



CONCORDIS PAPERS VI

Promoting Sustainable Peace in Sudan through Post-Conflict Justice and Reconciliation

May 2007

Introduction

Rt Hon Viscount Brentford

Since we started our Sudan peace-building programme in 1999, a host of consultations have been held on a wide range of themes, each with its own unique set of presentations, discussions, conclusions and recommendations. In keeping with Concordis International's overriding objective to build sustainable and just peace in areas suffering from war, these meetings have sought to address the root causes of Sudan's conflicts. They have built upon the peace-building work conducted by Concordis over the past eight years, which has focused on the facilitation of low-profile, inclusive and research-based dialogue in support of formal peace processes.

Participants have attended the consultations in a personal capacity and have included a wide range of key individuals linked with opposition groups and the government, civil society and women's groups, as well as academics and international consultants. The views expressed therefore represent a broad consensus of Sudanese viewpoints and are not necessarily the opinions of Concordis International.

This paper is the sixth in a series which seeks to build on the strengths of the Concordis approach through spreading the benefits of the multilateral consensus we have developed via our consultations. Our aim is both to summarise the presentations made and to draw together participants' discussions and recommendations into a succinct and readable form.

The Concordis Papers are available to be downloaded from our website and will be disseminated to Sudanese and international policy makers, practitioners and centres of learning. I hope you will find them to be a useful resource.



Executive Summary

This Concordis Paper is based on the content of a consultation held in the UK in March 2007, the goal of which was to consider Sudanese approaches to peace-building through post-conflict justice and reconciliation. In other states in Africa - South Africa and Rwanda among others - transitional justice mechanisms have played a central role in post-conflict reconstruction. Participants considered the examples of numerous 'experiments' of this nature to inform their discussion about the Sudanese context. In turn, the lessons learnt from African and international experiences fed into their reflections and conclusions about the most appropriate approaches to the pursuit of justice and reconciliation in Sudan.

Some of the consultation's central conclusions are outlined below:

- Though not all of Sudan is yet 'post-conflict', it is timely to consider ways of dealing with the past in order to respond to the present and prepare for the future.
- Ultimately, national reconciliation can only be achieved when the root causes of Sudan's conflicts are addressed in an holistic and just manner, particularly in terms of addressing inequalities in the distribution of wealth and power.
- Given the complexity of Sudan's conflicts, a package of complementary and co-ordinated transitional justice measures at different levels of society is needed.
- At a national level, processes of justice and reconciliation should be developed through an inclusive national consensus, so that they enjoy ownership and trust across the diverse groups making up Sudanese society.
- Sudan's religious and cultural traditions emphasise forgiveness. Community conflict resolution practices administered by traditional authorities and religious leaders have many strengths and should be encouraged by the government.
- Truth-telling about the past and creating a national record are important to reduce temptations for revenge and promote the rule of law.
- Unconditional amnesty could encourage a culture of impunity and is unlikely to be acceptable under current international human rights conventions.
- Accountability - meaning both retributive, restorative and redistributive justice - is fundamental to the achievement of broad-based reconciliation and peace.
- Transitional justice processes should recognise the disproportionate burden of suffering borne by women in past and current conflicts.

Recommendations

Participants recommended that:

- An inclusive institutional mechanism be established to agree an historical record of all acts of political violence since 1 January 1956. This 'national framework for truth, justice and reconciliation' would give Sudan's many different communities the opportunity to air and manage their grievances, agree a shared history and pave the way for a full process of justice and reconciliation.
- Ongoing rule of law reform (including for example greater emphasis on training and community policing) be part of an inclusive and effective process of transitional justice.
- There should be a mechanism for amnesty for all individuals who have committed crimes in the context of war or with political objectives with the exception of those directly responsible for gross violations of human rights. Amnesty should only be considered once information relating to the crime in question has been fully disclosed.
- The importance of individual compensation and collective reparation be recognised, and reparation be linked to a deliberate attempt on the part of the Sudanese government to address socio-economic exclusion through a fair and equitable distribution of resources and rapid development of neglected areas of the country.
- Reconciliation processes take into account the disproportionate suffering of women and children.
- At local levels, traditional community healing and dispute resolution systems should be recognised and empowered by government to deal effectively and impartially with current inter and intra-group conflicts and disputes across the country.
- The role of women and of religious and traditional leaders in local-level peace-building should also be proactively supported by local, regional and national governments.
- The provisions of Sudan's peace agreements for regional and national processes of reconciliation be honoured, fully supported, and, within regional constraints, implemented as a matter of urgency.

How do different societies deal with a traumatic past and promote national unity and reconciliation?

Remarks by Prof Andrew Rigby (University of Coventry)

Sowing the seeds of future peaceful co-existence necessitates reconciliation with past loss to halt a cycle of revenge and promote co-existence with past - and present - enemies. This can be facilitated by balancing the three key 'ingredients' for post-conflict reconciliation: a) peace and security: an acceptance that violence must remain in the past and has no place in the future; b) truth-telling: an acknowledgement by former enemies of wrongs committed; c) justice: a sense of restitution, that things have been 'made right', involving some degree of punishment for past wrongs and compensation/reparation for victims.

The balance between these themes - for example the tension between forgiveness and retribution - is often worked out in practice according to power relationships, in the context of a particular culture. Historically, there have been three main ways of dealing with the past and avoiding a return to violence: amnesia, truth-telling and prosecutions.

One method of dealing with the legacy of human rights violations is 'public amnesia', i.e. officially forgetting the past by granting total amnesty. After Franco's death in Spain in 1975, for example, a 'pact of oblivion' was made by political elites to ensure political stability. This experiment in collective amnesia subordinated justice and truth to the peaceful transition to democratic rule, and seems to have successfully prevented a coup attempt in Spain.

Truth commissions, first used at a national level in Argentina, often go hand-in-hand with amnesty. Truth-telling focuses on the needs of the victims, through uncovering and formally acknowledging the wrongs done to them, and can be associated with reparation. Like Western approaches to psychological therapy, truth commissions are based on the notion that disclosure enables healing. It should be noted, however, that truth-telling is always partial. Shedding light on one area of the past casts a shadow over others, and truth commissions can therefore obscure as much as they reveal.

The benefits of judicial prosecutions include their symbolising that the rule of law and due process have returned to combat a culture of impunity. On the other hand, this approach could be regarded as a form of victor's justice, as was arguably the case in the Nuremberg trials. Prosecutions are predicated upon the idea that there is a clear division between the guilty and the innocent, although the reality of war suggests that those involved are often neither guilty nor innocent. Should child soldiers, for example, be regarded as perpetrators or victims, or both? One should also not assume that justice can only be expressed in terms of retribution. For local people themselves, justice may be best served through development or reparations.

Discussion

Justice and reconciliation cannot be achieved in the absence of peace and security in Sudan. Transitional justice processes could, however, be implemented concurrently with conflict resolution; indeed, the root causes of conflict should be addressed as peace is being sought. Particularly important in this regard is the enforcement of the rule of law and the retraining of the local judiciary, in order to counter the culture of impunity.

Also important to the establishment of peace is an enabling environment in which perpetrators can be identified. Though TRCs are traditionally a post-conflict activity, a truth commission with a fact-finding mandate could be established immediately to elucidate the scale of the problems and hence determine a suitable mix of peace, justice and truth for reconciliation in Sudan.

Sudan is a forgiving society, particularly at individual and community levels. Forgiveness is rooted in the religious faith of many Sudanese, but this tradition is currently being eroded by the actions of oppressors. In the past, perpetrators of crimes in Sudan have received amnesty - during the 1970s for example - and this approach has helped to create some sense of unity and peace.

Does the forgiving nature of Sudanese society extend to leaders who have perpetrated crimes? In some senses, governments should be held to a higher standard than other armed groups, thus incurring a higher degree of culpability. It was suggested that regardless of whether the ICC is judicially imperialistic, a situation in which the head of state claims that only 9,000 people have died in Darfur demonstrates the obvious need for an outside arbiter to promote truth and justice and to establish responsibility or guilt. There are many grievances in Sudan, and the many human rights violations since independence must be addressed.

Reconciliation to loss necessitates clarification of what is meant by "loss": material loss, political loss, loss of the past and even loss of the future are all possible answers. Different societies within Sudan have all experienced loss in different ways and these must all be addressed appropriately in the process of peace-building. Sudan's rich heritage of traditional conflict-resolution mechanisms should also be built upon; there is no need for state arbitration in tribal conflicts.

Tribal chiefs and religious and community leaders should be allowed to resolve conflicts free from government intervention. This is not to dismiss the responsibility of the state to ensure peace and justice at community levels; its function is, however, to open up a space for these processes. In addition, if grievances are to be contained and addressed then the government must take seriously its responsibility to deliver services, end marginalisation and provide reparations in a transparent and accountable manner.

The role of national truth commissions in addressing the past and promoting reconciliation: the example of the South African TRC

Remarks by Ms Catherine Jenkins (SOAS)

One similarity between the Sudanese context and the South African experience is that in the latter case the liberation movements did not wait until the conflict had ended before discussing new constitutional arrangements and suitable transitional justice mechanisms; indeed, in many ways, it is advantageous to discuss these issues in advance. In the South African case the agreement to offer amnesty to people from all sides of the conflicts of the past was an integral part of the 1993 Interim Constitution (effectively a peace agreement). The Truth and Reconciliation Commission (TRC) was subsequently formed with a wide mandate, including the power to grant amnesty for crimes associated with a political objective. It was hoped that amnesty would play an essential role in encouraging people to come forward and tell the truth, allowing South Africa to move forward peacefully. The granting of amnesty was therefore made subject to a number of conditions, including the requirement that applicants for amnesty make full disclosure of their crimes. The South African TRC was unique among truth commissions in having this power to grant conditional amnesty. It is often said that South Africa attempted a 'third way' between amnesia between retributive justice: providing amnesty without promoting impunity.

It is perfectly possible to hold a truth and reconciliation commission without allowing for amnesty. In Sierra Leone, for example, the TRC has run concurrently with a Special Court, financed by the international community, which has prosecuted those most responsible for serious crimes. If a truth commission is to enjoy credibility and legitimacy, the process of choosing commissioners to serve on it should ideally be transparent and should involve popular participation, as in South Africa. Commissioners should be impartial and independent of government.

In designing institutions with the remit of facilitating reconciliation it is important to have both a clear vision and visionary leaders to achieve these goals. The objective of the South African TRC was to promote national unity and reconciliation in a spirit of understanding. It sought to effect this by establishing as complete a picture as possible of the gross human rights violations committed between 1960 and 1993 and determining the fate and whereabouts of the victims. Accordingly, a number of victims (or victims' relatives) were allowed to recount their experiences of gross human rights violations publicly as an integral part of the process. The commission also made recommendations about suitable reparations for victims and their families. Gross human rights violations were defined as 'killing, abduction, torture, or severe ill-treatment of any person'.

How effective was the TRC in South Africa? The TRC certainly raised high expectations among victims - some 22,000 people made statements on gross violations of human rights, of whom 2,000 spoke before the Commission. Their

motives included a desire to find out what had happened to their families and a belief that they would receive compensation. By contrast, only 7,000 people came forward asking for amnesty; of these only 293 were members of the security services and just 2 were members of the former cabinet. The vast majority of amnesty applicants were members of the liberation forces, and the lack of overlap between the statements of the victims and amnesty applicants meant that the TRC's ability to satisfy the needs of victims for detailed information was limited. The TRC hearings may also have caused victims great pain as they listened to amnesty applicants recounting their stories, and their treatment during the process was at times questionable, suggesting more attention ought to be focused on this area in any future commissions.

The South African TRC did, however, encourage debate about responsibility for the crimes committed, change the political landscape and provoke public shock by clearly showing, for example, that the police had routinely tortured and had engaged in targeted assassinations of political opponents of the apartheid regime. No TRC will ever be perfect or uncover the whole truth or satisfy completely the victims' need for information, but TRCs can serve important symbolic functions. In South Africa the TRC certainly helped to provide some level of accountability for crimes which might otherwise have been ignored, and while there was certainly disappointment among anti-apartheid campaigners that the TRC did not provide the level of accountability for which they had fought, it is important to recognise that the TRC did provide a forum where issues of accountability, reconciliation and redress could be addressed. It also provided a forum in which anger could be expressed without fear or threat of violence. For these reasons it did make an important contribution to the transition to democracy in South Africa.

Discussion

Perhaps the most distinguishing feature of the Sudanese conflict is its layered nature. There are three basic levels of conflict: regional (the relationships between Sudan and its neighbours); national (the government versus the armed movements); and local (inter-tribal and resource-based). In some senses, these contrast with the nature of South Africa's conflict, which could be seen as primarily national and racial. On the other hand, the South African conflict could be understood as more complex and layered than is commonly perceived, having, for example, strong regional and local elements. It could also be argued that the conflict in Sudan has had a racial aspect, though not between whites and blacks.

In Sudan there are many questions over who is a perpetrator and who is a victim, and this would be an important issue for any TRC to address; but this was also difficult for the TRC in South Africa. In common with South Africa and other truth commissions, work on justice and reconciliation in Sudan must be associated with political change, and underpinned by democracy. A Sudanese TRC could be based on the characteristically Sudanese culture of forgiveness.

Although the Government of Sudan might not be sufficiently inclusive to carry out the work of reconciliation, its commitment to peace-building was mandated by the Comprehensive Peace Agreement (CPA). The lack of detail on the issue of justice in the CPA was considered to be a failing since peace must be based on justice, backed up by the threat of ICC intervention if this is not carried out. Others considered the ICC to be a possible stumbling block in terms of conflict resolution and proposed a solution based on national and inclusive Sudanese courts with international monitors.

Positive consequences of a TRC include its efforts at reconciliation and the opening up of people's hearts, but this could also lead to a re-traumatisation of victims. However, admitting pain may be good in the longer term and experiencing the pain of others may be an important corrective measure to prevent the country from repeating the mistakes of the past.

Sudan should also learn from the weaknesses of the South African TRC, namely its lack of capacity to hear more than a small number of testimonies and the failure of the South African government to implement fully its recommendations, such as on reparations and prosecutions for those who did not apply for, or were refused, amnesty.

It should also be remembered that a TRC cannot be implemented in all post-conflict contexts. For example, the TRC in the DRC has been a largely irrelevant attempt to impose a national TRC on a mostly local and regional conflict situation. However, lessons can still be drawn from TRCs. In Sudan, where the state is accused of committing crimes against its own people, a TRC would have to have a national element, in order to contribute to democratic transformation in the country.

International ‘versus’ local approaches to transitional justice: reflections from Rwanda and Uganda

Remarks by Dr Phil Clark (University of Ulster)

Examining potential complementarities between international and local approaches to transitional justice may be helpful when considering the case of Sudan. In post-1994 Rwanda, for example, the government faced the challenge of dealing with over 120,000 suspects in prison for crimes related to the genocide. In response, it codified the *gacaca* courts, a traditional system of local conflict resolution. *Gacaca* is designed to achieve reconciliation in two ways: a) through the process of justice - courts can give prison sentences of up to 30 years and the emphasis is on popular participation, which can help mend broken relationships; and b) through the outcomes of justice - the plea-bargaining system allows sentences to be decreased in return for truth-telling and to be enacted through community service. In many places, the *gacaca* system has been effective and a genuine sense of dialogue has been created, allowing Tutsis to have effective dialogue with their Hutu neighbours. In other places, *gacaca* courts have been very divisive, and the highly-charged emotional atmosphere has led to further tensions and disputes.

In eastern DRC the *barza* (‘meeting place’), a gathering of clan elders, has traditionally been used to mediate low-level disputes between ethnic groups. In recent years, a version of this institution in North Kivu, known as the *Barza Inter-Communautaire*, has been used to gather leaders from different ethnic groups to resolve conflicts in the community. In the 1990s, the *Barza* effectively resolved land disputes but it is currently not functioning because of disputes between its leaders, illustrating the importance of effective leadership in dispute resolution.

In Northern Uganda, local dispute resolution mechanisms include *mato oput*, which incorporates a cleansing aspect, such as the ceremony of drinking of a bitter herb to symbolise the fracture between the parties which enables returnees to integrate into their societies. While there is not universal recognition of this local process, such ceremonies are regarded as potentially effective in facilitating dispute resolution and providing compensation for victims. In contrast, the ICC has arguably not played an effective role in resolving the conflict in Northern Uganda. It has failed to facilitate justice, has had a destabilising influence on the peace talks, and has only been focused on the crimes of the LRA and not the Ugandan army.

In conclusion, there are ways of bringing together international, national and local approaches to transitional justice but efficient co-ordination is crucial. Local dispute mechanisms could be effective for addressing local crimes, but not for crimes committed by the state, or for mass violations of human rights, for which national and perhaps international judicial systems are needed. In terms of the ICC, there are currently huge questions unanswered concerning the implications of its requests for arrest warrants, its relationship to national and local judicial systems, and its commitment to building local judicial competencies.

Discussion

Sudan's native administration was formalised by the British, although it existed before the colonial period. In the past, native administration resolved serious conflicts in Sudan, but today such institutions of governance and conflict resolution have been eroded, and a means of accommodating victims must be found by reviving Sudan's traditional justice mechanisms. While the government recognises traditional systems of dispute resolution, in Darfur for example, these have been undermined as traditional leaders have been replaced with leaders loyal to the ruling regime.

Historically, the system of *judiyya* was facilitated by wise elders who listened to the opposing parties caught up in a conflict, allowing them to air their grievances. Points of view were then brought together and a compromise reached. Reparations were paid through blood money and the final agreement was respected by the government. Similar mechanisms exist throughout the country, but in order for them to be effective, local chiefs must be elected by the people rather than appointed by the government.

Nonetheless, traditional systems are not suitable for dealing with all local crimes. For example, there are huge problems implicit in requiring women to talk about the intimate details of sexual violence in an open public forum. In Rwanda, such crimes now have to be dealt with in the national courts or at war crimes tribunals. Generally speaking, it is important to ensure that the role of women is not sidelined in the process of justice and reconciliation.

There are many different conflicts in Sudan in various locations, caused by issues such as land use and the marginalisation of small-scale producers and nomads. Not too much should be expected of the native administration system or native courts, which are based on customary law, because the government's involvement in the conflict in Darfur requires national-level conflict resolution. It is clear that one model of transitional justice alone will not suffice and that there is therefore a need for a multi-level approach.

It was argued that what cannot be dealt with by the national government should be carried out at an international level, but there is no international – let alone national – consensus on the ICC, and it is unlikely to succeed if those it wishes to prosecute will not give up power. In any event, it was suggested that no Sudanese would give up a fellow Sudanese to an international court, irrespective of political orientation. In such cases surely a national solution would be more effective. The seriousness of these issues was underlined by the opinion that a security collapse in Sudan would plunge the entire region into chaos as the borders are highly porous.

'Public amnesia' as a path to peace and stability: can anything be learnt from the examples of Mozambique and Angola?

Remarks by Guus Meijer

While Angola and Mozambique are geographically distant from Sudan, useful comparisons can be made and interesting lessons learned, particularly in terms of the peace process itself and the way in which the conflict was ended. Angola and Mozambique are relatively stable at present, but all is not necessarily healthy in these countries. As always, the nature of the peace relates to the nature of the conflict. However, the extreme violence of the wars in Mozambique and Angola makes it surprising that in neither case was an attempt made to promote transitional justice through international tribunals, national courts or truth commissions. Rather, a blanket amnesty was granted for and by the belligerents, amounting to a declaration of amnesia in both cases. Consequently, there has been no justice or accounting for the extremely violent crimes committed.

In Angola the war officially ended in 2002 with the defeat of UNITA by government forces. Since then, the Angolan parliament has passed several amnesty laws, and amnesty was explicitly mentioned in the 2002 Luena Memorandum. While this memorandum stipulated that only crimes directly linked to the war could receive amnesty, in practice amnesty was granted for the vast majority of crimes committed during that period. The UN refused to endorse the memorandum's amnesty clauses, stating that it could never accept a blanket amnesty for war crimes and crimes against humanity.

Mozambique has been relatively stable since the end of the civil war in 1992. Both sides opted for amnesty as opposed to prosecutions and key negotiators pushed for a blanket amnesty. While general amnesty was only implicit in the 1992 General Peace Agreement, it had already been raised as a premise of peace negotiations as early as 1988. Accordingly, the Frelimo government - backed by the General Assembly - offered amnesty for all acts of political violence.

Why was amnesty such a popular option? Ultimately, it was clear that there were so many political and military elites with blood on their hands that leaders on all sides in both Angola and Mozambique wanted to avoid being implicated, and both wars involved such high levels of violence that negotiating elites believed that only amnesty could fulfil the purpose of ending the war.

It is important to note, however, that amnesty does not necessarily imply the promotion of amnesia. In both cases, there were other more informal, local and traditional ways of dealing with the past - including burying and cleansing rituals, storytelling, use of the media, oral and written literature, and so on. Neither do the blanket amnesties in Mozambique and Angola mean that there are no other ways of actively resolving conflicts; traditional forms of conflict resolution have been practised in both countries. In Mozambique, the Council of Churches has played a

prominent role in facilitating reconciliation, notably through its ‘transforming arms into ploughshares’ programme, which seeks to turn weapons of war into works of art. In Angola, traditional methods of dispute resolution by community elders - such as *onjango* - have been revived in recent years. All such local initiatives serve to counter the official stance of public amnesia.

Blanket amnesty as an approach to transitional justice is very problematic from a human rights perspective and also in terms of its failure to provide a deterrent for future crimes. At the same time, prosecutions can also be dangerous if they prove to be very selective and politicised. A more effective route might be to link truth-telling and amnesty, in order to promote some sort of a sense of justice and stave off further conflict. For long-lasting peace, there is also the need for a legitimate political system, the rule of law and socio-economic justice - particularly improving local livelihoods and promoting equitable resource distribution.

Discussion

The situations in Angola and Mozambique apply closely to the Sudanese context, although the regional and international dynamics are rather different. In all cases, security must be the priority, for even an imperfect peace is preferable to war. There is then a need for transitional justice which utilises a combination of approaches. In the Sudanese case, pursuing purely punitive justice will not be helpful. Because human rights violations are committed by all sides in war, it is more appropriate to talk about forgiveness in terms of ‘mutual amnesty’. Mutual amnesty can only exist in the framework of a fully consensual peace agreement, which can in turn only be achieved if the various parties give up their entrenched positions. The state must be the prime facilitator of such an agreement.

Consideration should also be given to the impact, on the victims and survivors of the conflict, of choosing to pursue amnesty. International reaction to amnesty is unknown; the ICC does not have an official policy on conditional amnesty, though it may welcome an alternative to an approach which only involves judicial prosecutions.

Discussion of amnesty must also be linked to the subject of socio-economic transformation in Sudan. Inclusiveness and addressing issues of democratisation, institutional reform and the rule of law are all critical in a transitional period. In Sudan, an inclusive approach to transitional justice would involve both a multi-lingual approach and a substantial effort to ensure the inclusion of women, who are currently culturally and socially alienated. Sexual crimes in particular need to be effectively prosecuted. Reparations must be made in terms of social improvements and more sustainable livelihoods. In summary, a framework needs to be developed upon which to base a model for transitional justice in Sudan. Any solution must be legally, structurally and politically practical, and carried out at local, national and international levels.

Plenary discussion: International justice, ‘public amnesia’ and local justice/reconciliation mechanisms in the Sudanese context

If a concerted effort is not made to deal with the past, the gradual emerging of truth can be destabilising for a country. The prevailing view in the peace community is to focus on cementing peace in the future and avoid prosecutions. However, there is a danger that discussing amnesty in a situation where human rights violations are ongoing will encourage impunity because people know they will be absolved in the future. A blanket amnesty may not be acceptable to the international community. Conditional amnesty, based on disclosure, accountability and public embarrassment, is therefore a possible approach.

What should be the objectives of a transitional justice process? It must be legitimate and accountable, and should focus on Sudan’s underlying problems rather than merely academic models. Justice should be thought of in terms of its retributive, social, redistributive and ethical facets. For example, as regards redistributive justice, both the CPA and DPA specify formulae for dividing up resources. This is vital in order to deal with marginalisation but must be implemented more effectively than has been the case to date. Amnesty can be considered, but in the context of political and social change. Truth-telling could be used to facilitate reconciliation, but the type of amnesty to be given may need to be established first. Public amnesia is attractive in the short-term, but it was also argued that a process of truth-telling is a vital first step.

It was suggested that the ICC may have an important role to play, as those who have organised mass killings must be brought to justice and the current climate of impunity should not be perpetuated. Those responsible for gross human rights violations ought to be held accountable, if only to serve as a deterrent. It was argued that a blanket amnesty would be inappropriate, as glossing over the past would be an insult to the memory of Sudanese victims.

Confession and forgiveness facilitate reconciliation, and the religions of Sudan need to be taken into account in this respect. Sudan’s problems should be tackled at different levels to reflect the diversity of the nation and the different levels of the conflict. At local levels in the South, conflicts could be addressed via traditional mechanisms of dispute resolution practised by clan elders. Other issues need to be tackled at national and international levels.

Conflicts must be considered individually, within their own geographical boundaries. The problems of marginalisation and deprivation stem from the colonial era, when the British established a top-down power structure. This should be reformed, and effective federalism should empower local authorities, not agents of the government. After establishing peace and security, institutions can then be created, and existing ones reorganised, in order to provide justice. The key objective should be a united, democratic, just and free Sudan. The disintegration of Sudan into different states would be deeply unfortunate.

Reflections on the Sudanese context part one: challenges and opportunities for reconciliation in Southern Sudan

Remarks by Bishop Micah Laila (Assistant Bishop of Juba)

The CPA is a landmark document in the history of Sudan that has paved the way for peace and equality. The CPA consists of six protocols, all of which are important and must be attended to in order to avoid the collapse of the entire agreement. Unfortunately, implementation of the protocols is occurring very slowly and some have been neglected altogether. For example, the work of the Abyei Borders Commission (ABC) is ongoing and the North-South Border Commission has yet to resolve the border dispute (influenced by the presence of oil reserves in the area).

The Government of Southern Sudan currently has no way of ensuring that it is receiving the agreed share (50%) of the profits from oil reserves in the region. Crucially, implementation of the security arrangements has been very slow, resulting in considerable insecurity in Southern Sudan, as well as in the West and even Khartoum itself. Armed groups such as the Lord's Resistance Army (LRA) of Northern Uganda (responsible for attacks on travellers on roads surrounding Juba), the Ambororo (backed by the government in Khartoum) and the Sudanese Armed Forces are a threat in many areas of Southern Sudan. Ethnic and tribal conflicts are also ongoing in the South, particularly between herders and pastoralists.

It is in this atmosphere that the Commission for Justice, Peace and Reconciliation, appointed by the Episcopal Church of Sudan (ECS), has conducted awareness workshops and civic education programmes throughout Sudan. Aided by charitable organisations and other church groups, it actively promotes South-South dialogue, for example through facilitating reconciliation between Dinka herders and Western Equatorian pastoralists. There is a need for more widespread awareness of the CPA, particularly through the translation of its provisions into local languages.

The Government of Southern Sudan is new and still immature and inexperienced, so we should not expect too much too soon, for anything that is good comes slowly. Currently though, there is no cooperation, even publicly, between the government in the South and the government in Khartoum. The international community needs to consider how to assist the fledgling Government of Southern Sudan, especially in playing a more proactive role in providing incentives for disarmament and in addressing the ongoing insecurity fuelled by armed groups. Moreover, the Sudanese government should be playing a more firm role in the goal of promoting peace and reconciliation across the country.

Discussion

The mediating role of the Southern Sudanese church is to bring warring parties together, facilitate discussion and encourage compromise. Its place is to act as a guide and it is fulfilling this responsibility by proactively facilitating reconciliation. What role will Islamic leaders play? Muslim and Christian leaders must engage in dialogue with each other. They both have a crucial role in the process of reconciliation and conflict resolution.

The Sudanese people are willing to forgive but they do not yet know whom to forgive and as such they need the guidance of their religious leaders. While the Government of Southern Sudan has so far not discussed amnesty, people in Juba see that the time has come to forgive one another in the name of peace. This does not minimise the importance of accountability, which the CPA has so far ignored. By keeping quiet about human rights violations the CPA has in effect promoted a blanket amnesty. Such silence must come to an end.

Religious leaders must also help us to tell the truth. The issue of establishing a truth and reconciliation commission has been evaded to date; indeed, the Government of Southern Sudan has not created a single credible governing institution in the last two years. However, there are signs of increasing commitment to truth-telling, both in Sudan and internationally.

Reflections on the Sudanese context part two: rebuilding social relations at grassroots levels in Darfur

Remarks by Prof Adam Azzain (University of Khartoum)

The conflict in Darfur is very complex and involves several different layers: a) neglect of the regions by the central government; b) power struggle among regional elites; and c) tribal conflicts over dwindling natural resources and leadership structures.

The Naivasha protocols and provisions of the Darfur Peace Accord (DPA) document power- and wealth-sharing on paper, but the inherent problem lies with implementation. Local and tribal conflicts have been simmering since the colonial period; indeed, the pre-colonial history of Darfur indicates they have been the rule rather than the exception. Post-colonial national governments have had the disadvantages of not easily objectifying themselves, being overly concerned with building support and lacking moral commitment to their responsibility to protect life and property. However, government responsibility is not the only factor behind inter-group conflicts. Other important factors include the African-Sahelian drought of the 1970s and 1980s, the ease with which modern firearms can be acquired and the emergence of armed tribal militias.

Damage and loss of life have spiralled out of proportion, owing to the proliferation of arms. Perpetrators are now often unknown to the victims. Traditional methods of conflict management and resolution have therefore become largely irrelevant. The multiplicity of actors in the Darfur crisis has only complicated the problem. How then can an atmosphere of reconciliation be created? Victims must be compensated, the displaced helped to return home and assured of protection, impunity countered and perpetrators brought to justice. A caretaker government of politically neutral technocrats could be established to carry out these measures, with the emphasis on restoring law and order both within and between identity groups. This government could also organise and guide a successful Darfur-Darfur dialogue. In addition, the native administration must be reformed so that the administrators are chosen by their followers rather than the government.

Effective peace-building can only take place in a post-conflict context. Historically, a number of grassroots institutions have facilitated conflict resolution: a) the native administration, responsible for maintaining law and order and settling disputes; b) the *judiyya*, a mediation institution composed of wise elders with moral authority; c) the Sufi religious schools, which bring together followers of diverse ethnicities; d) the Qur'anic schools which attract male and female students from various backgrounds; and e) the political parties, which have a variety of followers but have in fact weakened tribal and community allegiances. Several practices have also developed over Sudan's history to promote peace and mitigate against conflicts, such as intermarriage and friendship between ethnic groups, exchange of valuable gifts and the naming of children after friends from different identity groups.

Discussion

The situation in Darfur has become sub-regional in scope but at its heart it is a political conflict with tribal and inter-group dynamics. The negotiators at Abuja were not prepared to discuss the inter-group conflicts, but it is vital to address these aspects simultaneously with the political conflicts. People are dying because of competition over land. The goal of the Darfur-Darfur Dialogue and Consultation (DDDC) process is to grapple with these inter-group conflicts, and to do so it must be transparent, inclusive and free from government intervention to achieve success. Human rights violations must be addressed to prevent their recurrence. Perpetrators must be punished and victims should receive reparations.

Considering the mechanisms for transitional justice, we cannot expect too much from the native administration since the administrators are often less educated than their subjects! In addition, there are now too many institutions in each locality for the native administration to be effective – much has changed in Sudan since the colonial era when native administration could govern in a centralised manner. The need for regional reconciliation is intrinsically connected to a need for reconciliation at a national level as well. At present, political parties are not playing their proper role of solving problems in this forum. Finally, since the spotlight of international attention is now firmly fixed on Darfur it is reasonable to expect an international element in any future transitional justice processes in that region.

Forgiveness and reconciliation according to Islam and Christianity

Remarks by Dr Sigvard von Sicard (University of Birmingham)

Muslims and Christians have much in common, particularly when they begin to study each other's Scriptures, both of which arose in a Semitic context. In spite of this, our assumptions - not only about one another's religious identity but particularly in terms of interpretation of our respective Scriptures - are often highly coloured. What we have in common has become distorted by differently perceived theological, intellectual and sociological concepts. It has also been affected by over 1,400 years of shared history which at times has been painful and at others has been very fruitful.

The Qur'an envisages, or at least calls for, cooperation between like-minded communities. It stipulates that Muslims should be witnesses to Allah and not be swayed by worldly interests, thus emphasising the duty to act justly. In Christianity, the call to forgiveness challenges human beings to follow God's example, as pointed out by Jesus. Indeed, both Christianity and Islam share a common concept of the weakness of man.

Hermeneutical study of Islamic and Christian texts elucidates the concepts of limitless forgiveness and reconciliation as central to both religions. Both traditions attest that forgiveness towards one's enemies should know no bounds because God's forgiveness is also boundless. The concept of forgiveness thus has its roots in the very being of God and followers of both Christianity and Islam are encouraged to promote this virtue.

It is enlightening to consider that the etymology of the word 'reconciliation' – from *re-*, 'again' – and *conciliatio*, indicating a renewal of conciliating measures and related to *conciliae*, religious councils. Reconciliation involves a restoration to favour, making friends with those who were previously at variance. This applies as much to the relationship between God and human beings as it does between human beings themselves. Reconciliation involves, calls for and requires reciprocity.

Discussion

If the Qur'anic principles of forgiveness and reconciliation had been enacted during Sudan's history there would have been much less bloodshed. However, people are imperfect and so they often fail to live up to their own ideals. The CPA's suggestion of a separation of state and religion could therefore be enhanced to promote further stability by avoiding the deep social problems which arise when extremist religious sentiment is expressed politically.

In Sudan, Islam has been exploited for political gain to silence and eliminate those with opposing views, and some of what is practised in the name of political Islam is not consistent with the Islamic creed. Even after the CPA, issues of *shari'a* law and Christian-Muslim relations in both North and South still need to be addressed.

Islam and Christianity both have a clear sense of the importance of justice in society. Sudanese religious leaders should take a more proactive role in local dispute resolution. Religious leaders should play the role of watchdogs, guiding and advising on the path taken by the government. Where religion is being exploited for political goals, returning to the texts provides a corrective mechanism.

In Islam, reconciliation and forgiveness cannot be separated from justice - rather, an holistic approach is prescribed. Insufficient awareness of Islam and Christianity is particularly important, and much more must be done to promote understanding between the two faiths. This would deepen individuals' understanding of their own faiths, helping them to live consistently with their religion and improving social cohesion.

The commitment of Sudanese peace processes to justice and reconciliation

Remarks by Mark Simmons (Concordis International)

What do the various Sudanese peace agreements have to say on the subjects of justice and reconciliation? While the CPA acknowledges the importance of the process of reconciliation, this task has been deferred to the Sudanese Government, which has as yet done very little to implement its commitment.

The Darfur Peace Accord (DPA) agreed on the provision of the Transitional Authority for Darfur as a symbol of reconciliation and unity, though this has proved to be more divisive than inclusive. It also specifically mentions the importance of local transitional justice mechanisms to build peace and promote reconciliation. The details of these mechanisms are not mentioned, however, and the ongoing nature of the conflict has largely undermined any possibilities of furthering justice and reconciliation. These goals are shared by the Darfur-Darfur Dialogue and Consultation process, which was in part set up to promote an understanding of the DPA.

The Eastern Sudan Peace Agreement (ESPA), on the other hand, does not mention reconciliation and only refers to social justice, rather than punitive measures, recognising the importance of an holistic approach to solving the conflict which includes distributive justice.

Discussion

The peace accords must be seen as the start of a peace process, not the end. While they contain many positive statements, their implementation has not been forthcoming. Injustices carried out by the government continue as opposition parties are undermined. Reconciliation as prescribed in the peace agreements must be taken seriously, but there is a need for peace and security first. It was suggested that the government would not give up power immediately and so a political struggle is necessary to open up the system. Many key political parties are currently excluded from the Government of National Unity, which further undermines the effective implementation of the peace agreements.

The conflicts are not just inter-communal and inter-tribal, but also *intra*-communal and *intra*-tribal. As far as specific peace agreements are concerned, the ESPA is very different from the CPA and DPA because the conflict in the East is not tribal by nature. The conflict was at a relatively low level when the agreement was signed and the negotiations were carried out in haste, its sustainability is therefore highly questionable. The CPA provided more scope for regional government in the South, but this has barely been realised, given *inter alia* enormous capacity problems. A key issue for Sudan to resolve is the Abyei question; the border commission on this subject is currently a time bomb waiting to explode.

Plenary discussion of Sudanese solutions to post-conflict justice and reconciliation

While amnesty has not been provided for in the CPA, it has been carried out in practice and some participants reasoned that it is important for as many Sudanese as possible to enjoy the dividends - and cement the foundations - of peace. However, others stressed that accountability is essential and must be comprehensive. In Darfur, all the groups involved in the conflict must come together and be willing to compromise. Ownership of the processes outlined in the agreements should be by all Sudanese, not just select groups. Transitional justice must address human rights violations, facilitate reconciliation, reform the government, and ensure that women have an uninhibited role in Sudanese social and political life. As a framework for peace, a number of participants suggested that the CPA is not comprehensive or inclusive enough to be effective.

The priority is an end to violence, specifically in Darfur, before reconciliation can be achieved. Political will on all sides is crucial to ensure genuine commitment to peace. Truth-telling will be essential in order to ensure that remorse is expressed by perpetrators. A multi-level TRC with a regional sub-structure, underpinned by local mechanisms of transitional justice, was proposed, based on the notion that the multi-dimensional nature of conflicts in Sudan must be dealt with at appropriate levels. Sudan has to be able to convince the international community that it has sufficient governance structures to deal with its problems.

As far as Darfur is concerned, the rights of local people need to be restored and compensation for victims provided. The DDDC must be owned by Darfurians, not by the government. The original goals of the DDDC were to promote the DPA among the people of Darfur and facilitate reconciliation between the various groups. The emphasis should be on the latter, and the process must be built on justice and accountability.

ABOUT CONCORDIS INTERNATIONAL

Concordis International is a British non-profit organisation that seeks to achieve long-term transformation of relationships across conflict boundaries, by engaging all constituencies of a country or region in sustained examination of issues of common interest. These systematic and well-researched discussions move beyond the lines of confrontation to build on shared purpose and explore new possibilities for peace. Rather than becoming involved in official peace negotiations, we aim to build relationships of trust that pave the way for peace or contribute to post-conflict nation-building. The work is underpinned by values – such as justice and equity – that are shared by those of many faiths and traditions.

Concordis International's primary methodology involves a series of informal, low-profile consultations, held in a neutral venue and attended by key individuals linked to their respective leaders and constituencies. As they attend the consultations in a personal capacity, participants are not under pressure to maintain a particular party line. The consultations take place away from the public and media eye, and are carefully constructed on a solid foundation of in-depth research into the structural causes of conflict and consideration of the economic and social factors necessary to sustainable peace. Our wide network of academic contacts ensures that the preparatory research is of high quality.

Under the name Newick Park Initiative (NPI), the Concordis International team was instrumental in South Africa in establishing confidential dialogue between leading members of the ANC and the white establishment, contributing to the peaceful ending of apartheid. In the aftermath of Rwanda's 1994 genocide, NPI played a critical role in resolving issues of agriculture and justice, successfully bringing together senior Tutsis and Hutus to consider Truth and Reconciliation Commissions and traditional *gacaca* courts. In 1999, at the invitation of senior Sudanese, the Concordis team and the African Renaissance Institute launched the Sudan Peace-Building Programme and together ran six consultations. Subsequently, Concordis International has responded to requests from senior Sudanese to remain engaged, through facilitating informal dialogue aimed at developing consensus on post-conflict priorities for Sudan and contributing to the resolution of regional issues like Darfur and Eastern Sudan.

In addition to informal consultations, Concordis adopts other means of furthering peace processes – such as publications and capacity-building workshops – though always adopting a non-partisan approach. Peace-building work in countries other than Sudan – including the Democratic Republic of the Congo, Israel/Palestine and Afghanistan – is currently in a development stage. The work of Concordis International is funded through contributions from private individuals, community groups, NGOs, grant-giving trusts and foundations, and government agencies.

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