Contributions to Panel Debate

» Mediation, Conflict Prevention, Resolution and Post-conflict Reconstruction

Carlos Lopes

The challenges faced by the UN continue unabated. What few people recognise is that the organisation's means keep decreasing rather than increasing, as a result of so many new complexities and mandates. For instance, the so-called zero growth of the UN's regular budgets over the last decade (excluding peacekeeping operations) is in fact a significant decrease, if inflation and US dollar depreciation are taken into account. A quick comparison with the European Commission's size and budget trends over the same period is revealing. Even the exponential growth of peacekeeping, from about 10,000 peacekeepers a decade ago, to more than 120,000 today, is misleading. Most of the growth occurred because of the use of the UN for non-priority peace efforts. For a number of donor countries it is convenient that less strategic or key conflicts are handled on the cheap by the UN traditional troop-contributing countries, which are normally from the South.

There is growing international polarisation, substantiated by a higher level of uneasiness with concepts and methodologies used in multi-lateralism; as well as power shifts that have undermined the traditional predictability of decision-making in organs such as the UN Security Council. The concept of sovereignty, for instance, is being eroded on the one hand, and is hostage to defensive positions on the other. Sovereignty is being questioned by international humanitarian law, Responsibility to Protect, international criminal justice or even in the areas of health and the environment, to name a few. Yet it is sovereignty that is invoked to stop most of the far-reaching intergovernmental processes – such as those relating to trade, environment, disarmament and nuclear proliferation – from moving forward.

Such levels of complexity strongly influence the perceptions we have of peace and security as well as the role the UN should play in them. The way we define conflicts is a good illustration of this truth.

Research conducted at Uppsala University[1] found that between the 1960s and 1991, there was a constant rise in the number of wars and armed violence, which was followed by a peak in 1992 with over 50 ongoing armed conflicts. Thereafter the trend has reversed, and in 2009 only 36 active armed conflicts were recorded by the same study (including the conflicts in Afghanistan, Iraq, Pakistan, Rwanda, Sri Lanka and Somalia). Over the last few years, the number of recorded conflicts has hovered around 30.

In order to understand the rationale behind the reduction in the number of armed conflicts, it is important to recognise that many factors play a role and, often, the positive impact that economic growth and democratisation can have is overlooked. Mediation efforts are also fundamental to reducing the number of possible conflicts, but mediation is being made difficult by new challenges in relation to concepts, theory and practice.

The majority of current conflicts are internal and eminently political. About 70 per cent of these are taking place in Africa (including Sudan, Ethiopia, Somalia and the Democratic Republic of the Congo). The overall reduction in the number of violent conflicts can, in part, be attributed to the collective efforts of the United Nations, other international actors and regional organisations. We have seen African states taking increased responsibility through their sub-regional formations, while at the same time recognising that the peaceful resolution of disputes remains a sovereign duty.

The above raises a number of questions, such as: why has a 'plateau' been reached in the trend of a diminishing number of ongoing conflicts? What

The overall reduction in the number of violent conflicts can, in part, be attributed to the collective efforts of the United Nations, other international actors and regional organisations.
Photo: UN Photo/Eric Kanalstein

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1   Uppsala Conflict Data Program (www.ucdp.uu.se)

needs to improve with regard to conflict prevention and mediation efforts in order to 'jump start' the downward trend again? Can the downward trend alone be attributed to the increased mediation efforts and a sustained preventive effort aimed at fostering economic growth and democratisation? Are our peacemaking initiatives bearing fruit? If this is the case, what might be some of the reasons for the positive trend not continuing?

It is difficult to find a consensus in response to these questions. It is possible to accept, nevertheless, that the nature of conflicts has clearly changed in the past few years. The focus on identity, access to political decision-making and citizenship are just a few areas that have clearly influenced why people are willing to engage in violent struggle, if need be, for their cause. Social conditions, economic disparities and access – or denial of access – to political power and decision-making determine and influence how these wars are fought today.

This changing nature of conflicts, together with the increase in internal wars in peripheral areas, poses several dilemmas, especially with reference to vulnerable actors, such as children and women. Three 'dilemmas of war' confront us today with acute complexity:

1. The increasing lack of distinction between civilians and combatants, resulting in the majority of casualties today being among civilians. This is further encouraged by the more and more common use of civilians as human shields and by the 'collateral damage' resulting from aerial bombardments, drone attacks and other tactical directives.

2. The changing nature of combatants, which today often includes women and children as active players. This raises questions for international law, such as whether to try a child perpetrator as an adult or as a child; whether the rules of engagement should be different when encountering a child; and whether children in detention need to be treated differently. In addition, the new phenomenon of entities outside command and control structures such as private contractors and rogue Special Forces adds to the complex challenge of ensuring that human rights and international humanitarian law are respected.

3. The blurring of lines between military and criminal activities and between military and humanitarian/development activities. Powerful armed gangs control political activities and shift between criminal acts and political action. The question arises as to whether they can be seen as conflict parties, who should be bound by the Geneva Conventions and by standards of international humanitarian law, or whether they only abide by criminal law. In addition, the lines are

increasingly blurred between military and humanitarian actors, with humanitarian and development activities being carried out by the military, and in some situations relying on the military for security coverage. This has led to the debate on the protection of humanitarian space and how the UN can best serve the people. It also raises new dilemmas related to the UN being accused of complicity in war crimes, especially in relation to humanitarian actors.

Averting violent conflict and promoting peace is central to the United Nation's mission. The UN Secretary-General's High Level Panel on Threats, Challenges and Change noted in 2004[2] that 'the primary challenge for the United Nations and its members is to ensure that… [threats] that are distant do not become imminent and those that are imminent do not actually become destructive'. The Panel thereby placed preventive action at the very centre of collective security and the UN's role in the world.

The changing dynamics require making the protection of civilians, especially women and children, a primary goal for the UN. Advances have been made through the inclusion of the protection of civilians in peacekeeping mandates, but more thinking needs to be done to ensure the image of the UN is not at stake when it is given a mandate that is not possible to fulfil due to limited numbers of troops on the ground or other constraints. Strong emphasis needs to be placed on the protection of civilians and to this end the UN ought to be prepared to be assertive, including undertaking robust peacekeeping for humanitarian purposes, if need be.

As indicated in the 2011 *World Development Report on Conflict, Security, and Development*,[3] not only have the threats changed, but also 'insecurity has become the primary development challenge of our time'. The expression of violence has also changed. Today, although statistically we see a decrease in the number of reported armed conflicts, we can observe nevertheless a steady increase in organised crime and criminal activities. The absence of the state, in all or part of its territories, irrespective of the reasons behind this absence (for example, lack of capacity; resource challenges; unwillingness to engage; politically motivated interests; corruption) leaves room for drug-trafficking, money-laundering, financial criminal acts, suicide bombings, human

We need to prioritise conflict prevention as part of the development agenda and identify a clear threshold for 'constructive involvement', if we are serious about preventing armed conflict and violations of universal human rights. Photo: UN Photo/ Albert Gonzalez Farran

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2   Report of the High-level Panel on Threats, Challenges and Change: 'A more secure world: Our shared responsibility' (A/59/565, p.12).

3   *World Development Report, Conflict, Security and Development* (2011), World Bank: Washington DC.

trafficking and the availability and use of small arms to increase and flourish. These are certainly not just 'African problems', but present in many parts of the world, as evident, for example, in Colombian and Mexican drug cartels, Central American, politically motivated gang wars – *maras* – human and organ trafficking in Eastern Europe, money-laundering activities in Central Asia and criminality within ghettos in European metropolises.

Transnational organised crime is an additional threat, which calls for a revisiting of some of the traditional conflict prevention analysis and approaches. Conflict prevention is a term used to cover a wide range of engagement and tools, from proximate or operational prevention (including response to crises) to structural prevention (addressing political, social and economic fault-lines), peacemaking efforts carried out in a timely manner and peacebuilding initiatives, to prevent the recurrence of violent conflict. Recent work on measuring the impact of peacebuilding in the immediate aftermath of conflict has shown that the sequencing and prioritising of actions is fundamental.

We need to prioritise conflict prevention as part of the development agenda and identify a clear threshold for 'constructive involvement', if we are serious about preventing armed conflict and violations of universal human rights. Recent experiences in Libya and Côte d'Ivoire show that the response has come too late. There is a renewed need to move from reaction to prevention.

At the same time, there are already numerous mechanisms – articulating a wide range of norms and values – all aimed at conflict prevention, resolution and post-conflict reconstruction. In addition to the United Nations, the African Union Peace and Security Architecture (APSA), launched in 2002, includes mechanisms such as the Peace and Security Council, a Continental Early Warning System, a Panel of the Wise (as an enhanced mediation capacity), an African stand-by force and a post-conflict reconstruction and development framework. This is an impressive change.

Available 'tools' such as mediation have been used to address mutual mistrust and lack of confidence. Mediators facilitate the transformation of actors' perceptions of the conflict issues at stake and aim to help parties identify root causes as well as the critical needs and interests of all concerned so that mutually beneficial and sustainable solutions may be forged. They also play a significant role in facilitating ceasefire

agreements, which demonstrates that mediation can be a high-risk process for which confidence-building is at the core. Another mechanism that is often utilised is diplomatic action (for example, through the good offices of the Secretary-General) to bring hostile parties to an agreement, essentially through non-military means such as those envisaged in Chapter VI of the UN Charter. Third-party facilitation is also often used to re-establish a stable political process and dialogue between contending political leaders and elites.

Focusing specifically on Africa, it is important to reiterate that the protocol that established the AU Peace and Security Council also specifically stipulates that 'in the fulfilment of its mandate in the promotion and maintenance of peace, security and stability in Africa, the Peace and Security Council shall cooperate and work closely with the United Nations Security Council'. A number of joint meetings of the UN Security Council and the AU Peace and Security Council have taken place.

To conclude, refined, timely and strategic early warning information and analysis can help inform concerned actors. However, as we know, it is early *action* that is required to save lives and promote social cohesion, stability and, ultimately, prosperity, and Dag Hammarskjöld's legacy in the area of 'preventive diplomacy' is today more enlightening than ever. Our modern global challenges with their complexity and interconnectedness have transformed the nature of conflicts, as we have seen. Nevertheless, the ability to prevent such conflicts should still be at the heart of the international community's goals. New, complex and innovative solutions are required. This is where Dag Hammarskjöld's talent in resolving and preventing conflicts, rather than managing them, should still serve as a lesson to all modern mediators. His skilful diplomatic preventive actions, models for coalition-making, and ability to accept risks during mediations paved the way for a new, modern type of early warning and action that still represents a beacon for today's multilateral diplomacy. He was also the real developer of the peacekeeping tools the UN still uses today. The best recognition we can offer his memory is to keep the high moral standards he enshrined, while renewing our approaches to better meet today's challenges.

» Dag Hammarskjöld's Legacy – The United Nations and Africa

Jan Axel Nordlander

Dag Hammarskjöld's vision was a United Nations Organisation as a tool for the common good of mankind: for peace, justice, human rights and democratic principles.

The UN legacy in Africa is of course first and foremost decolonisation. During Hammarskjöld's term of office, some 25 African nations became independent. It is against this background that the Secretary-General's strong emphasis on the United Nations as not only a forum but also a safeguard for small and emerging states – whether in terms of surface, population or strength – is of crucial importance.

Hammarskjöld also introduced the first armed peacekeeping force, the United Nations Emergency Force, in Egypt and Israel, thus partly in Africa. Still today the United Nations provides six peacekeeping operations in this continent.

International public law is a prerequisite for the emancipation of small and emerging states as well as for mounting international peacekeeping operations. During the 50 years that have passed since Hammarskjöld's demise, the body of international law as an elaboration and codification of the Universal Declaration of Human Rights of 1948 has grown tremendously, and so have related areas, such as humanitarian law and the law of war, including pioneering legislation on genocide, crimes against humanity and other areas.

It could be said that we now have a fairly satisfactory international legal framework for the protection of human rights and against violations by states. The implementation of these laws is, however, far less satisfactory, for the application of international public law rests upon the rule of law in individual states and, unfortunately, law does not rule everywhere or else it rules only when seen as convenient. Narrow and shortsighted interests often obstruct such things as the respect for an independent judiciary, and for enforcing verdicts, and therefore impede the implementation of international law. According to the World Justice Project and their 2011 Rule of Law Index, South Africa ranks best in sub-Saharan Africa, closely followed by Ghana, while all other states

figure in the last tier of the global ranking of the rule of law – a fact important to consider when we want to discuss regional challenges!

It is not my intention to grade states or to point fingers, but to explore reasons and possible remedies. In the beginning I mentioned the legacy of the United Nations in the decolonisation of Africa. The right to self-determination, the first article of the Covenant on Civil and Political Rights, indeed stands as both a result and a tool of the decolonisation process.

During the many sessions of the UN Human Rights Council which I have attended, I have often heard representatives of so-called Third World countries speak against proposed actions of the Council, such as adopting a country resolution, calling a special session or dispatching a commission of inquiry to a country where suspected human rights abuses were taking place. Sometimes there would be sombre motives for the resistance, but more often than not, those representatives were not speaking against respect for human rights but trying to safeguard what was to them the overriding principle of national sovereignty, understandably dear especially to those nations that have been independent only for some 50 years.

Let me just state that I believe it necessary to de-dramatise the concept of sovereignty in order to promote the implementation of international public law. After all, 192 states gave up a piece of their sovereignty already when they became members of the UN. Did that hurt a lot? UN Under-Secretary-General Kigo Akasaka said, at another Hammarskjöld commemorative event in Finland earlier this year, that '[g]overnments should give priority to the general global good rather than to specific national interests'. A pious expectation, but I would hope not totally unrealistic since the future of individual states is increasingly linked to our interdependent global future.

Hammarskjöld's main legacy, as we have seen, is peace, although peace has evaded many African nations for long years. Photo: UN Photo/MB

Hammarskjöld's main legacy, as we have seen, is peace, although peace has evaded many African nations for long years. Another legacy is humanitarian principles in international relations, including joint humanitarian actions by the international community, perhaps best illustrated by the work of the UNHCR, a Nobel Peace Prize winner in 1954. In the 1960s the decolonisation process produced mass migration and the first of Africa's numerous refugee crises. The responsibility of the UNHCR now also encompasses a large number of internally displaced persons – although their mandate is unclear in that respect. The needs of the refugees or the displaced are not limited to humanitarian support but include a very important protection mechanism, ideally a mirror of international solidarity.

The number of refugees and displaced persons in sub-Saharan Africa has declined from 3.4 million to 2 million in 10 years. That is a sign that peace and stability is gaining ground, but the figures remain high. South Africa alone hosts 222,000 asylum seekers, as compared to 236,000 in all of the European Union's 27 member states. Still, certain countries of the European Union are so upset at these numbers that new measures to construct a 'Fortress Europe' are being proposed.

Here in Africa the foremost UN legacy in human rights is the role the world organisation played in dismantling apartheid and in adopting the Convention on Elimination of all forms of Racial Discrimination in 1965.

I don't think that Hammarskjöld believed that his legacy could be implemented quickly: yes, he was an idealist, but also very aware of the requirements of *realpolitik*. Peace is not yet attained everywhere, but the United Nations plays a very important role in maintaining peace where it has been attained, the very recent example is of course the United Nations Mission in South Sudan. Democracy has gained ground in Africa, at least as an uncontested principle. Justice and rule of law remains a dream for many, but there is an African Human Rights Commission and Court. The annual survey of human rights in the world, presented by Sweden's foreign minister last week, indicates that while there are several dark spots of serious violations, the general trend is encouraging, including in Africa. And last but not least, poverty is being beaten back.

» A Legacy of the UN and Africa

Dumisani S. Kumalo

One cannot discuss the legacy of Secretary-General Dag Hammarskjöld without recalling the time at which he was at the helm of the United Nations.

Many African countries gained independence and joined the UN during Hammarskjöld's final years as Secretary-General. It really mattered who was the person to receive the credentials of the representatives of those countries and listen to the issues they brought along to this premier international forum. Having served for ten years in the United Nations in New York, and also having been associated with the UN for several years before that, I can assure you that this was an important dimension for Africa, and this comes out in everything that is written about Dag Hammarskjöld as Secretary-General.

The fact that these days the UN's role and impartiality is being questioned, especially in Africa, can also be traced to the leadership of the United Nations in this current period.

Let us remember that the UN is a crossroads – literally on First Avenue and 42nd Street in New York – where humanity, in the form of the General Assembly, gathers once a year to meet and discuss challenges and lay down burdens we all face. For those working within the UN, it remains forever a complicated institution. For those on the outside who come once a year, it can be an almost bewildering place.

So, for the new and decolonised African countries that came to be represented in New York at the end of the 1950s and the beginning of the 1960s, it mattered that there was a person like Secretary-General Hammarskjöld. The fact that he was, as Henning Melber has put it, a man 'of uncompromising integrity', helped African states find their confidence and, indeed, their own direction in the UN.

There are many qualities that Hammarskjöld left as a legacy to the UN. The papers before this conference, particularly the commemorative issue published by ACCORD, have captured those qualities in great detail. For me, however, two fundamental qualities stand out in the legacy that Hammarskjöld left the UN and the world.

The first one of these was his steadfast adherence to the principle of impartiality as Secretary-General. Article 100 of the UN Charter states that 'the Secretary-General and his or her staff shall not seek or receive instructions from any Government or from any authority external to the Organization.' It further states that 'each Member of the UN undertakes to respect exclusively the international character and responsibilities of the Secretary-General and the staff and not seek to influence them in discharge of their responsibilities.'

Anyone one who has served either as Secretary-General or even on the senior staff of the UN can give many examples of how the powerful members of the UN have often ignored Article 100 and tried to bully their way through the organisation to get what they want.

I can give you many personal examples of occasions when I have stood up to some of the big powers, and sometimes succeeded in embarrassing them into remembering that there is such an article in the Charter. Very often, they have got things their own way. As Secretary-General, even Hammarskjöld was not immune to these pressures.

Perhaps Hammarskjöld best demonstrated the protection of sovereignty in 1960 when he dispatched a peacekeeping mission to the Congo 'in order to protect the sovereignty of the Congo', as he himself described it.

Left: Nurse Ayana with Nurse Zenawit Ayele, leaving the Brigade Headquarters. 1960. Photo: UN Photo/JH

The second principle Hammarskjöld emphasised was the sovereignty of states, which is enshrined in the UN Charter. I am aware that sovereignty has become controversial over the years as some leaders try to hide behind it so as to get away with denying their citizens their human rights. However, I still believe that just because sovereignty has been abused by some, does not mean it should be denied to everyone else. Perhaps Hammarskjöld best demonstrated the protection of sovereignty in 1960 when he dispatched a peacekeeping mission to the Congo 'in order to protect the sovereignty of the Congo', as he himself described it. The fact that the situation in the Congo has remained challenging since then does not mean that Congolese sovereignty was not important then or is not equally important now.

We have recently witnessed two events in Africa that show how things can go wrong when the principles of sovereignty and the impartiality of the UN are compromised. In Côte Ivoire, we watched for the first time ever – and I dare say that for some of us it was with absolute horror and sadness – UN peacekeepers being instructed to fight alongside the army of one of the powerful members of the UN and to attack a sovereign African member state, one which ironically, could not even be defined as an enemy under Article 53 of the UN Charter.

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Photo: UN Photo/Basile Zoma

In Libya, once again we watched the UN side with NATO and its powerful supporters to engage in 'regime change' under the guise of protecting civilians. Ironically, it was the same NATO that sided with the Belgian forces and against Dag Hammarskjöld when the sovereignty of the Congo was threatened in 1960.

The question before us, then, is: how do we try to protect and promote the legacy that Hammarskjöld left us?

I believe that in Africa, we have to become more committed to resolving our own conflicts on the continent. We must protect and promote human rights and women's rights, and fight against the scourge of poverty and disease. These are things we can do in partnership with our friends from other countries but not under the direction and control of such friends. The ultimate challenge is for us as Africans to show leadership and take responsibility for our affairs. There is a saying, which I first heard as a child, that God helps those who help themselves. Maybe a variation on this could be that the world should help those who help themselves, but without interference.

Dag Hammarsjöld came out of his native Sweden convinced that the world would be a better place if the spiritual otherness of each of us were recognised and respected. Against great odds, and in the face of the powerful countries, which did not want to be contradicted, Dag Hammarskjöld stood for what he believed was right. In the end, he lost his life so doing. And the UN, Africa and indeed the whole world is a better place for his selfless contributions. It is up to us to walk in his footsteps.