the Kogi State stadium in Lokoja. Several people were seriously injured in the attack, which was widely believed to be ethnically motivated.’\(^57\) Occurrences of this nature are genuine reasons why no one should be comfortable with the status of ‘peace’ in Kogi State and they are direct pointers indicating the fragile nature of peace.

**Causes of the emerging pattern of conflict in Kogi State**

The trends noted above, and other potential triggers of violent conflict, suggest why peacebuilding initiatives ought to be taken more seriously in Kogi State. They draw attention to some of the central and underlying catalysts to violent conflict.

First, the dearth of state instituted peacebuilding drivers. The lack of a peacebuilding portfolio mandated with the task of facilitating the


\(^57\) Omotola 2008
development of a peace culture in the state leaves room for instigators of violence to take advantage of a lack of leadership. The lack of initiatives by the state government to proactively instil the values and culture of peace in its citizens provide fertile ground for terrorists, rebels and insurgents to maximise their schemes in recruiting and instigating violence in the state.

Second, the alleged Boko Haram activities identify the state as a possible safe haven for members of Boko Haram and related groups thus questioning Kogi State’s security status. It questions the early warning system mechanism that should be capable of alerting the government and other relevant sectors of such activities before they have taken root in the state.

Finally, there is a viable sports and youth commission in Kogi State, which could be beneficial to peacebuilding if it embarked upon peace oriented activities in its services to the youth. According to Judy Cheng, the UN assistant secretary general on peacebuilding, ‘when youths do not see the future, they are easily recruited back into insurgency.’ This implies that the inadequate investment in youths and the reluctance to include them as strategic partners in the peacebuilding process are partly responsible for their disposition to violence.

In order to protect peace dividends and to curtail the destructive consequences of these issues, it is necessary that the state government take adequate steps to address them while they are in their embryonic stages.

Recommendations

Based on the highlighted issues, the following five recommendations are put forward:

- The state governor ought to create a state portfolio primarily responsible for the co-ordination of state-led peace initiatives. The establishment and proactive role of government institutions such as the office of the special advisor to the governor on peace-building and other related offices are a step in the right direction.

- In order to entrench peacebuilding and its values in the people, it is recommended that the state government and other relevant decision makers consider incorporating pertinent peacebuilding programmes in their services to the people. Activities such as peace oriented inter-religious workshops, inter-ethnic dialogue and healthy competitive sports programmes are worth considering.

- It is recommended that youths be considered as strategic partners, and not spoilers as often narrated, in peacebuilding processes in Kogi State. The availability of adequate educational infrastructures, employment opportunities and other relevant structures through which youths are equipped with skills to make constructive and informed decisions about their wellbeing and that of the state at large, would go a long way to redirect their disposition from conflict to more constructive activities.
• The state government needs to devise a means for equitable service delivery and distribution of state resources across the various geopolitical regions in Kogi State. This would reduce the exploitation of ethnic differences on the basis of a lack of service delivery.

• The state governor and members of the house of assembly should devise mechanisms that are capable of restraining political manipulation of ethnic differences.
Executive summary
This paper presents and discusses two policy recommendations for
effective accountability in Mozambique. The first is expressed by public
opinion that the constitution has to be changed so that the president
is accountable to legislatures as head of government. The second,
recommended by experts, is for the political system to be changed from
a highly presidential to a semi-presidential system where the prime
minister is elected from, and accountable to, legislatures, the president
remains with a formal diplomatic function, and there is separation of
powers. Although the public view on constitutional change is conducive
for accountability because it demands the president is accountable
to legislatures as head of government, it does not guarantee effective
accountability of the executive to the legislative. Therefore the policy
recommendation that this paper supports is that proposed by experts
because it both enhances executive-legislative accountability and
considers enforcing more limits on state authority, and separation of
powers.
The audience for this policy paper includes decision-makers, legislators,
executive and the presidency. The aim of the paper is to persuade them to make the necessary changes toward greater accountability.

**Context and importance of the problem**

Donors who have been funding Mozambique through direct budget support have been regularly concerned about high levels of corruption and lack of transparency in the implementation of public funds; ‘corruption is a big and visible problem in Mozambique’. More than half of the Mozambique public believes public officials are involved in corruption. Due to this, some donors have been opting for alternative aid modality, for example project aid support, where they have more control of the aid they provide.

High levels of corruption and lack of transparency is associated with a lack of horizontal accountability - the obligation elected leaders have to answer for their political decisions to other constitutional bodies. This is accountability between state institutions.


60 See {www.afrobarometer.org/results/results-by-country-a-m/Mozambique}, accessed 2 December 2013


[It] is usually manifest in the monitoring, investigating, and enforcement activities of a number of independent government agencies: the opposition in parliament; parliamentary investigative committees; the various tiers of the court system, (including the constitutional court and audit agencies); counter corruption commissions; the central bank; an independent electoral administration; the ombudsman, and other bodies that scrutinize and limit the power of those who govern.63

This policy paper focuses on executive-legislative horizontal accountability and raises several questions. Is the executive effectively accountable to legislatures? Do legislatures have enough power to hold the executive to account? Which policy option is preferred for holding the executive accountable by legislatures? By critiquing the favoured policy option of Mozambican decision-makers, this paper presents and discusses public and expert policy recommendations for executive-legislative accountability, and tries to present possible solutions for the problem.

It is important to focus on this issue because accountability is relevant for good governance. It promotes clean and decent government, rulers and public officials. It promotes transparency and strengthens the rule of law. If the democratic premise of accountability is enforced at the top of government, it is more likely it will be applied at sub-national level as public officials at lower levels work under top-level command.

63 ibid, pp.xxi
Critique of current policy option for executive-legislative accountability

The Mozambican policy option for executive-legislative accountability was established in the national constitution by Members of Parliament (MPs) and prescribes that the prime minister, (instead of the head of government),\textsuperscript{64} presents to the assembly the government programme, economic and social plan and budget, government implementation reports and positions.\textsuperscript{65} This constitutional framework suggests that the head of government moves away from being accountable to legislatures on decisions he or she makes for running the country and managing the economy.

Although the prime minister, assisted by cabinet ministers, may answer some questions raised by MPs fairly well, there are questions to which only the head of government may respond. For instance - why has corruption been expanding and rapidly increasing at all levels of government and the different sectors? Why is the system not transparent so that it functions effectively to fight poverty?\textsuperscript{66}

Policy recommendations

Changing the rules for the head of government accounting to legislatures: the public view

\textsuperscript{64} Parenthesis is that of the author.

\textsuperscript{65} Article 206 of the Constitution of the Republic of Mozambique (2004)

\textsuperscript{66} Lived poverty has increased in Mozambique (2012 Afrobarometer survey)
The Mozambican public is more likely to want the current rule (in the constitution) changed so that the head of government is accountable directly to the assembly, rather than delegating his or her duty to the prime minister. About 43 per cent of Mozambicans agree or agree very strongly that the law should be changed so that the head of government is obliged to report to the assembly. Only 33 per cent agree or agree very strongly that the current rule, which allows the head of government to send the prime minister to report to the assembly, rather than going himself, should be preserved.67

This public demand for more accountability would make the head of government accountable to legislatures but the political system would remain heavily controlled by the president. The problem is that the president has huge concentration of powers. Entire state authority resides on the president. Besides being head of state, the president is also head of government, and appoints and dismisses all chairs of the judiciary. With this system the executive-legislative accountability may still be subverted, even if the president accounts to legislatures as head of government. The president may rely on judges that he or she appoints to dismiss legislatures’ countervailing power. A system like this increases the likelihood to precipitate into tyranny.

*Enforcing more limits on state authority: the expert view*

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67 2008 Afrobarometer survey specific question in Mozambique: Which of the following statements is closest to your view? Statement 1: The current rule, which allows the head of government to send the prime minister to report to assembly, rather than going himself, should be preserved. Statement 2: The law should be changed so that the head of government is obliged to report to assembly in person. About three per cent said they do not agree with either of these statements and 21 per cent did not express their opinion.
Experts have been arguing for a greater sharing and separation of powers. They have been proposing a change toward a semi-presidential system where the president continues to be directly elected by the people but the prime minister is elected from legislatures, instead of being appointed by the president. The president becomes head of state and the prime minister becomes head of government who is accountable to legislatures. For better separation of powers, the chairs of the judiciary should not be appointed by the president but elected among judges. The relevance of the semi-presidential system is that it enforces more limits on state authority by deepening ‘democratic structures to make them more liberal, accessible, accountable, and representative. It also strengthens the formal institutions of democracy, including parties, legislatures, and the judicial system.’

The importance of making the judiciary more independent and autonomous is that it increases the likelihood ‘to enforce the law


equally toward everyone, including those [individuals] in government’ and makes constitutional bodies more accountable.\textsuperscript{71} ‘When rule of law is weak, corruption and abuse of power run rampant as agencies of horizontal accountability are unable to function properly’.\textsuperscript{72}

**Conclusion**

After observing that the policy adopted for executive-legislative relations lacks effective accountability, this policy paper has presented and discussed both the public and expert views for accountability in Mozambique. While the Mozambican public view is conducive for accountability - considering it demands the president is held accountable by legislatures - the Mozambican presidential system does not guarantee effective accountability of the executive to the legislative as the president still controls the judiciary. Therefore the best option for policy recommendation is the proposal by experts who advocate for the enforcement of more limits on state authority by implementing a semi-presidential system and separation of powers.

\textsuperscript{71} O’Donnell, G 2005, Why the Rule of Law Matters, in Diamond and Morlino (eds.) 2005

\textsuperscript{72} Diamond and Morlino (eds) 2005. pp.xv
Executive summary

It has been observed that the legitimacy of representative institutions in Africa, including parliaments, is low and volatile. It is further recognised that low legitimacy of representative institutions puts a strain on the legitimacy of the state. Low legitimacy of parliaments therefore means a brewing legitimacy crisis for the African state. This development is a paradox considering that the introduction of democracy in Africa in the early 1990s was aimed at legitimising the state through the creation of a participatory and representative government that would satisfy the socio-economic needs of the people.

From a case study of the Malawi democratic parliament - from the introduction of multi-party democracy in 1994 to 2011 - that combined primary qualitative methods and secondary quantitative surveys, it was found that people’s loss of trust in parliament, and hence the waning of parliament legitimacy, stems from:

1. The people’s dissatisfaction with the social services they get at the local level. In the context of rampant poverty and dysfunctional local government authorities, people place the blame squarely on parliament as it is perceived as the next
representative institution in the representation hierarchy from the local government to the executive.

2. Artificial representation by members of parliament (MPs). The parliamentary function of representation is neither institutionally nor financially supported, let alone monitored, to the extent that MPs rarely reflect the views of their constituents.

Against this background, it is recommended that, to strengthen the legitimacy of parliament, government should provide for the local needs of the people through creating robust local government systems, and formalising and monitoring representation and accountability mechanisms of parliament.

Contextual background
The introduction of multi-party democracy in sub-Saharan Africa in the early 1990s brought the promise of legitimate participatory governments and improvements in the socio-economic status of the people. Close to two decades later, however, the legitimacy of democratic state institutions, particularly parliament, remains ‘low and volatile’. What

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explains this paradox? How can state institutions such as parliament, that are at the core of representative democracy, be legitimised? Is it necessary or does it matter?

Political legitimacy involves the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate ones for society and its development. A regime is therefore said to be legitimate within a specific society if the citizens perceive its existence as justifiable and if the government is perceived to have the right to rule.\footnote{Lipset, S M1960,Political Man.London: Mercury Books; Smith, B G 2009, Sources of Legitimacy in Post-colonial French West Africa. Paper presented at the annual meeting of the Southern Political Science Association, Hotel Intercontinental, New Orleans. Available \{www.allacademic.com/meta/p281836\}, accessed 31 May 2009} In this regard, understanding political legitimacy is a key to understanding state power, authority and capacity. In contemporary politics, political legitimacy is one of the main prerequisites to building a sustainable democratic state.\footnote{Leftwich, A 1997, From Democratization to Democratic Consolidation, in Potter, Det al(eds.) 1997, Democratization.Cambridge: Polity Press/The Open University, pp.519-534; Lipset 1960}

It has been observed, however, that more often than not different state institutions enjoy different levels of legitimacy.\footnote{Dogan 2003} Thus, state legitimacy is essentially an aggregate of legitimacies from different state institutions. In a democratic dispensation, parliament, as one of the key state institutions, enables citizens’ representation and hence participation in
the governance of the state and society. Parliament is therefore one of the key democratic institutions through which the public’s hopes for a legitimate, participatory and performing government can be realised.

Despite this pivotal role of parliament in representative democracies, studies show that, among state institutions, parliaments command low and volatile trust from the people.\textsuperscript{78} Using evidence from a Malawi case study between 1994 and 2011, this policy brief explores the legitimacy of the Malawi parliament and prescribes possible ways to strengthen it. The aim is to create a parliament whose roles and authority are considered rightful and relevant by the people thereby satisfying their aspirations for legitimate representative institutions, and, by extension, a legitimate state.

The history of Malawi shows that parliament, from independence in 1964 to the introduction of multi-party democracy in 1993, was subordinated to the executive arm of government. The first president, Kamuzu Banda, further personalised the executive arm of government and undermined the judiciary as whatever he said essentially carried the status of law. Banda initiated a series of constitutional reforms that included hiring and firing of members of parliament by the president. The legitimacy of parliament from the early 1960s to 1994 was therefore tied to the legitimacy of Kamuzu Banda.\textsuperscript{79}

\begin{thebibliography}{99}
\bibitem{78} Afrobarometer 2006, p.25; Dogan 2003, p.122
\bibitem{79} Phiri, K and Ross, K 1998, Introduction: From Totalitarianism to Democracy in Malawi, in Phiri, K and Ross, K (eds.) 1998, Democratization in Malawi: A
Backed by a one-party authoritarian constitution, Banda established himself as a feared ‘father chief’ to all Malawians. He achieved this through the distortion of cultural symbolism and brutal suppression of dissenting voices both at cabinet and parliament levels, as well as at the community level. In effect, Banda and his institutions, including parliament, enjoyed superficial legitimacy as dissenting voices were merely suppressed and many people paid allegiance to the state through fear and unwilling acceptance.

The brewing legitimacy crisis of Banda’s system was manifested in the early 1990s through civil unrest, eventual rejection of the one-party system during the 1993 referendum, and the deposition of Banda and the majority of Malawi Congress Party (MCP) MPs in the 1994 presidential and parliamentary elections.

The introduction of multi-party democracy in 1993 and the ushering in of a new democratic government in 1994 brought the promise of a government with legitimate institutions and a government that catered for people’s socio-economic needs.\(^\text{80}\) A new constitution that provided for the separation of government powers and guaranteed human rights came into effect in 1995. The new constitution also provided for a democratic parliament with powers to represent the people through a single-member constituency based parliament system, powers to legislate, and powers to oversee other branches of government notably

\(^{80}\) ibid
the executive.81

**Brewing legitimacy crisis of the Malawi parliament from 1994 to present**

Evidence suggests that people generally recognise and accept the legal basis of the Malawi parliament as outlined in the Malawi constitution. However, they perceive the MPs and parliament (as a collection of MPs) to have failed as a ‘parent’ to take care of the local needs of the people in their respective geographical constituencies. The local needs range from disposable income to local services such as water, schools, roads, and agricultural markets in rural areas. This perceived failure has led to the people losing trust in MPs and subsequently perceiving parliament as irrelevant to their lives. In some cases, people go as far as to suggest institutional reforms to tighten accountability and performance mechanisms of parliament and even call for the provision of alternative representation avenues such as through traditional leaders. This is a brewing legitimacy crisis for the Malawi parliament.

**Dysfunctional local government and parliament legitimacy crisis**

There is ample evidence to suggest that the legitimacy of parliament is tightly linked to people’s perception that their socio-economic needs are satisfied. Evidence shows that dysfunctional local government that fails to satisfy the socio-economic needs of the people at a grassroots level affects the legitimacy of parliament. The brewing legitimacy crisis of the Malawi parliament reported above largely stems from the fact that local government authorities that are legally mandated to provide

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the bulk of local services are not functional. As a result, people put the blame squarely at the door of MPs and parliament as they are perceived to be the next representative institution in the representation hierarchy that is responsible for addressing people’s socio-economic needs.

From 2005 to the time of the research in 2011, Malawi has had no ward councillors who by law are supposed to form local government authorities (district councils) and facilitate representative and accountable local development. As a result, government administrators have been acting (illegally) as both decision makers and implementers of local government authorities thereby compromising representation, transparency, accountability, the rule of law, and service delivery at the local level.

In the absence of local development authorities, people at community level have shifted the local development responsibility to MPs. This makes sense in the context that the people consider parliament as the next institution in the representation, accountability, and development institutional hierarchy of government. This shift of responsibility has been compounded by the promises of local development made by MPs, either through ignorance or manipulation, during political campaigns.


Given that the MPs are not legally mandated let alone institutionally or financially supported to carry out local development activities, it is not surprising that they have failed miserably to provide the expected local development.

In this case, the (perceived) failure of MPs and parliament to address the local socio-economic needs of the people constitutes loss of legitimacy of parliament. From the instrumental legitimacy point of view therefore, we can trace the brewing legitimacy crisis of representative institutions as it spreads from dysfunctional local government to parliament, and by extension to the president, and ultimately the state as a collection of institutions.

**Artificial representation**

The institutional set up of the Malawi parliament shows that of the three main functions of parliament - namely representation, legislation, and oversight - the representation function is not well-documented let alone supported institutionally or financially. This is, however, ironic considering the fact that representation is a meta-function that cuts across the other functions, and is at the heart of the relationship between the people on the one hand, and the parliament and government on the other. As a result, the representation function of parliament is at the heart of parliament and government legitimacy.

Due to the lack of institutionalised guidance and support on parliament representation, evidence suggests that MPs largely depend on their personal resources and judgment on the best way to represent the people - with little success. Evidence from the local communities suggests
that MPs rarely visit their constituencies to consult the people on their wellbeing and views on the government’s (proposed) actions. Because of this, most parliamentary deliberations are said not to reflect people’s needs, views, and priorities. This is seen as rendering parliament irrelevant to the people, and this affects parliament legitimacy.

**Recommendations to strengthen the legitimacy of the Malawi parliament**

To strengthen the legitimacy of parliament in Malawi therefore:

- The Malawi government should prioritise satisfying the local needs of the people by creating robust and effective local government authorities. This should include:
  - Holding local government elections and putting in place local government authorities.
  - Adequately financing the local government authorities to enable them to provide local services in an effective and accountable manner.
  - The Malawi parliament can play a role in this by initiating relevant policies and resource allocations.
  - The Malawi government should strengthen representation and accountability of parliament through:
    - Developing and documenting clear guidelines on the representation function of parliament – as is the case with legislation and oversight functions. This will not only guide MPs but will also act as a monitoring and accountability tool for different stakeholders including
the people. These guidelines should be linked to MPs’ code of conduct and disciplinary measures in any case of MPs disregarding the guidelines.

- Supporting representation functions of MPs through, for example, establishing constituency offices, and providing financial and human resource support.
- Reinstating the second house of parliament, the senate, the constitutional provision of which was repealed in 2001. This second house will provide wide and alternative avenues of representation such as through traditional leaders and civil society representatives.

- The Malawi government should carry out civic education on the roles of local government, parliament and other branches and departments of government. This civic education should include where and how people should demand accountability.
BRIEF 10

Implications of the Drama Festival on Sustainable Peace in Kenya

Ann Rita K. Njageh

‘Establishing peace is the work of education. All politics can do is keep us out of war.’ (unpublished lectures of Dr Maria Montessori)

Executive summary

The drama festival, an annual calendar event organised by the Ministry of Education (MoE) in Kenya, is largely a co-curricular activity, approached by many participants from the perspective of competition rather than the advancement of peace. The general public in Kenya has not yet realised the potential of the festival to establish and sustain a culture of harmonious existence among people of different ethnic identities. Through the use of research based evidence, this brief advocates for the mainstreaming of peace based themes in the structure and delivery of drama festivals within the MoE framework as well as in other co-curricular initiatives of the ministry - such as the music festival, science congress, ball games and other sports. The brief advocates for the realisation of the eight national goals of education through the use of non-formal educational experiences that not only entertain but also
educate diverse groups of people. This brief is addressed to officials in the Ministry of Education, Ministry of Higher Education, Science and Technology, National Cohesion and Integration Commission in Kenya, as well as financial partners supporting the drama festivals, and peace based civil society organisations.

84 The eight national goals of education are: to foster nationalism, patriotism and promote national unity; to promote socio-economic, technological and industrial skills for the country’s development; to promote individual development and self-fulfilment; to promote sound moral and religious values; to promote social equality
Introduction
The drama festival is a vehicle for advancing the cultural heritage and diversity of the people of Kenya through plays, verses, dances, mimes, and narratives. The festival brings together various stakeholders, as actors and members of the audience, primarily students from all levels of education. The audience comprises students, teachers, parents, and Ministry of Education officials and members of the public. Through the festivals the symbiotic relationship between education and culture - as crucial agents in educating for peace - is emphasised. Education lays the foundation for societal change, which can be achieved through the use of culture as a vehicle of change. The existing challenge is how culture can be more meaningfully utilised within the education system to create change that promotes peaceful coexistence among people of diverse cultural identities.

The drama festival in Kenya’s education system is significant given its capacity to both attract a pool of stakeholders, who are consumers of the productions, and educate the people through an entertainment platform. The festival features African cultural values as well as contemporary issues from around the world and is utilised as ‘a tool to promote, propagate and nurture our values as a nation’. Drama educates across cultural divides, and the productions are appropriate for people of various ages, socio economic status, as well as educational background.

Education for peace initiatives in Kenya date back to pre-colonial times, where elder members of the society would initiate younger members into an active community life; these are referred to now as indigenous peace education initiatives where community members devote time to impart knowledge, instil skills, values and attitudes to all members of their community. With regard to formal education, education for peace is realised through mainstreaming elements of peace education in the various subjects taught in schools. Since the 2007/8 election violence, more concerted efforts to offer peace education as a taught subject in primary and secondary schools in Kenya have been put in place.

This brief concentrates on bringing to the fore implications for the drama festival as a strategy for sustainable peace in contemporary society. Though the festival was not primarily instituted as an education for peace strategy, over the years it has emerged as a significant force in the realisation of unity and peace in the country, with more emphasis on national unity through drama especially after the election violence in 2007/8. The festival has provided the three types of peace education identified by Salomon: peace education in intractable regions, peace education in regions of interethnic tension and peace education in regions that have experienced tranquillity, through productions performed at various levels of the drama festival.86 Subsequent sections of this brief provide the research based evidence on the relevance and effectiveness of the drama festival as an education for peace tool in

Kenya and from these findings, the main conclusions and implications for policy are drawn.

**The people’s voice**

Cognisant of the fact that stakeholder driven approaches are more sustainable, research was carried out to evaluate the relevance and effectiveness of drama festivals as an education for peace in public secondary schools in Kenya. The evaluation was carried out in schools sampled from seven of the eight provinces in Kenya and involved school students from public secondary schools that had participated in the festivals at the national level for a period of three consecutive years. Data was collected from drama teachers and trainers, MoE officials who work in the directorate of quality assurance and standards and who support the drama festival framework, and peace education experts drawn from across the country. The evaluation involved collection of data through questionnaires and interview guides, observation of the festival at the provincial and national levels, and analysis of existing documentation on drama festivals and education for peace.

**Approaches to sustainable peace**

Throughout the world various approaches are in place geared towards the realisation of sustainable peace at national, regional and global levels. Approaches to peace have taken both formal and informal dimensions, with a focus on those that endeavour to have the participation of a wide range of actors. At the global level, there are examples of educational institutions, from elementary schools all the way to universities, which offer some form of educational subject that focuses on instilling human
values in the learners; values that contribute to building a peaceful society. Within the formal education setup, role-playing is also used as a mode of instruction to convey peace messages. Lessons from around the world show that approaches to sustainable peace are multifaceted but mainly education based, both formal and non-formal, bringing on board various actors, methodologies and content, and operating in various contexts.

**Realising sustainable peace in Kenya**

The approaches towards sustainable peace in the context of Kenya are manifest in various forms which operate at different levels of society. First, the curriculum component in the primary and secondary education levels as designed by specialists at the Kenya Institute of Curriculum Development (KICD) mainstreams elements for sustainable peace within various subject clusters. The curriculum integrates the core national values echoed in the country’s national anthem, among them justice, unity, peace and liberty, truth, service, hard work, the same values in the framework policy on the national value system (NVS) for Kenya. In addition, peace education is now a taught subject in Kenyan primary schools following a pilot project after the post-election violence of 2007/8, and the pilot for peace education in secondary schools is underway. These approaches largely show the contribution of formal education towards sustainable peace.

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87 The framework policy on the national value system (NVS) for Kenya lists ten national values, namely: honouring God, justice, peace, unity, appreciation of diversity, patriotism, integrity, values-based leadership, hard work and respect. See Ministry of Justice 2010, National Cohesion and Constitutional Affairs and National Economic and Social Council.
Beyond the formal education system, various initiatives are in place, targeting school children, young people and the general public. Several community based initiatives at the grassroots level initiated by nongovernmental organisations, faith based organisations and individuals are in place. Some of these initiatives have grown to receive national recognition and goodwill, a catalyst to their growth and impact. A notable example is the Tegla Loroupe Peace Race, initiated by Kenya’s world-renowned athlete, who uses her athletic talent to work for peace amongst her people. Through the annual Tegla Loroupe peace race, the Tegla Loroupe Peace Foundation is realising its mission of ‘improving peacebuilding, livelihoods and resilience of poor people affected by and vulnerable to conflicts and civil strife in the Greater Horn of Africa’.

The foundation has been instrumental in the use of sports for peace, through organisation of regional and global conferences on sports for development and peace, and peace races in the Great Horn region. Since 2008, various innovations have been developed by Kenyan citizens to advance peace in society, among them academic forums created by researchers and scholars, which have a predestined audience and usually address the elite within Kenyan society. The most popular, offering the greatest promise for positive impact, are the non-formal strategies that target all members of society; dance for peace, fashion for peace, sports for peace, among others. There is a strong indication that the future of sustainable peace lies with initiatives that include

all actors with no discrimination based on age, gender, education, ethnic inclinations, religion, health status, or any other aspect. In this regard, there is the need for more support for non-formal education opportunities, beginning with the drama festival, due to its potential to realise sustainable peace in society through the use of inclusive methodology and content.

Based on the global and national trends with regard to the realisation of sustainable peace through non formal approaches, and specifically from the context of the evaluation, the following aspects are notable:

1. The festivals are well received by performers and members of the audience and have been evaluated as a relevant education for peace tool. The festival productions are based on key principles, values and attitudes, themes and actions that promote an active world citizenry as illustrated in the education for peace curriculum framework.  

2. Analysis of the national drama festival themes and programmes, and the messages of the actual performances show that all the performances addressed peace themes with an ultimate end of building an active world citizen at the personal level, and harmonious living at the community level. Drama provided an opportunity for hands on experiential learning, implementation

of knowledge, skills and values learnt, and enhanced the realisation of positive peace.

3. The drama festival focused on contemporary issues affecting society. It was effective in promoting a peace culture as it was committed to the realisation of national unity among the people of Kenya.

4. Drama and other co-curriculum activities contribute to shaping the attitude of students in dealing with conflict situations.

Policy implications and options

On the basis of the evidence above, the following policy options are proposed for the enhancement and sustainability of the drama festival (as well as other co-curricular activities) as approaches to sustainable peace in Kenya.

- Academic - private and corporate sector partnerships should establish linkages and networks among East Africa’s institutions to promote the use of arts based activities in the enhancement of peace processes within and beyond Kenya. This will open up drama beyond the January – April school term and bring on board more actors, focus and commitment, thus enhancing its use as an education for peace strategy by shifting focus from the festival as a competition driven calendar event to a peace based entertainment project. The synergy from the partnerships will provide resources for the mainstreaming of drama for peace in the country through the sharing of ideas, personnel, financial resources and goodwill.
• Strategic dissemination is required to make the most effective use of the festival productions. To begin with, the ministry should initiate diverse dissemination procedures to market the festival productions throughout the year. Second, anthologies should be published from the festival productions for use as set books in literature and Fasihi in secondary schools, and class readers for other levels. These will not only encourage a reading culture among the learners but the entire Kenyan population, for they will better identify with contemporary issues and characters of their time. Third, all the productions at the provincial and national levels of the drama festival should be recorded by KICD and distributed to libraries of educational institutions at subsidised costs, in addition to being available in bookshops, entertainment shops and supermarkets for sale, as well as broadcast on national television and radio stations as local programmes throughout the year.

• Development of skills and content should be implemented through the on-going training for teachers to incorporate peace themes in all their subjects through the use of role-play and other innovative approaches. Training needs to be planned in collaboration with tertiary level institutions, media personnel, artists and peace practitioners to enable all teachers to incorporate peace based themes in their lessons as well as the use of role plays to impart value based knowledge, skills and attitudes to learners to encourage a culture of peace in society. Tertiary
level institutions need to offer joint educational programmes on performing arts and peace related courses for interested persons but with a focus on individuals in the education sector.

- Learning and accountability - the ministry of education in collaboration with other like-minded ministries, higher education institutions and research institutes should build a database on drama and education for peace initiatives for use in decision making by policy makers. They should conduct research and evaluation of existing drama and peace education programmes to facilitate the development of peace programmes suited to the context of Africa, as well as liaise with the media to document other such initiatives that bring to the fore best practices on non formal education, especially drama and other cultural activities that support the realisation of a peace culture in society.

**Conclusion**

The drama festival is a significant contributor to a culture of peace in society due to the transformative learning experiences it provides through educating in an entertaining style. The production, dissemination and utilisation of the drama festival content needs to be guided by lifelong values that enhance a more peaceful society. Practice shows that there is more focus on non-formal initiatives that enhance harmonious coexistence of people, and it is these all-inclusive approaches that should be utilised to promote sustainable peace.
PART FOUR: GENDER AND EMPOWERMENT ISSUE

Brief 11.
Making municipal councils friendly to women councillors in Cameroon
By Ayuk epse Fonjock Justine Etah

Brief 12.
Re-act: Review and Amendment of the Sudan Domestic Servants Act in line with the ILO Domestic Workers Convention, 2011, C189
by Hadelzein M.E.S. Elobeid

Brief 13.
Mass desertion of soldiers from the Zimbabwe national army in post-2000 crisis: a call for amnesty
by Godfrey Maringira
Executive summary
The equal and full participation of women and men in decision-making is vital for the attainment of good governance and sustainable development in Cameroon, as well as other sub-Saharan African countries. In Cameroon, gender sensitive decision-making is particularly important in local governance for a variety of reasons. Over fifty per cent of the total population and close to fifty three per cent of the female population reside in rural areas that are governed by municipal councils. Rural areas are characterised by highly unequal power relations between men and women, which are reinforced by the local relevance of traditional and cultural beliefs, norms and values, that shape women’s roles and position in the Cameroonian society. This briefing draws attention to some salient issues concerning the representation and active participation of women and men in the decision-making processes of municipal councils.

In terms of representation, no council has attained the thirty per cent women representatives necessary to ensure equity in democratic
decision-making and policy formation. For the few women who have been elected into municipal councils, participation in council decisions is highly constrained by factors such as unequal power relations between male and female councillors, patriarchal and traditional stereotypes of women’s leadership roles and the numerical superiority of male over female councillors. This policy brief considers the challenges faced by women councillors in municipal councils and the implications on women’s ability to influence council projects. It further recommends that affirmative action strategies to enhance both the quantity and quality of women’s participation is necessary for a more inclusive, efficient and effective local governance in Cameroon.

**Introduction: why municipal councils should be friendly to women councillors**

Promoting the equal and active participation of men and women in the decision-making processes of municipal councils is important and necessary for various reasons. First, in addition to ratified international and regional declarations on gender equality and women’s empowerment, and their active participation in decision-making and governance, the 1996 constitution of the Cameroon provides for equality of all citizens irrespective of gender, race, class, religion and ethnicity. Second, men and women have different and sometimes conflicting needs and interests, which must be clearly articulated in decision-making.

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90 Some international and regional gender equality instruments ratified by Cameroon include: The Universal Declaration of Human Rights, the Convention on the Elimination of all Forms of Discrimination Against Women at the international level, as well as regional declarations such as the Solemn Declaration on Gender Equality in Africa, etc.
processes and adequately mainstreamed in the development policies, programmes, projects and budgets of municipal councils. Third, municipal councils are better places to address the strategic needs and interests of the different stakeholders of their respective municipalities given that over fifty per cent of people in Cameroon, and close to fifty three per cent of the female population, live in rural areas which are governed by municipal councils. Finally, women councillors just like their male counterparts are expected to represent the diverse interests of their respective constituencies and municipal councils must create an enabling environment to do so for all councillors irrespective of gender. Gender equity and equality in both representation and participation in the decision-making process of municipal councils is therefore important to make councils’ development policies and projects friendly to both male and female councillors, and responsive to the needs of their constituencies.

**Conflict of interest in municipal councils**

Despite the justifications for the equal and active participation of women and men in the decision-making processes of municipal councils, the situation on the ground is contrary to the above expectation. The achievement of a critical mass of thirty per cent women councillors, stipulated by the United Nations as a necessary condition to get women’s issues onto the policy agenda, is yet to be achieved in Cameroon. This has severe implications on the substantive participation of women councillors in the decision-making processes of municipal councils.

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91 ECAM 2010, Population Census
For instance, the councils mostly apply the democratic principle of decision-making by voting (i.e. one councillor, one vote). In a predominantly male dominated council session, as is the case with all municipal councils in Cameroon, the ability for women councillors to influence decision-making is severely constrained. Consequently, council project priorities are most likely to reflect the interests of male councillors with very little input from their female counterparts.

Furthermore, as opposed to enhancing women’s participation, governance at the local level often limits women’s effective participation due to the greater local relevance of tradition, culture, patriarchy and unequal gender power relations between men and women. Empirical evidence from research conducted with women councillors from the English speaking part of Cameroon revealed varied challenges (both institutional and cultural) experienced by women councillors that impede their effective participation in council activities and decision-making processes.

The challenges faced by the women councillors could be summarised in three broad categories:

92 Council sessions are meetings during which municipal councillors discuss the development issues and problems of their constituencies and adopt strategies to address identified issues and problems.

1. The numerical superiority of male councillors makes it difficult for female councillors to adequately influence council project priorities during deliberative discussions. This situation is further compounded by the fact that, traditional stereotypes on a women’s role in the family are very strong in most regions of the Cameroon and often result in women councillors not being perceived as credible leaders in many communities. Consequently, there is a tendency of male councillors to downplay projects proposed by women councillors during council sessions, given their numerical superiority.

2. Blending political activities with domestic responsibilities, in most cases, is cumbersome for many women councillors, especially those from rural areas. This puts women at a disadvantage relative to their male counterparts who, in most cases, have only political and income generating activities to concern them.

3. The above challenges reported by women councillors support the argument, articulated in the discourse on gender and local governance that traditional and patriarchal norms and likewise unequal power relations between men and women seriously affect women’s agency in decision-making and governance at the local level. Consequently, a gender sensitive approach to

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council decision-making is necessary to address the underlying factors that influence the effective participation of women councillors in the activities and decision-making processes of municipal councils. Municipal councils must seek to address the challenges that hinder women councillors from actively engaging in decision-making processes.

**Recommendations for women friendly municipal councils in Cameroon**

Given the challenges faced by women councillors in engaging in deliberative discussions of municipal councils, implementing strategies to enhance the substantive participation of women in the decision-making process is of the utmost importance. In this light, this policy brief proposes the following as possible strategies to promote more gender sensitive and women friendly municipal councils in Cameroon.

- The state should put in place measures that would ensure the correct implementation of the affirmative action necessary to reserve thirty per cent of seats for women in all municipal councils as stipulated in ratified international conventions and declarations.

- In addition to decision-making on the basis of one councillor, one vote, municipal councils should implement strategies in decision-making that would enable council policies and development projects to reflect the inputs of women councillors. This could be achieved by allocating a specific proportion of council budget to address issues and project concerns proposed by women councillors.
Women vying for positions in local government must be adequately empowered to influence council projects to reflect their inputs. The current approach taken in which women are propelled into positions of decision-making, close to election time, reduces the huge benefit that could be derived by a more measured approach.

Municipal councils should network with civil society organisations and non-governmental organisations to engage in sensitisation programmes for both male and female councillors on gender issues, in particular on the importance of leadership roles for women in local government. This would go a long way to reducing the negative stereotypes of women’s leadership roles.

Efforts by councils and non-governmental organisations to increase the quantity and quality of women’s active participation in local government should also implement strategies and measures that will empower women’s voices, capacities, rights and participation in the council processes.
Executive summary
This policy brief proposes a review and amendment of the Sudan Domestic Servants Act (SDSA) 1955 for two main reasons. First, as the SDSA was enacted in 1955, it does not reflect the current reality within Sudanese society in which the marginalisation and neglect of domestic workers continues alongside a complete absence of regulation and standard setting. Second, Sudan needs to ensure its relevant domestic acts (in this case the SDSA) comply with the International Labour Organisation’s (ILO) Domestic Workers Convention, 2011, (C189) to fulfill its ILO membership requirements. When comparing the SDSA with C189, a number of gaps can be identified, including the absence of employee protection in relation to fair employment and decent work conditions, the absence of rights to freedom of association and collective bargaining, and the lack of employment protection for child, live-in and migrant domestic workers. Accordingly, this document proposes ways in which the SDSA can be brought into line with C189. The Delphi Technique is recommended for the processes of review and amendment of the act.
The Sudan Domestic Servants Act and the ILO Domestic Workers Convention, 2011, C189

Sudan has been a member state of the ILO since 1956. It has so far ratified 14 conventions: seven fundamental conventions, two governance/priority conventions and one technical. The SDSA was enacted in 1955; it defines a domestic servant as ‘an employed person – working full or part time – who is responsible for any domestic chores (including cooking, kitchen, washing and bedrooms’ work), butlers, nannies, drivers, and any other similar work’. Domestic servants – Sudanese and migrants – are excluded from other labour acts. Thus, the SDSA is the sole regulation for domestic work in Sudan. By comparison, C189 is a distinct regulative instrument for domestic work adopted by the ILO in 2011, and a binding treaty upon ratification. C189 offers protection for domestic workers and lists basic rights and principles at work. It defines a domestic worker as ‘any person engaged in domestic work within an employment relationship’.

95 For further details refer to the table below.

96 The term domestic servant is a literal translation of the term used in this act in Arabic - in this context it refers to the term domestic worker.


99 ibid. p. 7
Comparing SDSA and C189:
The table below shows how the SDSA compares with the ILO C189 and where the gaps exist:

*Table 1 – Comparison Between ILO Convention 29 and the SDSA*

<table>
<thead>
<tr>
<th>ILO Convention 189 (C189): Decent Work for Domestic Workers</th>
<th>The Sudan Domestic Servants Act (SDSA)</th>
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<tbody>
<tr>
<td><strong>Basic Rights of Domestic Workers</strong></td>
<td></td>
</tr>
<tr>
<td>• Respect and protection of fundamental principles and rights at work; freedom of association and the effective recognition of the right to collective bargaining</td>
<td>Not applicable</td>
</tr>
<tr>
<td>• Effective protection against all forms of abuse, harassment and violence (Article 5)</td>
<td>Not applicable</td>
</tr>
<tr>
<td>• Fair terms of employment and decent living conditions (Article 6)</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

Information on Terms and Conditions of Employment
Domestic workers must be informed of their terms and conditions of employment in an easily understandable manner, preferably through a written contract (Article 7).

<table>
<thead>
<tr>
<th>Hours of Work</th>
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<tbody>
<tr>
<td>- Ensuring equal treatment between domestic workers and workers generally in normal hours of work</td>
</tr>
<tr>
<td>- Overtime compensation</td>
</tr>
<tr>
<td>- Daily and weekly rest period of at least 24 consecutive hours (Article 10)</td>
</tr>
</tbody>
</table>

(3.14) Both implicit and explicit conditions of work must be included in the employment contract. It only specifies wage and termination as work conditions and requires the contract to be either written or oral.
<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual paid leave (Article 10)</td>
<td>After completing two years of consecutive employment, the domestic servant is entitled to a consecutive 15 day leave with pay for each year following these two years.</td>
<td></td>
</tr>
<tr>
<td>Regulation of stand-by hours – periods during which domestic workers are not free to dispose of their time as they please and are required to remain at the disposal of the household in order to respond to possible calls (Article 10)</td>
<td>Not applicable</td>
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<tr>
<td>Remuneration</td>
<td></td>
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</tr>
<tr>
<td>Minimum wage if a minimum wage exists for other workers (Article 11)</td>
<td>Not applicable</td>
<td></td>
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</tbody>
</table>
Payment of wages must be made in cash, directly to the worker, and at regular intervals of no longer than one month. Payment by cheque or bank transfer – when allowed by law or collective agreements, or with worker’s consent (Article 12). *(3.14) (a)* Wages must be paid once at the end of each month *(3.18.1)* The domestic worker must be paid in cash; in-kind payments are not allowed.

### Occupational safety and health

- **Right to safe and healthy working environment (Article 13)**
  - Not applicable

### Social security

- **Social security protection, including maternity benefits (Article 14)**
  - Not applicable

### Standards concerning child domestic workers

- **Requirement to set a minimum age for entry into domestic work (Article 4)**
  - Not applicable
Domestic workers aged 15 years old but less than 18 years old – their work should not deprive them of compulsory education, or interfere with their opportunities for further education or vocational training (Article 4)

There is no clear mention of a minimum age, however the general provisions section- mainly 4 and 6- lists the necessity that a domestic servant possess an ID, and to obtain an ID the domestic servant must be 15 years old and above

<table>
<thead>
<tr>
<th>Standards concerning live-in workers</th>
<th>Not applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Decent living conditions that respect the worker’s privacy (Article 6)</td>
<td></td>
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<tr>
<td>• Freedom to reach agreement with their employers or potential employers on whether or not to reside in the household (Article 9)</td>
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<tr>
<td>• No obligation to remain in the household or with its members during their periods of rest or leave (Article 9)</td>
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</tr>
<tr>
<td>• Right to keep their identity and travel documents in their possession (Article 9)</td>
<td></td>
</tr>
<tr>
<td>• Regulation of stand-by hours (Article 10)</td>
<td></td>
</tr>
<tr>
<td>(2.11) The employer keeps the personal identification document of the domestic worker as long as he/she is employed</td>
<td></td>
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</tbody>
</table>
Standards concerning migrant domestic workers

- A written contract that is enforceable in the country of employment, or a written job offer, prior to traveling to the country of employment (Article 8).

Dispute settlement, complaints, enforcement

- Effective access to the courts, tribunals or other dispute settlement mechanisms, including accessible complaint mechanisms (Article 17).

Revealing the gaps

When comparing SDSA with C189 there are four main gaps which require the SDSA to be reviewed and amended in preparation for compliance with and ratification of the ILO C189. These gaps are: the absence of conditions for fair employment and decent work conditions, including an employment contract, minimum wage, overtime, social security and protection against harassment and violence; a lack of context-sensitive terminology for domestic work; an absence of the rights to freedom of association and collective bargaining; and finally the lack of work standards for child, live-in and migrant domestic workers.

What next? The call for review and amendment

The application of the Delphi Technique is recommended to bring together a panel of domestic work policy makers and constituents to work on the overall review of the SDSA generally, and the possibility
of inclusion of the mentioned gaps, specifically. The panel should also look at the inclusion of rights and conditions, which are not addressed explicitly in C189 such as sick leave, education and training, health insurance, employment termination and end of service benefits. The technique will include relevant stakeholders as panel members, including members of the national assembly (parliament), members from the ministry of labour and human resource, the ILO Sudan programme officer, lawyers, labour rights scholars, civil society and human rights activists.

100 The Delphi Technique is a research method used to address complex problems through a structured communication process. Anonymity and feedback constitute the key elements of the Delphi method. Questions included in a Delphi may be of any kind that involves judgment, including the proper policy to achieve a goal. See the UK’s International Organisation for Educational Opportunities and Cultural Relations, 2012, Delphi Technique and Gordon, T J2009, The Delphi Method. Futures Research Methodology, version 3.0
BRIEF 13
Mass Desertion of Soldiers from the Zimbabwe National Army in Post-2000 Crisis: A call for Amnesty
by Godfrey Maringira

Executive summary
While there has been mass desertion of soldiers from the Zimbabwe national army in the post-2000 crisis, the only response by the army has been to implement punitive measures, including the arrest, court martial, indefinite detention whilst awaiting trial and imprisonment of deserters. Such a response has not been productive but has instead led to deserters seeking refuge in neighbouring countries. Whilst army deserters acknowledge that desertion is a military offence a reconsideration of the plight of these men is important. This is a problem that remains beyond the life span of the Zimbabwe Unity government. One of the ways in which the government of Zimbabwe can effect change, particularly the president of Zimbabwe working with the ministry of defence, is to give these army deserters an amnesty which would allow them to live in Zimbabwe without fear of being arrested by the military police or military intelligence. Many security practitioners have argued that these are trained men who can easily revert back to their violent ways to survive; hence, political attention needs to focus on these men, not in punitive ways but by means of reconciliation through the granting of amnesty.
Introduction
In the post-2000 crisis in Zimbabwe, and particularly following the 2008 elections, political violence encroached upon almost every public institution including the military, which came under constant political surveillance.\textsuperscript{101} From research recently undertaken investigating soldiers who deserted the army, it was revealed that their reasons for leaving were mainly political.\textsuperscript{102} In some situations soldiers attempted to resign but the requests were rejected by their immediate commanders. It was against this background that many of the junior soldiers (those who joined the army in post independence Zimbabwe) also became political targets in the army barracks, labelled as sell-outs and traitors. They were perceived as being sympathetic to the opposition political party, the Movement for Democratic Change (MDC) led by Morgan Tsvangirai. In many cases these labels were just imposed by military intelligence and some war veterans (those who fought in the liberation struggle) who are still serving in the army.\textsuperscript{103}

Once labelled, these soldiers have been punished in a number of ways, most notably through politicised punishment, in which it is alleged the junior soldiers have been punished beyond the prescribed or recognised

\begin{footnotes}

102 PhD research on soldiers living in South Africa, 2009-2013

103 Interviews with army deserters
\end{footnotes}
measures. For example, in one situation a soldier had been found absent from duty and his absence linked to his attendance of MDC rallies. Such allegations have resulted in demotion and long term incarceration in detention barracks without trial.\footnote{Ibid} In cases where soldiers have appeared before a court martial, they have been dismissed from the army with ignominy. Many junior soldiers have not been able to bear the situation any longer. Like many Zimbabweans they have been left with little option other than to desert from the army and leave Zimbabwe to secure a means of livelihood outside the country. Now they are living in exile with limited opportunities and few options for return. Returning home is hindered by fear of arrest due to the on-going hunt for army deserters by the Zimbabwe military police and the Zimbabwe military intelligence. There has been a mass desertion of soldiers; more than a battalion strength (1,200 soldiers) deserting.\footnote{Baldauf, S 2007, Zimbabwe Army's deserters underscore country's troubles. The Christian Science Monitor, April 25, 2007. Available<www.csmonitor.com/2007/0425/p04s01-woaf.html>accessed 26 November 2013} The government of Zimbabwe through the ministry of defence needs to reconsider the plight of these deserters. This would not only help the affected soldiers, but most importantly it would also help to ensure the country’s security.

**Key consideration: current status of the situation**

Currently many of these army deserters are living in exile in South Africa. They have formed a self-initiated association - the Affected Military Men of Zimbabwe Association (AMMOZA) - to lobby

\footnote{104 Ibid}

for amnesty. However, army deserters living in South Africa are in a dilemma. They face social, economic and political problems. The most pressing being that they cannot return because the Zimbabwe military intelligence, in conjunction with the Zimbabwe military police, is involved in a massive manhunt for army deserters in Zimbabwe.\textsuperscript{106} Yet the plight of former Zimbabwean soldiers and their experiences in exile have remained shrouded in secrecy.

The concerns are centred on the fact that these men have been militarily trained to kill, and they have experience of war and killing.\textsuperscript{107} With the ill-defined and ambiguous social positions they now occupy, combined with their continued exile, it is likely that they may be used as mercenaries, especially taking into consideration the political instabilities in Africa today. The situation is exacerbated by the fact that South Africa is an active recruiting ground for mercenaries who have been linked to coups and military activities in several African countries such as Libya, Sierra Leone and Equatorial Guinea, amongst others.\textsuperscript{108} Failure to successfully re-integrate army deserters in Zimbabwe may lead them to fall back on their military expertise, which will serve to destabilise peace in Africa.

\textsuperscript{106} Interviews with army deserters


While some army deserters are trying to settle, others are struggling to rebuild their lives in an often un-welcoming South Africa. It is in the best interests of the government of Zimbabwe through the ministry of defence to recall its former military men, who have deserted the army, to reunite with their country and in particular their communities which will help to prevent future insecurity in the country. It has to be recognised that it will be difficult to hunt and capture all army deserters; an amnesty therefore will help to deal with this issue.

**Recommendations**

The mass desertion of soldiers from the Zimbabwe national army is a problem that needs a reconciliatory response from the government of Zimbabwe through the ministry of defence with the support of the president of Zimbabwe as the commander in chief. It is a security issue not only for Zimbabwe but way beyond its borders.

- This brief therefore calls the government to grant an unconditional amnesty to army deserters. With on-going security concerns throughout Africa today, the issue of Zimbabwean army deserters needs to be reconsidered and action taken by a responsible government. Rather than hunting army deserters, they should instead be allowed to live freely in their respective communities where the government will help ensure a peaceful future.
The ministry of defence working with vocational training centres can help to equip army deserters with occupational skills of their choice. The army can also consider granting them a lump sum of money to compensate for the years they spent in the army as a way of enhancing their social and economic lives within their communities. This would be beneficial in combating potential fall back to violent activities among this group.
The University for Peace (UPEACE) was established in Costa Rica in 1980 as the UN-mandated graduate school of peace and conflict studies. The mission of the University should be seen in the context of the worldwide peace and security objectives of the United Nations.

To ensure academic freedom, the University was established under its own charter approved by the United Nations General Assembly. The Charter calls for UPEACE to ‘contribute to the great universal task of educating for peace by engaging in teaching, research, post-graduate training and dissemination of knowledge fundamental to the full development of the human person and societies through interdisciplinary study of all matters related to peace’.

The Secretary-General of the United Nations, Ban Ki-Moon, is the Honorary President of the University.

The UPEACE Africa Programme was established in 2002 following extensive consultations in the continent. The programme has focused on the need to strengthen African capacities to teach, train and conduct research in areas of peace and conflict studies. To this end the Programme has been working with a number of partner universities and has reached out to a wide range of stakeholders including academics, policy makers and civil society.
This policy monograph on Governance and Security Policy in Africa is an output of the collaboration between UPEACE Africa Programme and the Canadian International Development Research Center (IDRC) to strengthen the research and publication capacity in the areas of governance and security in Sub-Saharan Africa at the doctoral level. Through this project, 30 doctoral students at universities in Sub-Saharan Africa are provided with academic and financial support and trained to transform their doctoral research into journal articles, book chapters, books and policy papers. This monograph contains thirteen policy briefs derived from empirical studies undertaken by the first cohort of the UPEACE/IDRC doctoral awardees and fellows. The briefs address issues of inter-state conflicts, regional, national and subnational governance and security issues as well and gender and empowerment challenges in Africa.