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EDITORIAL
Challenges and prospects for peace in the Great Lakes Region of Africa

Wafula Okumu*

Over the years the Great Lakes Region has been characterised by bad governance and leadership, weak institutions, state collapses, genocide, and seemingly intractable conflicts. Despite abundant natural resources, the people lack basic services and infrastructure, as well as an environment that can consistently guarantee their basic needs. In recent times, the international community has been shocked by the genocide in Rwanda that claimed the lives of almost a million people, the devastating rebellion in northern Uganda, and the deaths of more than four million victims of the conflict in the Democratic Republic of Congo (DRC).

However, despite this sad history, positive steps have been taken towards the restoration of justice, peace and democratic rule. In 2006 we witnessed successful elections in

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Burundi, Uganda and the DRC. The presidential elections and inauguration of Joseph Kabila as the first democratically elected president of the DRC in October brought an air of optimism to the Great Lakes Region. The DRC elections were just one of the objectives of the Sun City Accords. Others included the consolidation of democracy; reunification, pacification and reconstruction of the country; national reconciliation; the formation of a new national army; and the creation of governance institutions.

Coming close on the heels of the events in the DRC was a summit of the Great Lakes Region that brought together 11 heads of state and government in Nairobi in mid-December 2006 to sign a landmark regional pact on peace, security and development. This pact aims to disarm rebel groups, commits regional leaders to a non-aggression and mutual defence protocol, and prescribes a long list of governance, humanitarian and economic programmes. Another notable outcome of the conference was the commitment by governments to embrace the responsibility of protecting their populations from genocide, war crimes, ethnic cleansing, crimes against humanity and gross violations of human rights committed by or within a state.

Despite these positive steps, the Great Lakes Region still faces enormous challenges. Among these are the ending of the 21-year war in northern Uganda, reconstruction and peacebuilding in southern Sudan, Burundi and the DRC, the termination of violent conflicts in Somalia and Darfur (sources of weapons), the consolidation of democracy, and the development of the requisite political will to sustain the gains made so far. Other challenges facing the region are the recruitment and use of children in armed conflicts, the exploitation of sexual violence as a weapon of war, the resettlement of the displaced millions who are scattered in the region and are living in appalling inhumane conditions, and the restoration of justice and durable peace.

To secure a durable peace for the Great Lakes, the countries of the region must consolidate democracy, rule of law, and respect for human rights; enhance the capacities of state institutions that can provide basic services for the population; empower civil society to participate in governance; and engage in socio-economic management that seeks to improve the welfare of the people, reduce socio-economic marginalisation, and create an enabling environment for human development. Other critical factors that will come into play are the availability of financial and human resources and good leadership that is visionary, dedicated, focused and disciplined. These gargantuan goals can only be achieved in an environment that is peaceful and stable. Additionally, the international community can help to secure this enabling environment through continued support of regional frameworks for development and peace.

This special issue of the *African Security Review* is a contribution to understanding the challenges outlined above. The articles, besides analysing the realities of the region, propose concrete solutions. For instance, Juma’s article traces the cause of regional
conflicts to ‘shadow economic networks’ of individuals or institutions connected to the international systems of trade and finance, while Cornwell traces the source of the DRC’s problems to its mineral wealth. The efforts to establish durable peace in the region are addressed by Church and Jowell, who analyse how regional institutions have been designed to act as circuit breakers to stop future conflicts, Sadiki, who analyses the skilful efforts of South Africa to steer the DRC towards a peaceful transition, and Mzovondiwa, who points out the important role of women in reconstructing and building peace in the region.

While applauding the initiatives made in the transition, such as the resounding success of the October 2006 elections in the DRC, Kampf warns that peace could be elusive if the root causes of the conflict and suffering are not immediately addressed. While Williams and van Eck foreground the challenges that confront the search for peace in northern Uganda and Burundi respectively, Kubai highlights the critical challenges facing Rwanda in the administration of its much-heralded Gacaca process, which has turned out to be a source of fear for perpetrators. Ruigrok offers useful lessons for post-conflict reconstruction by pointing out the mistakes that have been made in the Angolan disarmament, demobilisation and reintegration processes.

I hope our readers will find this ASR a rich and useful source of information on the Great Lakes Region. It is a modest contribution to understanding this complex region and I hope that it will generate greater attention to the region at this critical juncture in its history.

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Laurence Juma*

Internal conflicts in the Great Lakes Region are never the result of internal factors only, but rather a confluence of other factors, most of which bear a relationship to the ‘shadow economic networks’ of individuals or institutions connected to the international systems of trade and finance. These networks foster corruption, elite rivalry and ethnic hatred because they survive on the indiscriminate plundering of natural resources. But since they function outside domestic and international legal regimes, they suffer little or no sanctions at all. This paper explores the limitations of international legal regimes in this regard and suggests some improvements that could enhance their conflict-reduction function in the region.

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Introduction

Contemporary conflict research has begun to recognise, albeit belatedly, the influence of transnational conflict networks on African internal conflicts (see for example Nordstrom 2004; Carayannis 2003:232–234; Reno 1998). In almost all conflicts that the continent has endured, the inordinate arm of the external functionary, both regional and international, has always been apparent (Juma 2005:417–515). However, the idea that such functionaries may envelope systems of shadow entities profiting from the chaos rendered in the onset of war, or that such entities may themselves be parties to the conflicts, has been slow to find a place in conflict discourse. And yet, for over two centuries, conflicts in Africa have depicted a complex interconnectedness of the local and the international actors through trade, military adventurism, and ideological leanings. The actors, diverse as they are, have functioned within networks of institutions that operate in the international arena. In the Angolan civil war, for example, the US government for a long time covertly supplied arms to UNITA rebels to fight the Marxist government of Edwardo Dos Santos (Jackson 1982:71). In the most part these arms were delivered through a network of dealers with dubious credentials, but with the blessing and assistance of the friendly regime of Mobutu in the Congo (Austin 1999:36). Hidden within the military adventurism has been the trade and lucrative exploitation of natural resources that feed these networks and sustain their momentum. The symbiosis, though tilted towards the benefit of the northerners, has remained a permanent feature of the African political landscape, and thus a malignant threat to peace in the continent.

Given the similarity of factors and actors that influence conflict phenomenon in Africa, the inordinate presence of ‘shadow entities’ and ‘transnational conflict networks’ in the Great Lakes Region must be presumed. But this article will not attempt to map them out in the same way Carolyn Nordstrom has done with regard to the Mozambiquean and Angolan civil wars (Nordstrom 1997, 2004). Instead, it will examine how these entities have hindered local conflict abatement processes. While focusing on the Democratic Republic of Congo (DRC), the epicentre of what has developed into a regional conflict, the article will begin by framing a conceptual understanding of the nature of these entities and how their presence affect conflict dynamics. Because these networks often posses an international quality, the later part of the article will debate the relevance of international regimes that seek to control their activities, and posit a much wider role for international legal institutions in this regard.

Transnational conflict networks: What are they?

The ‘network’ concept infers complex and fluid patterns of interrelationships between internal and external actors engaged in fields of common interest and which respect
no territorial borders. Networks function as institutions ‘characterized by voluntary and reciprocal and horizontal patterns of communication and exchange’ (Keck & Sikkink 1998:8–9). From the vantage point of a social constructionist, a ‘network’ is a social structure that brings together actors who are interdependent but linked together through complex social, economic and political interactions. They are trans-border agents or structures, closely linked, and acting in concert with one another. In the realm of economics, networks are perceived as the third mode of economic organisation, removed from the mainstream, and yet efficient in the ‘exchange of commodities whose value is not easily measured’ (Powel 1990:295–296, 303–304). ‘Conflict networks’, on the other hand, comprise the whole spectrum of transnational entities, legal and illegal; visible and invisible. Like other forms of transnational networks, the ‘conflict networks’ have been successful because of their ability to ‘mobilize information strategically to ... pressure and gain leverage over much more powerful organizations and governments’ (Keck & Sikkink 1998:8). They are often linked to the ‘illegal extraction of natural resources and the exploitation of civilians’ (Carayannis 2003:235). These networks are sustained by a complex system of economic and political alliances that involves powerful political establishments, multinational corporations, and many other visible and invisible institutions functioning in the international realm.

In this article our concern is with the transnational networks that propel war and conflict. Primarily, such networks are linked to, but do not entirely comprise, what Nordstrom calls the ‘shadow economy’ and defines as the ‘large scale system of affiliation and exchange that occur apart from formal state structures’ (Nordstrom 2001:216–217). The ‘shadow economy’ represents, in her view, an intricate system of political economic and socio-cultural forces, not just the ‘black markets’. The network formations within the shadow offer three basic characteristics: they operate outside the formal state systems, are international, and ‘function not only by exchange and alliance but by internalized norms and cultures of exchange and alliance’ (Nordstrom 2001:216–217). Because they operate outside governmental structures, shadow networks are not encumbered by local laws, police or courts. Still, they source their legitimacy from the international system through a complex array of ‘institutional dependencies’ and corporate manipulation (Reno 2001:197). Using the example of international crime syndicates, William Reno (2001:197) explains how these networks are able to defeat national laws through the ‘subcontracting arrangements and joint ventures’, Also, he illustrates how the proceeds from these activities become legitimate ‘through their laundering via globalized financial arrangements’ (Reno 2001:197).

**The nature of transnational conflict networks**

It is critical to understand that ‘conflict networks’ may be excluded from the mainstream of the discourse on international commerce, not because they are separated from the
international structure, but because they bear a label of illegality. Individuals or groups that carry out the dirty business of legitimate functionaries within governments, or the clandestine wings of multinational corporations, are often dismissed as criminals, but with little effort to trace their principals. This is because they are a vital part of internationalism. Marvel Castells (1998:167) explains that ‘complex financial schemes and international trade networks link up criminal economy to the formal economy ... the flexible connection of these criminal networks constitute an essential feature of new global economy’. Good examples are the gun merchants. Guns and weaponry that support war in the Great Lakes Region and other, poorer regions of the world are manufactured in the developed world. These guns find their way into the hands of rebels through a coordinated system of gun trade that connects the industrial complexes of the Western world to rebel outfits in the poorer nations (Nordstrom 2004:93-94). According to Jose Vegar, gun merchants are not just anybody (Vegar 1999:37-40). They are people with good connections to their governments and often move back and forth through nations without much difficulty. Governments are aware of their activities but ignore them; some even shield them. Vegar (1999:38) writes:

The international market operates on a number of levels – legal, quasi legal, and nowhere near legal – and employs a network of manufacturers, dealers, middlemen, politicians, military officers and others in every part of the world. While most transactions are not surrounded by spy-novel intrigue, the market remains one of the least understood of the world of big business.

In view of the foregoing, several observations can be made with regard to the nature of ‘transnational conflict networks’. The first would be the generalised supposition that these networks are a necessary and almost inevitable phenomenon of the elitist and comprador trade systems. As far as gun smuggling is concerned, the international system would be hard pressed to phase them out because they (the networks) stimulate the lucrative gun trade by accessing markets that in the ordinary course of business, legitimate systems may find very hard to reach. Second, war is big business. While nobody wants to be associated with the horrors it beholds, those with power and money see no harm in reaping its benefits. And since these wars take place far away, in places that the public in developed nations may occasionally only visit through their television screens, the moral obligation to end them is often overshadowed by the benefits that are reaped from them. The concern, for example, that gun manufacturers should take blame is often dismissed with a callous naïveté: the intentions of the manufacturer are honourable – blame the illegal merchants (Goldring 1999:61)! Third, the need for more intrusive international norms is undercut by the obscurity of such networks. We cannot regulate what we don’t see, or maybe, what we have decided not to see. The complicity of international media in this respect makes it hard to mobilise public opinion in favour of demanding more accountability.
Linkages: Local to the international

Despite the correlation between competition for natural resources and political upheaval being so pervasive, it is the end result of such competition, manifested in ethnic incongruity and political malfeasance, that often makes it to the headlines. The ethnic clashes that preceded the 1992 and 1997 Kenyan elections (Juma 2002:471-531; Ajulu 1998:275–288; Amisi 1997; see also Government of Kenya 1992); the Rwandan genocide of 1994 that left hundreds of thousands dead and millions displaced (Mamdani 2001; Prunier 1995); and the civil war in the DRC (Nzongola-Ntalaja 2003; McCalpin 2002:33-53) all bore ethnic labels. But at the root of them all lay an intricate web of corporate interests ensconced in the claim to ethnic integrity, and a veritable quest for political and economic advantage within the caucus of minority elite. Invariably, these conflicts have been no more than struggles over resources; their patterns revealing of economic fault lines created in the wake of globalisation (Ochwada 2000:208-209).

But competing economic interests that give rise to conditions of war in areas rich in natural resources, such as the DRC, Angola and Sierra Leone, have a subterranean dynamic that is often invisible. This is because the actors reside in the shadows. This notwithstanding, their activities instigate and impart momentum to conflict with ramifications that transcend national boundaries. That is why most internal conflicts, including those within the Great Lakes Region, have a transnational dynamic which make their resolution very complex. According to one analyst, local conflicts ‘involve a myriad of transnational connections so that the distinction between internal and external between aggression (attacks from outside) and repression (attacks from inside the country) or even between local and global are difficult to sustain’ (Kaldor 1999:2).

Thus, internal wars are not really internal in nature. They are as much a product of international linkages as trade, ideology and culture. Nordstrom (2004:217) observes:

We may speak of internal wars but they are set in vast global arenas. We may speak of contests within or between states, but a considerable part of war and post conflict development takes place along extra-state lines. War and peace unfold as much according to these extra-state realities as they do according to state based ones.

For the above reason, the idea of ‘internationalism’ becomes central to the evolution of strategies aimed at ending local conflicts – the implication being that internal wars can only be understood by examining the array of international factors and actors, their interconnectedness with local agents and their symbiotic modes of operations. The linkages between the range of actors cannot be viewed in isolation to the overall structure of the international system – what I call ‘internationalism’. Local profiteers, gunrunners and smugglers can only survive if they have a linkage to the international capital.
Thus, the United Nations, powerful member states and their predatory corporations, rebel or military outfits, corrupt government officials, down to the individual dealer in the streets of some remote African town, are all part of a system that wittingly or unwittingly support violence. Therefore, the role of institutions of international control having a bearing on the eradication of local activities that promote insecurity and ferment transgressions, is as much a province of the conflict transformation discourse as are local processes of mediation, negotiation and third party arbitration (Chege 1998:100).

The fact that most of the transnational conflict networks responsible for the eruption of war reside outside the reach of international legal regimes still posits the greatest challenge to international processes of conflict resolution.

The ‘conflict network’ phenomenon in the Congo War

While the recent general elections in the DRC have yielded a modicum of peace, there is a lingering fear that the conditions that were responsible for the eruption of war have only been marginally addressed. With the opposition groups announcing their rejection of the election results, the DRC faces the prospect of going back to pre-2006 conditions. The fear is not without cause. The transnational conflict networks that have been in the country since its inception have localised their pursuit for wealth, thus creating a culture of war and heightening ethnic tension. The DRC has over 200 different ethnic groups, the largest ones being the Luba, Kongo and Anamongo. But ethnic differences had nothing to do with the war until politicised groups seeking to gain access to the country’s wealth came in. Those groups that did not get government support worked the ethnic factor to generate hatred and intolerance and to create instability. The ethnic problems in the DRC have been made, and because of that, the whole conflict has now entered a new phase. Whereas hostilities between the big boys may be on the decline after the November 2006 elections, ethnic fragmentation and schisms built by the successive meddling of the neighbouring countries and international groups scrambling for mineral wealth, has started to take its toll. This is especially so in mineral rich areas such as Bunia, in Ituri province. The Hema and Lendu peoples living in this area were supplied with arms by Rwandan and Ugandan forces in 1999 as they sought local support to overthrow Kabila. The Hema and Lendu had shared the land in this region for generations and yet in May of 2003, after the pullout of Ugandan forces from the region, the two tribes began fighting each other (Beadle 2003).

But ethnic congruity is not the only problem that conflict networks have caused. The issue of arms proliferation, now affecting the entire Great Lakes Region, is also a major concern. Apart from official government imports of the countries such as Uganda, Rwanda, Congo, Kenya and Tanzania, the inflow of arms, especially small arms, into
the Great Lakes Region has been through illegal arms trafficking involving racketeers, clandestine government activities, and humanitarian agencies (Austin 1999:35).

In the DRC, the proliferation of arms has been compounded by the collapse of the Mobutu regime, the instability in the Rwanda and Burundi, the vast mineral resources, and also by the direct supply to the rebel forces in the country by external governments. As already mentioned, arms shipment to UNITA forces in Angola by the US government went through Zaire and Mobutu was known to withhold substantial chunks of it for his own use. When Mobutu’s regime collapsed, its weapons vanished into the informal economy. Mostly, the arms landed in the hands of individuals willing to sell them for quick gains or rebel forces fighting to gain control of the state. It was arms supplied by Zaire and France to the Habryimana regime in Rwanda that were later used by the intrehamwe groups in Congo to attack the Banyamulenge (Muchai 2006:185-200).

The neighbouring African countries of Uganda and Rwanda deliberately armed local groups to help fight Kabila. Eastern European countries such as Belarus, as well as South Africa, Egypt and Belgium, have also traded arms to the Great Lakes Region (Muchai 2006:185–200). In rebel-held areas, traders from France, Belgium, South Africa and Sudan barter imported goods – including small arms – for coffee and minerals (Miser 2000:24).

The danger posed by arms to the region has prompted governments to forge an alliance to curb their proliferation. In March 2000, foreign ministers of the ten countries comprising the Great Lakes Region converged in Nairobi and drafted a multilateral agenda for dealing with the problems of arms proliferation (Agina 2000).

In April 2004, the parties met again in Nairobi and this time the Protocol for the Prevention Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa was signed (Nairobi Protocol). The protocol mandated signatory states to take legislative measures against illicit trafficking of small arms; strengthen sub-regional cooperation; keep inventory and records of all small arms; and adopt effective programmes for collection, storage, and responsible destruction of small arms (Nairobi Protocol article 2).

The need for an institutional framework for the implementation of the protocol necessitated the creation of the Regional Centre on Small Arms and Light Weapons in the Great Lakes and Horn of Africa (RECSA) in June 2005. The centre will be based in the Kenyan capital, Nairobi. RECSA’s main objectives would be to promote cooperation at regional and international levels and to prevent, combat and eradicate the illicit manufacture and use of illegal small arms and light weapons. It was also mandated to promote peace and sustainable development in the region by ‘encouraging accountability, law enforcement and creating mechanisms for efficient control and management’ of weapons.
The centre was expected to function as the fulcrum for collection, dissemination and sharing of vital information between governments, intergovernmental organisations and civil society in matters relating to the trafficking of small arms. How these regional efforts will help reduce the arms menace remains to be seen. What seems certain is that the networks responsible for their proliferation need to be stopped too.

An accurate typology of the war in the DRC is thus revealing of the nature of the international system: its inherent weakness and its acquiescence to the predatory characteristics of some the institutions that have taken advantage of globalisation and other neo-liberal ideas to undermine Africa's economic and political development. The war in the DRC illustrates how globalisation engenders what Nzongola-Ntalaja calls the ‘logic of plunder’ and which he defines as the ‘growing tendency for states, Mafia groups, offshore banks and transnational mining companies to enrich themselves from crisis’ (Nzongola-Ntalaja 2003:227).

Thus, whereas the role of the international system may be conceived as that of erecting a buffer between elements prone to war and pursuits of peace, the civil war in the DRC unveils its ineffectiveness when confronted with entrenched economic interests. In the DRC we see how war becomes business and business becomes war: a fusionary *modus vivendi* that minimises the prospect for peace as globalisation and the race for profits becomes the operating mantra of the wielders of power.

**The reach of international law**

International law functions on the basis that nation states, signatories to the United Nations Charter, will abide by certain uniform standards of behaviour. But states are not the only entities that are governed by international law. Today, a wide variety of participants who perform on the international scene have a ‘legal personality’. These include states themselves, international organisations, NGOs, public and private companies, and individuals. The idea that only states are subject to international law has been overtaken by practice and the evolution of branches of international law such as human rights, the law relating to armed conflicts and international economic law; all of which recognise the participation in the international realm of entities other than states.

But the law of treaties has been slow to place sanctions against multinational corporate activities that are criminal in nature.

Recognising that the operation of the transnational conflict networks are deep within the business of multinational corporations that operate either directly or indirectly within conflict zones, imposing criminality on acts that favour war would indeed be most welcome. After World War II, the international judicial community showed the willingness to do so in the IG Farben trial at Nuremberg when they affirmed
the principle that companies can be held liable for international crimes such as war crimes and crimes against humanity. With the International Criminal Court’s (ICC) jurisprudence currently developing, the ambit of criminal culpability is bound to expand from the narrow limits of IG Farben to encompass issues of corruption as well (Claphan 2000:191).

Currently, in the absence of any laws or accepted guidelines governing different aspects of transnational corporations’ (TNCs) operations, their conduct of business is beyond third party scrutiny even though some of them clearly go beyond what could be considered morally acceptable. The question that has arisen with regard to the developing world is whether transnational corporations trading with corrupt entities can be subject to international sanctions. The issue is acute in the conflict zones where diamonds and other natural resources have been traded to finance war (O’Connell 2004:207–230).

More recently, the efforts to limit such activities received a boost in the arrest of Charles Taylor, the former Liberian dictator, and his arraignment before the Sierra Leone human rights court.

In 1974, the UN, responding to the need to fill this vacuum, established the United Nations Centre on Transnational Corporations (UNCTC) (Fatouros 1990:103–126). Among UNCTC’s broad objectives was to further understanding of the political, economic, social and legal effects of TNC activity, especially in developing countries. In 1976, UNCTC formed an intergovernmental working group to develop a code of conduct for TNCs, but the draft code has not come into effect yet. So far, semblances of international regulatory regime are the ILO6 and OECD7 guidelines, which the UN has shown willingness to apply. The UN Security Council panel established to investigate the linkage between conflict and resources in the DRC in 2000, found that 85 international companies had breached international norms and the OECD guidelines as well (see, generally, Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and other Forms of Wealth in the Democratic Republic of Congo, UN Doc S/2001/357; Kabel 2004:461–174).

The OECD guidelines are basically ethical standards that the member nations are enjoined to ensure that companies trading in their territories complies with. They invoke municipal law as the basis for enforcement, a fact that makes them less useful as instruments of international control.

The human rights dimension

In most internal wars, human rights are often the first casualty. The war in the DRC is no exception. Described as Africa’s ‘most African war’ in the postcolonial era, the war has
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killed well over 3.3 million people and caused the displacement of millions. According to 1999 figures, the UN estimated that about 221,000 Congolese had fled their country and about 775,000 had been internally displaced (Murison 2002:225-227).

These figures do not include Rwandan and Burundian refugees on either side of the borders. The New York-based International Rescue Committee estimated that about one third of those who have died are children under five (Edgerton 2002:226). Most of the deaths were the result of starvation, disease and deprivation (Vick 2001).

According to The World Health Organisation, 70,000 people die avoidable deaths in the DRC every month (Harden 2001). In the DRC, like in many other regions of conflict, there have been reports of mass killings, rape, torture, slavery and mutilations and other forms of human rights violations as well. For example, a Human Rights Watch report released in July 2005 has unveiled the depth of the human rights catastrophe in the North Kivu area by detailing the killings and rape of civilians by the Congolese national army (Human Rights Watch 2005).

The responsibility for human rights violations falls on all entities that have been involved in the war either directly or indirectly. The successive governments in the DRC, right from the time of Mobutu to the present, bears the first mantle. But beneath the political factors lies the complicity of corporate organisations, especially multinational corporations carrying on business in the DRC, and the invading forces of neighbouring countries. The UN has estimated that about 3 million deaths in the eastern DRC can be directly attributed to the external occupation and illegal mineral trading in those areas (UN, Report of the Panel of Experts).

With the UN affirmation that corporations dealing in minerals from the DRC are helping to perpetrate the conflict, human rights organisations have turned their focus to the activities of these corporations and their linkage to human rights violations that may be carried out in their names (UN, Report of the Panel of Experts).

In October 2003, Human Rights Watch and a group of human rights organisations working in the DRC – including the International Human Rights Law Group, Global Witness and International Peace Service – issued a joint statement calling on the UN and individual member governments to hold the companies mentioned in the report to account (Human Rights Watch 2003). In the climate of member states complicity, some directly like the Rwandan and Ugandan governments, and others indirectly, there is little hope that the UN Security Council can move beyond mere acknowledgement of the report.8

In discussions of the nexus between peace and human rights in a civil war context, analysts have contended that human rights enforcement should be part and parcel of
the peacebuilding process (Juma 2002:325–376). This cannot be so unless human rights enforcement mechanisms are given the necessary mandate to impose sanctions on corporations whose activities sponsor armed conflicts. Before the Rome Statute, UN human rights intervention was limited to ad hoc criminal tribunals such as the one in Yugoslavia, Rwanda and Sierra Leone.9 With the coming into force of the statute and the establishment of the ICC at The Hague in July 2002, new possibilities have arisen for punishing international criminality that may affect entities engaged in areas of conflict.10 The statute, in article 8, gives the court jurisdiction over war crimes, which is defined to encompass ‘extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully or wantonly’.

The exploitation of the DRC’s minerals is unlawful and certainly amounts to wanton destruction of property within the meaning of article 8. It would thus be desirable for the prosecutor of the court, Luis Moreno-Ocampo, to exercise his rights under article 15(2) and commence investigation of the companies alleged to be illegally benefiting from the DRC’s natural resources. Under this article, the prosecutor can initiate investigation on his own accord based on information of any impropriety within the court’s jurisdiction.11 But any ambitious pursuit of this right may, in the short run, appear unlikely because of the United States continued pressure to water down the ICC’s overall mandate (Roth 2000:1195–1198).

The moral issue

In the absence of any tangible steps being taken against those responsible for human rights violations and other violations of international law, the viability of the international legal order is cast into serious doubt. One cannot help but question the propriety of international law that governs the relationship between the rich nations in the north and the poor ones in the south. To the southerners it may appear that the international systems of laws and polities are tools at the disposal of the northerners in the construction of a political agenda that favour the rapacious activity of their corporate enterprises. The immorality belies any gestures or rhetoric of goodwill that occasionally come out of governments, or their paltry handouts channelled in the form of loans and grants, and which to their credit feed the elite networks of political dictators and thieving bureaucrats (Ayittey 1999:585–592).

While the UN is left to churn out series of resolutions calling on parties to stop fighting, or even send a paltry number of peacekeepers to the conflict arena, the networks that ensure profit for war mongers and their foreign supporters hardly come under any serious scrutiny. This is the problem that confronts Africa today. It is also the problem of international law in as far as conflict resolution is concerned. The DRC provides a good example of how the regime of international law provides the rich nations of the north
with a climate of impunity when their nationals ruthlessly loot the natural resources of the poorer nations and in the process ignite factional wars.

Indeed, an argument may be made that the regime of international law has never been morally fair, and probably never will. This may be a preposterous statement to make in view of the fact that the UN was founded upon a foundation of peace. Clearly article 2(4) of the UN Charter, which prohibits war and other forms of aggression by one state against another, also forbids other forms of interference, or the disruption of peace. But for over half a century that the UN has been in place, its organs have been very ineffective in enforcing the principle of peace. While the Charter has remained in force, UN members continue to wage wars against one another, invade other states, and seek corporate enrichment from illegal extraction of resources from their weaker counterparts.

Conclusion

The lessons of the DRC are perhaps the most revealing of the interaction between of the local factors responsible for eruption of violence and the international institutions responsible for their control. A UN panel investigating the illegal exploitation of the DRC’s natural resources found the illegal exploitation of the country’s mineral resources to be ‘one of the main sources of funding for the groups involved in perpetuating the conflict’ (UN, Report of the Panel of Experts). But the panel concluded that this illegal exploitation will never be halted, because the ‘necessary networks have already become deeply embedded to ensure that the illegal exploitation continues, independent of the physical presence of foreign armies’ (UN, Report of the Panel of Experts). The message seems pretty clear – the nature of the conflict networks and their modus operandi are disaffected by the current efforts to restore peace in the DRC. The indication is that the international system has failed, or needs to do more than has already been done.

This is nothing new, but in respect of the DRC, it has raised some troubling issues. First, it calls into question what the role of the ICC is going to be with regard to stopping the activities of conflict networks which clearly instigate and sustain wars. As already noted, the provision of article 15(2) should allow for more intrusive investigation of such entities by the prosecutor without seeking permission from the UN Security Council. Second, it raises the issue of how far the UN would be prepared to go to protect the territorial integrity of its members. When Iraq invaded Kuwait in 1990, the UN authorised the US to militarily stop the aggression. In the DRC, the involvement of Uganda, Angola, Namibia and Zimbabwe has shown that states could have little restraint in getting embroiled in internal matters of their neighbours if motivated by narrow economic interests. Third, the question of how the findings of the various investigative panels of the UN Security Council are going to influence the creation of norms has now emerged. The UN panel mentioned above was no different from the one set up in May 1999 to
investigate breaches of the UN embargo against conflict minerals from Angola and similar to other panels constituted to investigate human rights violations in many parts of the world. In the case of Angola, the concerns were about transnational entities trading in diamonds from Angola, thus perpetuating the war. Are those not the same concerns with regard to the DRC today? No wonder the UN panel was of the opinion that placing an embargo or banning the export of minerals from the DRC would be undesirable because it ‘does not seem to be a viable means of helping to improve the situation of the country’s government, citizens or natural environment’ (UN, Report of the Panel of Experts).

This pattern of transnational complicity in conflicts underscores the need for a tighter regime of international law. Only then will local processes of conflict transformation yield better results.

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### Notes

1. The Great Lakes and the Horn of Africa have been unlucky in this respect. The same happened when the regime of Siad Barre in Somali collapsed and also when the Ethiopian dictatorship of Haile Sellasie was overthrown.

2. Legal personality refers to the capacity of entities to maintain certain rights and to perform certain duties arising from international law. See Brownlie 1990.

3. In the *Barcelona Traction, Light and Power Company Ltd*, ICJ Reports 1970 at 37 para 50, the International Court of Justice (ICJ) recognised corporate personality as a subject of international law. The courts ruling seemingly inferred that domestic laws could be brought into the realm of public international. The justification was stated as follows: ‘[S]een in historical perspective, the corporate personality represents a development brought about by new and expanding requirements in the economic field.’

4. See for example, *The IG Farben Trial Case No 57, 10 L rep of Trials of War Crim 1* (US Military Tribunal, Nuremberg 1947–48). The US tribunal convicted the individual directors of IG Farben of war crimes for activities carried out by the company.

5. See the Draft Code of Conduct produced by the UN Commission on Transnational Corporations, 22 *ILM*, 177–206. See also Draft Code, 23 *ILM* at 627.


8. Uganda and Rwanda were mentioned adversely in the report. Both of them have denied any wrongdoing.

9. For a discussion of the ad hoc international criminal tribunals of the Yugoslav and Rwanda tribunals, see Makau 1997; see Juma 2002 for a discussion of the Sierra Leone tribunal.

10. The Rome Statute of the international Criminal Court, UN Doc A/CONF 183/10; 37 *ILM* 999 (1998) (often referred to as the Rome Statute). It was adopted on 17 July 1998 but came into force in July 2002. United States, Israel, China, Iraq, Qatar, Libya and Yemen are among the nations that voted against it.

11. The only safeguard to this process would be the requirement that the prosecutor must request authorisation for investigation from the court’s pre-trial chamber (Art 15(3)). However, such a process may be dispensed with if the UN Security council refers a particular matter to the prosecutor (Art 12(2)).

12. The current position in international criminal law is that the ICC is charged with establishing individual criminal responsibility and thus lacks authority to investigate corporate entities such as TNCs.

13. UN Security Council Resolution 1237 of 7 May 1999 set up an expert panel headed by Ambassador Andes Möllander of Sweden. The panel delivered its report on 10 March 2000. Interestingly, the report contained a list of companies whose activities in Angola were questionable. But perhaps what was more poignant was its finding about Mobutu and Zaire’s role in financing Jonas Savimbi’s UNITA rebels (Hodges 2004:179):

UNITA used Zaire as a base for the...
stockpiling of weapons and it used Zairean end-user certificates as a means by which arms brokers working for UNITA were able to obtain the weapons Savimbi wanted. Mobutu provided Savimbi with the end-user certificates and in return Savimbi gave Mobutu diamonds and cash.

A correlative could be drawn from the activities of Rwanda and Uganda in Congo. What one might find it troubling that the US government imported tantalum, a mineral listed as critical by the Department of Defense’s *Strategic and Critical Materials Report to the Congress*, from Rwanda at the height of the civil war, and while Rwanda’s army was controlling areas rich of the mineral deep inside Congo territory. See Montague 2002:114.
Conflict circuit breakers in the Great Lakes Region of Africa

William Church and Marco Jowell*

Conflict resolution in the African Great Lakes Region has been linked to the protocols and projects agreed upon at the Second International Conference on the Great Lakes Region (ICGLR). The ICGLR created a continental-wide framework of conflict circuit breakers focused on resolving the structural and surface situational causes of the 1996 to 2003 armed conflicts that drew in at least six nations and destabilised the entire region. The implementation of these protocols and projects will serve as a test for the African Great Lakes Region to move away from conflict and into a cooperation and development phase; however, the effort to bring peace, stability and development will face obstacles not only in the security sector, but also in developing infrastructure, civil society, and good governance. In summary, this article contends that peace in the Great Lakes Region will depend equally on two factors: internal governance and building civil society institutions, and focused regional interlocking circuit-breaking institutions.

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Introduction

Conflict resolution in the African Great Lakes Region has been linked to the protocols and projects agreed upon at the Second International Conference on the Great Lakes Region (ICGLR) in Nairobi between 14 and 15 December 2006, and signed by Angola, Burundi, the Central African Republic, the Democratic Republic of Congo (DRC), Kenya, Rwanda, Sudan, Tanzania, Uganda, and Zambia.

The ICGLR created a continental-wide framework of conflict circuit breakers focused on resolving the structural and surface situational causes of the 1996 to 2003 armed conflicts that drew in at least six nations and destabilised the entire region.

At the heart of the ICGLR is the Pact on Security, Stability and Development in the Great Lakes Region (PSSDGLR), which is the approbation, re-imaging and realisation of the Doctrine of Manifest Destiny in an African context. It is not that dissimilar to the consolidation of North America in the mid to late 19th century and the development of the European Union in the 20th century. In rhetoric and action, it signals a clear end to the colonial or neo-colonial era. Although this view may be contrary to the mainstream view outside of Africa, the PSSDGLR promotes the vision of a continent unified by a shared physical and economic infrastructure from East to West, supported by democratic civil society principles, and inward economic growth expanding outward.

The PSSDGLR is a conflict circuit breaker in the same sense that the European Economic Community (EEC) was when it was first developed. Like the Great Lakes Region, Europe came together a decade after a devastating conflict, looked at the causes of conflict, and developed a community approach.

The analogy is not that dissimilar. At the time, two European countries were dictatorships with limited freedom, one country with vast resources had been either the source or centre of conflict for over 100 years, and two countries were barely beyond the city-state level.

A comparison to the American concept of manifest destiny is also applicable. The United States was only fifty years away from the end of its colonial period and there was an understanding that their continent had to be harnessed and unified to achieve maximum development. At the time, the US was still refining its peace and security circuit breakers, which were not fully resolved until the end of a bloody civil war in 1865.

The PSSDGLR builds on the 2004 Dar es Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region. It contains ten protocols which can be divided into three groups:
Directly related peace and security conflict circuit breakers

Governance or inter-state relations protocols that serve as conflict circuit breakers by removing or defining behaviour around conflict points and by promoting behaviour that forestalls conflict

An economic protocol that ties the region together in terms of economic growth and infrastructure development. This is a direct relative to the EEC in terms of a conflict circuit breaker

Peace and security conflict circuit breakers

Protocol on Non-aggression and Mutual Defence in the Great Lakes Region

This protocol is a direct call to maintain peace and security; therefore, it is a front-line conflict circuit breaker. It also contains an action provision that allows for an extraordinary summit to be convened in order to consider appropriate action if a member violates the PSSDGLR. It should also be seen as working with the African Union’s Peace and Security Commission and supported both the African Stand-by Force effort and CEWARN (Conflict Early Warning System).

This protocol is reinforced by seven projects:

- Joint security management of common borders
- Disarmament and repatriation of all armed groups in the eastern DRC
- Disarmament of armed nomadic pastoralists and the promotion of sustainable development in Zone 3
- Development of border zones and promotion of human security
- Demining and mine action in the Great Lakes Region
- Coordination of activities and reinforcement of capacities in the sub-region to fight illicit proliferation of small arms and light weapons
- Fighting transnational crime and terrorism

The prime effort to operationalise the peace and security projects revolves around border security and disarming armed groups. It creates 12 overlapping security zones that will
allow for individual focus on the specific security issues in each zone (Peace and Security 2006). In addition, each zone may deploy its own mechanisms or agreements.

The best examples are Zone 1: Zone Volcano (Uganda, Rwanda, and the DRC, which is considered the most volatile zone) and Zone 10: Zone CEPGL (DRC, Burundi and Rwanda), which is also considered volatile with overlapping security issues. Both zones are prime examples of the challenges and risks associated with establishing conflict circuit breakers. However, they are also an example of how conflict circuit breakers can develop, albeit not always quickly or on demand.

With the establishment of a framework for dealing with transborder security issues, the African community has initiated a process for dealing with potentially conflict-inducing issues. This is arguably the first step in the peaceful resolution of conflict. By putting in place such agreements, the member states have created a mechanism for preventative diplomacy – in other words, a circuit breaker to conflict.

The second prime area is the disarmament and repatriation of all armed groups in the eastern DRC (Peace and Security 2006), which in itself is a primary conflict circuit breaker as it will immediately reduce tensions between key states. This notion is one of the key activities in the effort to reduce conflict in the region and will require the highest level of political will on the part of national leaders. Groups such as the Democratic Liberation Forces of Rwanda (FDLR) and the Lord’s Resistance Army (LRA), which have been harboured by the DRC, are the main cause of grievance in the region prompting threats of armed incursions by the governments of Rwanda and Uganda.

The Lusaka Ceasefire Agreement set out a joint verification mechanism between Rwanda and the DRC to deal with these armed groups. This mechanism has been bogged down by low levels of trust and lack of surveillance capacity and resources, and at the moment appears to be in a non-functioning state. However, a similar concept has been put into operation by the Tri-Partite Agreement on Regional Security in the Great Lakes, which was facilitated by the US in 2004. It officially became the Tri-Partite Plus One Joint Commission (TPJC) when Burundi was added in 2005.

The principles of the TPJC mirror the larger principles of the PSSDGLR. First, the process is owned by the African parties and only facilitated by the US, and responsibility lies with the members. Second, it acts as a partnership, with the facilitating nation providing resources, training, and mediation, if necessary.

A primary lesson learned from the early efforts of Zone 1 conflict circuit breakers is that progress requires all parties to be capable of facilitating the agreement. The Joint Intelligence Cell established in Kisangani for the DRC, Uganda and Rwanda to share information about armed groups has suffered from a lack of trust to share information,
and also a lack of resources, equipment, and training. It is now functioning after a nearly 18-month start-up period.

However, the TPJC, with the resolve of the PSSDGLR, appears to be building a conflict circuit breaker. Within weeks of signing the PSSDGLR, Rwanda facilitated negotiations between the DRC and Laurent Nkunda, an ex-general of the DRC army and formerly aligned with pro-Rwanda forces during the 1996-2003 conflict. Initial results appear to be positive.

Zone 3: The Kapototur Cradle of Man Triangle (Uganda, Kenya, Sudan and Ethiopia) is the next most volatile area with conflicts between nomadic pastoralist groups whose logic for socio-economic reproduction revolves around movement in search of pastures and water with extreme levels of cattle predation. This project envisages three objectives that will act as conflict circuit breakers: the promotion of a common legal framework for border security, the development of a regional institutional framework for border security, and the enhancement of capacity in dealing with border security (Disarmament of Nomadic Pastoralists 2006).

Perhaps the most important development was the recognition that states must work together to rid the region of the various negative forces. It implies that these forces manipulate the weak border areas of the Great Lakes Region to gain sanctuary and that states acting unilaterally tend to fail. Therefore, it collective action is required to prevent and resolve border conflicts.

Importantly, an emergency assembly of a ‘troika’ of heads of state will assemble during times of crisis. The ‘troika’ will consist of the outgoing chairman, the current chairman, and the incoming chairmen. A multilateral approach has been proposed under the philosophy that unilateral action has failed in the past with states unable to deal sufficiently with border security issues. The multilateral approach will also provide for zonal conferences on security for each triangle out of the 12.

The order of the day is joint action and collective responsibility. States will work together regarding border security and destabilising or ‘negative’ forces operating in the region. This includes joint patrols, joint command and control units, joint surveillance, and joint public–military awareness campaigns. A demining programme, a small arms non-proliferation treaty, and an anti-terrorism protocol also form part of the PSSDGLR.

Governance or inter-state relations protocols acting as secondary conflict circuit breakers

Democracy and good governance projects include:
A regional centre for democracy, good governance, human rights and civic education

A regional initiative for the prevention and the curbing of war crimes, crimes against humanity, crimes against genocide, and for the fight against impunity

A regional initiative against illegal exploitation of natural resources

The establishment of a regional information and communication council

There is little doubt that issues of governance have played a major role in promoting conflict in the region. According to the ICGLR, the goal of the governance initiative is to promote participative and inclusive political systems that will act as a conflict circuit breaker. This effort will confront significant challenges that include:

- The persistence of practices, perceptions and conceptions in which public property is personal and electoral processes are controlled by people who seek to cover and protect property acquired illicitly
- The non-respect of standards and principles of democratisation
- The weakness of state institutions
- The non-respect of human rights and other international conventions and standards
- The absence of constructive socio-political dialogue between the different players of the region

In many ways the establishment of appropriate governance and inter-state related protocols shares primary pillar status with the peace and security protocols of the PSSDGLR. To promote these issues the ICGLR has provided for the creation of a regional centre for the promotion of democracy, good governance, human rights and civil education. The centre will assist states in the rule of law, training, research, monitoring and increasing transparency. The centre will focus not only on state institutions, but also civil society, women and youth (Democracy and Good Governance).

The regional centre can be seen as a conflict circuit breaker – albeit in a supporting role to the direct preventative mechanism of the pact on peace and security. The centre provides for dialogue, as well as a pooling of national resources (human, technical and analytical) geared towards the sharing and regionalisation of issue resolution, whether it is conflict or governance. The centre, therefore, lessens the likelihood of conflict by creating a regional cooperation body.
The other mechanisms in place involve increased dialogue through the ICGLR and four observatory departments focusing on youth, women, media and democracy, and good governance with the aim of harmonising national policies on the highlighted areas. Funding will be drawn from the 11 states involved, donations and grants from developing partners, and international bodies such as the United Nations Development Programme (UNDP). Furthermore, all the states involved are pushed to join and partake in the New Partnership for Africa’s Development / African Peer Review Mechanism (NEPAD/APRM), the Millennium Development Goals (MDGs) and the Corruption Promotion Index (CPI) to encourage institution-building, increased accountability, and transparency. If successful, member states will be able to monitor each other’s progress in governance and corruption. Such a mechanism is vital in overseeing the fundamental principles of the ICGLR. If member states are willing to conform to this issue, the ability to implement the protocols signed in Nairobi will be far simpler. Moreover, the inclusion of all the states in the Great Lakes Region in NEPAD/APRM furthers integration and inter-state cooperation, which could facilitate the protocols.

In addition, the governance protocols start the process of addressing the concerns of Africa and the international community regarding resource exploitation. In the initial stages the establishment of a certification mechanism is to be explored, and this could also be seen as an aid to economic development and trade.

**Economic growth and infrastructure development protocols**

Economic development and regional integration is the third major action area of the PSSDGLR and represents the greatest and most challenging leap forward for the region. The Great Lakes Region has remained chronically underdeveloped in terms of regional integration, trade and infrastructure, and also remains unable to compete globally.

This area also fulfils the promise of a neo-Pan African economic approach that promotes trade across Africa. It also recognises that an economically developed and linked Africa has a reduced risk of conflict. The projects in this category are covered by the Protocol on the Specific Reconstruction and Development Zone and can be defined by two major categories: economic development and infrastructure development.

**Economic development projects**

- Establishment of a regional micro-finance support facility
- Transborder development basins (TDBs)
- Regional project on food security
Revival of the economic community of the Great Lakes countries and its specialised institutions

Regional mechanism for certification of natural resources proposal

**Infrastructure development**

- Northern Corridor: Programme for improving transport infrastructure and facilities
- Trans-African Highway: Mombasa–Lagos
- Lobito Corridor project (prefeasibility study)
- Southern Corridor (Great Lakes Region Railway) project prefeasibility study
- Pre-feasibility study on the Northern Corridor Railway extension
- Feasibility study on the rehabilitation and navigability of the Congo River Basin
- Rehabilitation and connectivity of the Inga Dam, a dam on the Inga Falls
- Feasibility study on the regional oil pipeline
- Methane gas project (Kivu regional pipeline project) feasibility study
- East African submarine cable system project (EASSy)

**Economic development conflict circuit breakers**

Here, the first issue concerns the creation of a micro-financing support facility. Such a facility would recognise the importance and prevalence of the informal sector across the region. The facility would provide access to credit to those otherwise unable to receive loans, with a view to starting some form of business or productive economic activity on the individual or micro level. This, in turn, would alleviate poverty and stimulate economic growth through job creation. The 11 states would be responsible for the initial start-up funds, but would work with international financial institutions and development partners as well as with the national ministries of finance, small/medium enterprises (SMEs), and central banks to regulate and implement the facility (Micro-Finance Support Facility 2006).

As for short-circuiting potential conflict, this notion is a valid one, but only in conjunction with complementary policies. It concerns the economic empowerment of individuals, groups and identities previously marginalised from the politico-economic sphere. Conflict
In Africa is often orchestrated by those who feel they are excluded politically, which is demonstrated by the LRA insurgency in northern Uganda and the current plethora of militia groups in the DRC. By introducing a mechanism for economic inclusion, and therefore representation, the micro-financing support facility is a conduit for stability. However, the facility must work in tandem with complementary regional policies, as conflict in the Great Lakes Region can and often does have a significant regional element.

The second significant feature is transborder development basins (TDBs), or growth triangles. This involves the voluntary integration of the border territories of two or more states (Transborder Development Basins 2006). TDBs would promote local regionalism through local economic cooperation and integration based on a common history, common interests in resource exploitation (natural and human), and a common culture. The onus is on joint development and promotes loose development associations from the states directly involved. To achieve this, TDBs must demonstrate market-friendly public intervention, combined with private investment geared towards an East Asian development model. TDBs combine regional planning and development with national collaboration and harmonisation of domestic policies in order to ensure efficient growth – politically, economically and socially. Infrastructure, health and education are essential for the success of such projects. It is proposed that local integration – if implemented successfully – would seriously diminish the potential for conflict in the region, with the increase of socio-economic benefits to areas of strife.

A spin-off of such a notion is the proposed Millennium Agricultural Programme for Africa (MAPA), which aims to halve hunger in Africa by 2015. MAPA will strive to achieve this through alliances of individuals and institutions such as farmers unions, sensitising and educating policymakers, and implementing new technologies and sciences in cultivation and crop production.

The regional integration of economic zones into TDBs reflects the growing realisation that border conflicts and transborder development go hand in hand. In essence, TDBs are a macrocosm of the micro-financing support facility, providing political and economic inclusion to previously marginalised areas. Such a project would also include invaluable small-scale dialogue opportunities between different interest groups. The project would lead to increased political and economic cooperation that is not so dissimilar to the initial neo-functionalist period of the EEC in the 1950s, where the issue of ‘spill-over’ led to further political and economic integration.

Two key projects illuminate the importance of infrastructural development: the Southern Corridor Great Lakes Region Railway (GLRR) and the Trans-African Highway.

The GLRR was conceived at the Dar es Salaam conference in 2004. The rationale was to reduce transport costs to the region, promoting investment, or at least give the region
a greater chance of competing in the global political economy. The planned railway will stretch from the East Coast to the West Coast with the possible inclusion of the Benguela railway (if completed), will include the Southern and Eastern railway systems, and will potentially reach up to the Red Sea, through Sudan. Such a project would greatly reduce the transport costs of goods and would certainly render the core Great Lakes states far more accessible. The project envisages an initial railway of 900 km, with extensions to be added after completion. However, there are fears of inertia and lack of commitment, as well as funding. The feasibility study alone costs US$961 750 for five months and will only be completed in May 2008 (Southern Corridor 2006).

The Trans-African Highway (TAH) was conceived in a similar vein to the GLRR. The aim is to construct a highway to connect Mombasa in Kenya with Lagos in Nigeria, spanning the continent. Again, the rationale is to reduce the price of exports and imports, and to open up the interior to alternative travel routes. The project would encompass 6 259 km of highway, 53 per cent of which is currently either gravel or earth (Trans-African Highway 2006).

The importance of infrastructure in the region’s development is encapsulated in these two projects. Both promote the ‘opening up’ the interior of the continent to commerce through easier, more reliable and cheaper means of transport, thus reducing the price of imports and exports to the region. Both projects aim at linking the Atlantic and Indian oceans and, in the case of the GLRR, even reaching the Red Sea. However, both projects are at risk from a lack of funds, inertia, and a lack of commitment.

With regard to conflict circuit breakers, the notion of a region closely tied by infrastructure, implying a shared economic interest, reflects once again the progression of the EEC and that of the US. Shared economic growth through mutual interest has the potential of encouraging cooperation and thus decreasing the potential for the outbreak of violent conflict. As a direct circuit breaker the link is tenuous, but combined with provisions such as collective security and collective development, shared infrastructure seriously diminishes potential conflict.

The final pillar of the conference concerns social and humanitarian issues. Issues such as refugees and internally displaced persons (IDPs) have been a major fuel for existing conflicts. Sometimes – as in the case of Congo-Zaïre – the presence and actions of IDP populations (and their leaders) can cause states to collapse. Therefore it is essential that issues of this nature be dealt with multilaterally. The pact provides, for the first time, a regional legal framework to deal with such populations. The framework is in strict accordance with international humanitarian law and human rights law and thus provides for the effective management of refugee and IDP populations.

This is a key issue regarding peace in the Great Lakes Region. The issue of refugees and IDPs has been instrumental in every state where recurring conflicts occur. A sizeable refugee or
IDP population has been a root cause of violent conflict in the DRC (1996-2003), Rwanda (1990-2003), Burundi (1990s), Sudan, Chad, Somalia, Angola and Uganda. In order to avoid the conflict that has plagued the region, a policy dealing with this issue is vital for lasting peace. A legal framework with the full support and commitment of the member states of the region is a significant step forward in reducing the potential for conflict by providing dialogue, collective action and a coherent codified document that can be implemented.

**Risks of and challenges to the implementation of the PSSDGLR**

The ICGLR is an important step because it is an African-owned process; however, as a long-term circuit breaker of regional conflict, it will require the active support and funding of African and non-African governments and institutions. Initial and sceptical commentary regarding the success of the ICGLR tended to focus on the issue of the will of African leaders to execute the protocols and projects.

But the risks and challenges facing the PSSDGLR are much broader and fall within two categories, namely dynamic political risks and budget support.

**Dynamic political risks**

With the exception of the DRC, the core countries of the ICGLR have achieved a sustainable level of stability. For the first time in nearly 40 years, democratically elected presidents govern from the Atlantic to the Indian oceans. Uganda, Tanzania, Zambia, Rwanda, and Burundi have presidents who will not stand for election within the first period of implementing the PSSDGLR; therefore consistency can be assumed in their approach to regional issues.

Kenya does have an election scheduled for 2007, as well an unresolved constitutional issue, but there seems little possibility that the country would change its political direction towards the PSSDGLR. In 2006 Burundi has experienced a level of political turmoil with an alleged coup attempt and a power struggle in the ruling party. However, in the near term it seems unlikely that this internal instability would develop into a regional conflict or hinder the broad regional integration and infrastructure efforts.

Once again with the exception of the DRC, all countries have achieved a stable relationship with their donor community (including the World Bank) as a vital source of infrastructure funding. Interestingly, a significant number of countries have received Millennium Challenge Account status with the US, which demonstrates a level of stability and offers the option for additional funding.
However, the DRC stands out as a primary political risk to the regional implementation of at least two core components of the PSSDGLR: peace and security, and economic development and regional integration. The governance and inter-state protocol component will not be regionally impacted, because much of this work depends on country-specific activities.

In terms of peace and security, political instability in the DRC will have a primary affect on securing the common borders and disarmament and repatriation of armed groups in the eastern DRC. Security Zones 1 and 10, which are at the heart of regional security issues, will remain difficult to secure and hinder any established conflict circuit breakers.

Regional integration and economic development will be significantly hindered and the vision of establishing a transcontinental economic and infrastructure programme will die. In essence, this vision envisaged linking the region from the Atlantic to the Indian oceans so that trade and transport can flow across the region and not just outward as is the current model. The ability to develop the hydroelectric capabilities of the DRC for regional distribution will also end, and this effort is a key requirement to facilitate economic growth in landlocked countries.

William Swing, UN Special Representative of the Secretary-General for the DRC, recently noted the prime risk in the future of the DRC: 'What is the worst case scenario? For me, the worst case scenario is good elections, nothing changes' (*The way forward* 2006).

Tony Gambino, former director of the USAID Mission to the DRC, pointed out six key danger points:

- To date, security sector reform has been a failure. The Congolese army is divided, ineffective, and fleckless
- Impunity still goes almost entirely unpunished, and it is growing worse
- Justice is rarely seen at any level in the Congo
- Corruption is rampant. The worst corruption is found around President Laurent Kabila
- Social services are limited or non-existent
- Economic development is uneven because of the extractive industries (*The way forward* 2006)

The DRC is therefore a key circuit breaker to conflict in itself. It stands to reason that if the DRC commits itself to the ICGLR’s proposals, a major source of conflict in the region
will be seriously diminished. The DRC has been party, either directly or indirectly, to conflicts encompassing Rwanda, Uganda, Angola, Sudan and a host of Southern African states, as well as international interference from the US and France throughout the post-independence period, resulting in large arms flows and legitimising the corrupt and violent regime of Mobutu Sese Seko. If the DRC government manages to merge its domestic and regional priorities within the framework provided, a major theatre of conflict will suddenly have closed, but only in the climate of regional cooperation, implying the need for ‘neighbourly’ support from the rest of the region.

Budgeting risk

The issue of funding for the various projects proposed to stymie conflict in the Great Lakes Region and to promote development is a contentious issue with many implications such as ‘who funds what and for how long’, as well as the issue of sustainability. Throughout the independence period, multilateral projects and organisations have been plagued by the lack of political will with regards to the contributions of member states. As a vast literature underscores, this is not confined to Africa; the UN is susceptible to similar problems, especially in crisis response projects (De Waal 1997; Dallaire 2003).

Regarding the ICGLR, the issue of funding has been repeatedly highlighted as a risk point. The approach to funding in this instance addresses the previous stumbling blocks to the sustainability of financing ambitious, multilateral projects. In doing so the ICGLR established a fund, a follow-up mechanism, and secured both regional and international commitment to its implementation and maintenance. The ICGLR’s projects are to be financed by a Special Fund for Reconstruction and Development (SFRD). Initially the fund is to be financed by the member states with mandatory contributions, following the ratification of the protocols. The contributions from member states will be supplemented by the international community and the fund itself will be housed in the African Development Bank (AfDB).

Such a strategy depends on the political will of the member states and of the international community in a supporting role, reflecting the ethos of the conference, ownership and partnership. So far, initial prospects have been good. The DRC has pledged US$1 million, and Tanzania has pledged US$559 350 for the commission and US$500 000 for the SFRD. The Netherlands has pledged €5 million, and the Group of Friends, consisting of 26 members, has also given US$10 million for national preparatory activities. So far it seems political will from all parties concerned is committed to the protocols established at the ICGLR. However, the contributions at the moment are not sufficient to initialise and sustain the ambitious proposals adopted in Nairobi.

The ICGLR not only established four project areas and the SFRD, but also a commission and follow-up mechanism that need to be funded. A recent article in Uganda’s Sunday

In total, the estimated implementation and maintenance cost amounts to some US$2 billion, which excludes the cost of the follow-up mechanism and the commission. Clearly, there needs to be consistent dedication on the part of donors, be they regional or international, to finance the projects proposed fully or they will face another truncated attempt at a multilateral approach to peace and nation building that falls at the first hurdle – the issue of funding.

**Conclusions**

The African Great Lakes Region has been a quagmire of violent conflict since the colonial period. Regarding the root causes of war in Central Africa, analysts have highlighted five high-risk areas.

- Ethnicity is a factor when one ethnic group dominates the state to the point where there is competition between ethnic groups for power and resources
- Then there is the notion of artificial boundaries that cut across ethnic groups, creating cross-border tensions and internal power imbalances
- Resource scarcity, leading to armed conflict among certain groups, especially pastoralists, over resources essential for survival
- Economic dependency and underdevelopment stunt the growth of mature democratic politics
- Alien models of statehood were imposed by colonial powers. Many states had a shaky legitimacy with post-independence leaders usually vying to occupy the seats of their colonial masters (De Waal 2000)

From these root causes of war, some implications can be drawn. In order to reduce the potential for conflict, an African state must be African in nature – in other words, it should be free of colonial or neo-colonial ties, incorporate the interests of cross-border groups’, be dedicated to anti-ethnic politics, and be engaged in economic development with political and economic opportunities for the population. When these are combined, conflict circuit breakers are established. With the formation of the AU, the adoption of the TPJC, the re-establishment and expansion of the East African Community, and the success of the other regional blocs, the African continent is looking decisively African.
The ICGLR’s four pillars (peace and security; good governance and democracy; economic development and regional integration; and social and humanitarian issues) embody the key areas needed to be effective conflict circuit breakers. The problems of funding, dynamic political risks and lack of political will, by both African nations and the international community, pose a major threat to the implementation of the PSSDGLR.

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The ‘one-plus-four’ formula and transition in the Democratic Republic of Congo

Sadiki Koko*

In the aftermath of the signing of the ‘Accord Global et Inclusif’ (AGI) in Pretoria on 17 December 2002, not much was expected of President Thabo Mbeki’s ‘imposed political monster’. In effect, after Mbeki came up with his ‘final plan’ providing for a transitional presidency made up of a president and four vice-presidents, many blamed ‘Mbeki’s ignorance of Congolese political intricacies’. Mbeki’s ‘one-plus-four’ formula was not only said to be unknown to the Congolese, but was also doomed to failure, given the nature of the stakeholders and the interests at stake in the DRC crisis. However, in view of the latest political developments in the DRC (a successful constitutional referendum as well as presidential, legislative and provincial elections, among others), we contend that, given the complexity of the Congolese conflict, Mbeki’s design has emerged as a commendable contribution to the political solution of the Congolese crisis. Factors that have enabled such a transition mechanism to hold ought to be critically studied and eventually applied as a model for similar conflict situations in Africa and probably beyond.

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Introduction

On 17 May 1997, after a 32-year rule, Mobutu Sese Seko’s regime was removed from power by forces of the Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (AFDL), led by Laurent-Désiré Kabila, who immediately proclaimed himself president of the ‘new’ Democratic Republic of Congo (DRC). In August 1998, some of Kabila’s allies in the alliance initiated an insurgency aimed at toppling him from the country’s presidency. Three years later, in January 2001, Kabila was killed. He was immediately replaced by his 29-year-old son, Joseph Kabila, who committed to providing the political leverage and will for the organisation of the Inter-Congolese Dialogue (ICD) and the setting up of a transitional dispensation designed to culminate in the holding of general elections in order to end the political legitimacy crisis that the country had been experiencing since its independence in June 1960.

In February 2002, the government (Joseph Kabila’s group), the Rassemblement Congolais pour la Démocratie-Goma (RCD-Goma), the Mouvement pour la Libération du Congo (MLC), the Rassemblement Congolais pour la Démocratie-Kisangani/Mouvement de Libération (RCD-K/ML), the Rassemblement Congolais pour la Démocratie-National (RCD-N), the Mai-Mai group, civil society and the political opposition were invited to South Africa to discuss the terms of a power-sharing transitional mechanism that would be as inclusive of all stakeholders. International leverage was added to the process with the involvement of the Southern African Development Community (SADC), the OAU/AU and the UN, who also became guarantors of the peace process. Sir Ketumile Masire, former Botswana president, was appointed facilitator and was supported by South African president Thabo Mbeki.

As the parties to the dialogue could not expectedly reach any meaningful agreement, it rested upon the facilitation team to use the ‘carrot and stick’ strategy to ‘compel’ them to agree. Mbeki – not Masire, though at his request – introduced, not without constraints and criticisms, the ‘one-plus-four’ formula that essentially midwived the transition process in the DRC. According to many observers and analysts, the formula appeared too heavy and inadequate for Congolese political culture and experiences. The critics grounded their arguments on two major points. First, the sort of collegial presidency advocated by Mbeki was, indeed, ‘unknown in the constitutional post-colonial history of the Congo’ (Mangu 2003:254). Second, the political history of the DRC is known to be ‘littered with political agreements and constitutions that were never honoured fully by those who signed them or formally committed to respecting them’ (Mangu 2003:257). Therefore, whether Mbeki’s ‘imposed plan’ would succeed had less to do with any Congolese ownership over the transition process.

This article discusses the factors that enabled this unique political mechanism to succeed and contribute significantly to solving the Congolese conflict. It is divided into four parts:
the first part presents the background to the political crisis; the second part describes South Africa's approach to the crisis under Mandela's leadership; the third part discusses Mbeki's involvement and his role in steering the negotiations towards a generally acceptable solution; and the last part assesses the role of South Africa in the transitional dispensation in terms of peacekeeping, political leverage and electoral assistance.

Background to the Congolese political crisis

One would argue with much relevance that the root causes of the political crisis the DRC has undergone from 1990 until very recently are to be found in the early years of the country's decolonisation and in the Belgian colonial experience. Owing to space constraints, we will not delve into this history, but will start our analysis of the crisis in 1990, when the democratisation process supposedly started in the then Zaire (now the DRC).

The early 1990s and Mobutu's stalemated democratisation process

On 24 April 1990, Mobutu publicly announced that the DRC was moving back to multiparty politics. Though the presidential announcement was preceded by a general and countrywide consultation by the president himself, a close examination of the situation indicates that Mobutu owed much of his 'political reform' to Western powers, that is, donor countries such as France, the US and Belgium, as well as international financial institutions (the International Monetary Fund and World Bank). Seven years later, Mobutu's 'democratic' dispensation had flourished quantitatively, but not qualitatively. Close to 500 political parties had duly been registered by the Ministry of the Interior. The number of 'independent trade unions' had increased significantly too. Private media also mushroomed to challenge the monopoly of government control over all means of information and communication in the country. More importantly, Mobutu's cabinets started to include his political opponents.

In spite of these quantitative improvements, Mobutu's 'democracy' remained a mirage and window dressing for the international community and did not improve the quality of the political system. The national government remained extremely unstable as the country saw 12 cabinet reshuffles in just seven years. Additionally, the army, which was generally 'a collection of thugs [rather] than a fighting force, went on two disastrous looting and pillaging sprees in the early 1990s, destroying most of Kinshasa's [and other major cities] modern business sector, and prompting the flight of foreign multinational corporations' (Swart & Solomon 2004:4).

While internal political, social and economic conditions were deteriorating, the situation in the Great Lakes Region underwent a transformation that exacerbated Congolese uncertainties. Burundi had just experienced the assassination of its first elected (Hutu)
president since independence in 1993 and the return to power three years later of Pierre Buyoya (a Tutsi army officer and former defeated president) through a bloodless coup. In Rwanda, the 1994 Hutu-perpetrated genocide and the subsequent seizure of political power by the Uganda-backed and Tutsi-dominated Rwandan Patriotic Front (RPF) led to more than 2 millions Hutu – among them elements of the defeated Forces Armées Rwandaises (FAR), and fighters of the Interahamwe militia – fleeing into eastern DRC to seek refuge.

Against this backdrop of disintegration of the Zairean state, coupled with the general instability in the Great Lakes Region, the AFDL was to emerge as a political and military movement seeking to topple Mobutu and rid the country of his corrupt regime.

The AFDL and the collapse of the Mobutu regime

From 1990 to 1996 Mobutu had successfully managed to stall the democratisation process that he had been forced into by the international community. The political opposition, alongside other social movements advocating substantive change in the country, had been profoundly divided and systematically weakened. The degrading social conditions of the masses – especially in large cities – and the continuous free-fall of the economy further diverted people’s focus from active politics towards imaginative survival strategies.

However, the decisive blow that sealed the fate of Mobutu’s regime came from neighbouring countries led by Kagame’s Rwanda and Museveni’s Uganda. This regional ‘plot’, which included not only Rwanda, Uganda, Angola and Burundi, but also to some extent Tanzania, Zambia, Congo-Brazzaville and Eritrea, was motivated by shared concern among the ‘new’ leaders in those countries over Mobutu’s involvement in destabilisation in their own countries, as well as in the region as a whole.

In August 1996, the international media reported an uprising in eastern Zaire by the Banyamulenge, who had taken ‘up weapons to claim their citizenship as Congolese’ (Mangu 2003:242). In October 1996, in a move to prove the ‘Congoleteness’ of the operation and gain people’s support, the fighters identified themselves as the AFDL, with Laurent-Désiré Kabila as their spokesperson/leader. Despite the extensive appearance of the AFDL – it was, indeed, an alliance made of four political parties – the movement had no major means of its own to conduct and sustain war in 1996 in Zaire, and had to rely fully on external support in terms of troops, logistics and finance. They, therefore, owed their victory to a combination of heteroclite factors that would coalesce to oust Mobutu and his regime.

From 1998 to 2001: Redefinition of alliances and balkanisation of the country

From the way war was conducted and the easy and quick advent of the AFDL into power in Kinshasa, informed observers became increasingly convinced that the real victors were
to be found beyond the AFDL’s child soldiers and poor organisation. Rwanda, Uganda, Burundi and Angola in particular had intervened in the DRC in support of the AFDL for security reasons. However, after Kabila had replaced Mobutu in May 1997, Rwanda and Uganda appeared to be determined to exert control over Kabila’s government. This state of affairs was compounded by the suspension of the activities of political parties in the country.

In early August 1998, Kabila accused his ‘Rwandan allies’ of plotting a coup against him and expelled them from the country. This has been said to be the trigger of what turned out to be the DRC’s second war, with Rwanda and Uganda committing troops and logistical support to the quickly constituted RCD.

Kabila on his part sought assistance from his peers in SADC, which the DRC had joined in 1997. Zimbabwe, Angola and Namibia responded to the call and joined forces with Kabila. On the rebel side, a second movement (MLC), led by Jean-Pierre Bemba and backed by Uganda, was created on 1 October 1998. Still later, disputes over leadership and control within the RCD in May 1999 led to the split of the movement into the Rwanda-backed RCD-Goma (led by Emile Ilunga) and the Uganda-backed RCD-Kisangani (led by Wamba dia Wamba). The latter was to subdivide again into the smaller RCD-K/ML and RCD-N after the defeat of Ugandan troops in Kisangani by the Rwandan army in August 1999 and May–June 2000. This situation led to the balkanisation of the country between government-controlled territories and rebel-held areas, severely reducing people’s mobility, as well as the flow of goods.

While Congolese conflicting parties sought all possible means to defeat their opponents, external players committed themselves to helping them find a political and negotiated solution to the crisis. One such player was South Africa’s President Nelson Mandela.

**Mandela and the Congolese crisis: South Africa kept out**

**Mandela as devil: South Africa opposes SADC intervention in the DRC**

The ascension of Mandela and the ANC to power in South Africa in April 1994 has been regarded, in terms of African geopolitics, as a major factor contributing to change in other parts of the continent, especially sub-Saharan Africa.

Mandela, as early as February 1997, had offered his good services and diplomatic facilitation for a negotiated outcome in the Congolese ‘first war’. On 2 May 1997, although AFDL troops were already battling their way towards Mobutu’s last barrier
to conquer Kinshasa, Mandela managed to convene a meeting between Mobutu and
Kabila on board the South African army’s warship Outeniqua in international waters off
Congo-Brazzaville. While Mobutu admitted that he was ready to step down ‘for health
reasons’ and hand over power to the speaker of the transitional parliament, Kabila and
the AFDL simply expected him to resign and hand over the reins of power to them.
In the meantime, AFDL troops were already walking into Kinshasa and militarily
seizing power.

After the ‘second war’ broke down in the DRC in 1998, a meeting of the SADC
Organ Ministers of Defence was convened in Harare, Zimbabwe, on 17 and 18 August
1998. After the meeting, President Robert Mugabe, then chairperson of the SADC
Organ on Politics, Defence and Security Cooperation (OPDS), emphasised that the
organisation had agreed that military aid should be sent to secure Kabila’s government
position. However, Mandela, then chairperson of SADC Summit, ‘disagreed that it was
a proper SADC decision, since he was not consulted’ (Mangu 2003:242) and not all
SADC members had attended the meeting. Mandela’s stand is also believed to have
been motivated by South Africa’s ‘adherence to its doctrine of the democratic peace and
commitment to the peaceful resolution of disputes’ (Landsberg 2002:174). But South
Africa’s argument was weakened by its decision to intervene militarily in Lesotho in
September 1998 to roll back a coup attempt in the mountain kingdom. The ‘pro-Kabila’
group (Zimbabwe, Angola and Namibia) blamed Pretoria for its double standards and
promotion of ‘regional apartheid policies’ (Landsberg 2002:174).

**Victim of his unilateralism: Mandela denied mediator’s position**

South Africa’s foreign policy under Mandela, especially as far as sub-Saharan Africa is
concerned, was characterised by activism, unilateralism and militancy. Mandela viewed
South Africa as the ‘continental exception’ that had the duty to re-order the continent,
exporting its own experiences of success, both political and economic. This ‘activist
unilateralism’ made Mandela challenge Nigerian president Sani Abacha for human rights
abuse in 1995, deploy troops to Lesotho in 1998, and oppose the SADC multilateral
decision to intervene in the DRC in 1998.

In an attempt to force his way back and ‘restore South Africa’s dented credibility and
pride’ (Landsberg 2002:175), Mandela met with President Kagame of Rwanda and later
with President Museveni of Uganda to promote the idea of a negotiated settlement and
ceasefire for the conflict. In October 1998, he offered his good offices and diplomatic
facilitation to the Congolese warring parties. The DRC government overtly rejected
Mandela’s offer, while SADC officially supported Zambian president Frederick Chiluba’s
mediation efforts that were to lead to the Lusaka ceasefire agreement in July 1999, soon
after Mandela had left office in South Africa.
South Africa comes back: Thabo Mbeki and the inter-Congolese dialogue

On assuming office in 1999, President Mbeki restored South Africa’s leading role in the process, because his country had certain interests to enhance by becoming involved. As a regional power, South Africa was eager to play a key role and possibly achieve a success that would increase its prestige and reinforce its image as Africa’s peacemaker. ‘As a commercial power, Pretoria was also aware of the business opportunities that would open to South African companies once peace was restored in the DRC’ (Rogier 2006:104). Furthermore, as a military power on the continent, South Africa wanted to ensure that conditions were propitious before it could send troops for peacekeeping. However, this change in foreign policy could be attributable to President Mbeki’s African Renaissance ideology, which partly influenced his presidency.

Mbeki’s proposals (I and II) and the Kabila-Bemba Accord of Sun City

In the DRC, the year 2001 coincided with a leadership change, as Joseph Kabila stepped in to replace his assassinated father, Laurent-Désiré. This change enabled the gathering of the ICD in Addis Ababa, Ethiopia, starting on 15 October 2001. But the meeting lasted for only five days instead of the initial 45, owing to disputes over the reduction of the number of delegates and the request of Kabila’s government for the inclusion of additional players, namely religious leaders, Mai-Mai militias and other armed and non-armed opposition actors. Time was propitious for Mbeki to convince all the parties to host the ICD in South Africa.

After relocating to South Africa, the ICD resumed at Sun City on 25 February 2002. A total of 362 participants attended, representing five ‘components’: the DRC government, the RCD-Goma, the MLC, civil society, and the political opposition; as well as three ‘entities’: the RCD-K/ML, the RCD-N and the Mai-Mai militias. Delegates were divided into five technical commissions, entrusted with political and legal matters; economy and finance; social, cultural and humanitarian affairs; security and defence; and peace and reconciliation. A total of 37 resolutions were passed by these five commissions, including the creation of four new institutions of support to democracy, namely the Independent Electoral Commission, the National Observatory for Human Rights, the Truth and Reconciliation Commission, and the High Authority of the Media. However, parties had yet to reach agreement on key issues, namely those related to the establishment of a new political dispensation, the re-establishment of the state administration throughout the country, and the formation of a new national army. ‘The Congolese government [had simply withdrawn] its participation in the Defence and Security Commission after refusing to adopt a resolution to restructure and integrate the armed forces into any other but the existing government army’ (International Crisis Group 2002:5). Meanwhile,
the RCD and MLC, alongside some ‘radicals’ among the political opposition, refused to endorse Kabila as the transitional president. The MLC amended its position on 9 April 2002, while the RCD insisted that ‘its rejection of Kabila was non-negotiable’ (International Crisis Group 2002:5).

To avoid the imminent failure, Masire appealed to Mbeki ‘to try to broker a last minute deal’ (Rogier 2006:104) as only four days remained. Official negotiations over power-sharing thus began on 8 April 2002. Subsequently, President Mbeki put forward two plans, known as ‘Mbeki I’ and ‘Mbeki II’. Released on 10 April 2002, ‘Mbeki I’ proposed a ‘Council of State’ made up of President Joseph Kabila (head of the council), two RCD and MLC representatives, and a prime minister from the political opposition. Civil society was offered the presidency of parliament as well as other institutions of support to democracy. The defence, police, security and intelligence services were to be neutral, while the Reserve Bank would remain autonomous. The RCD, MLC and some members of the political opposition rejected ‘Mbeki I’ for ‘favouring the government of Joseph Kabila’.

The following day, ‘Mbeki II’ was initiated. Mbeki II brought in the concept of the ‘High Council of the Republic’ and offered RCD-Goma a first vice-presidency, overseeing the ministerial portfolio of defence, home affairs, security services and the organisation of elections. The second vice-presidency, in charge of economy, finance and reconstruction, went to the MLC. The political opposition was allotted the position of prime minister, to lead a government made up of five vice-prime ministers, ministers and vice-ministers. The presidency of the monocameral 500-seat parliament was left to civil society. When it was released, the MLC and the Kinshasa government denounced ‘Mbeki II’ for favouring the RCD. They then produced ‘a joint alternative proposal that dramatically reduced the political prominence of RCD-Goma in the transitional government’ (Swart & Solomon 2004:29). Kabila would remain president, assisted by three vice-presidents from the RCD, MLC and civil society, while the political opposition was to keep the position of prime minister. ‘The proposals received instant backing from the majority of participants in the ICD, who were eager to avoid power-sharing solutions dictated by the RCD and its ally Rwanda’ (Swart & Solomon 2004:29). However, there was no further agreement on the proposal. While the facilitation team sought to prolong the talks for one additional week, Kabila’s government and Bemba’s MLC struck a deal on the sidelines of the ICD. The Sun City Accord confirmed Kabila as president for the transition period, while allotting the seat of prime minister to Bemba. The RCD and political opposition were given the presidencies of the National Assembly and Senate respectively. Other parties joined the accord, namely the RCD-K/ML, RCD-N, Mai-Mai militias, as well as the majority of civil society and political opposition delegates. The RCD-Goma and a few members of the political opposition and civil society stayed out of the agreement. For them, dialogue had to resume and an all-inclusive agreement had to be reached. To this effect, on 22 April 2002 at Sun City they set up the Alliance pour la Sauvegarde du
Dialogue Intercongolais (ASD), headed by UDPS national leader Etienne Tshisekedi. Their view was shared by Masire and Mbeki.

More critically, the efforts of the ASD were strengthened by significant developments that were to occur in the second half of 2002, contributing significantly to dissipating much of the cloud over the pathway to peace in the DRC. First among these developments was the failure of Kabila and Bemba to implement the Sun City Accord. Second, South Africa realised that it had to use its privileged relationship with Kigali to try to convince the RCD-Goma and its sponsors to reach a deal. In July and September 2002, separate agreements were concluded between the DRC and Rwanda (Pretoria I) and between the DRC and Uganda (in Luanda), which paved the way for the withdrawal of foreign forces from Congolese territory, as Rwanda as well as Uganda started to pull out of the DRC. The arrival of Mustapha Niasse was to prove crucial. He was the Special Envoy of UN Secretary-General Kofi Annan to the DRC and had chaired the Political and Legal Commission of the ICD. On the request of Kofi Annan and with the support of the South African government, he conducted three missions in the Great Lakes Region between June and October 2002 and met with all parties to discuss their views on power-sharing during the transition period.

The final act: Imposition or agreement?

In the recent past it has increasingly become a shared view that often parties to African conflicts are drawn to the negotiating table sooner than is desirable, and forced to talk. But even in very old conflicts – such as the Angolan conflict, which lasted until Jonas Savimbi’s death in 2002 – parties to African conflicts themselves hardly agree to talk and solve their differences. In most cases, the facilitation teams find themselves not only dictating the terms of negotiation to parties, but also ‘imposing’ the outcome, with or without clear agreement between them. This situation partly explains why African peace processes fail to address the core issues of the conflict, that is, the root causes, and simply fail in many cases.

The ICD was not going to be an exception to this African trend. Rogier (2004:35–36) argues that:

Although [the Global and All-Inclusive Agreement] deal was a necessary step on the road to peace and may eventually mark the beginning of a new era in the DRC, the Pretoria II agreement did not stem from the political will of the signatories, but was achieved, just like the previous ones, after protracted negotiations and under intense international pressure exerted in particular by the United Nations, South Africa, and Western countries. In the end, the parties’ motives for signing were to avoid being marginalised and to have their share of power preserved, confirmed or recognised, but probably not to offer the DRC an opportunity to rise from its ashes.
Transition in the DRC and the role of South Africa

On 17 December 2002, parties to the ICD finally agreed to the *Accord Global et Inclusif* – also called ‘Final Mbeki Plan’ (Mangu 2003:250) – in Pretoria. In practical terms, though, the AGI was a power-sharing mechanism designed to enable the setting up of a government of national unity that would re-unite the country before organising elections for a people-backed political dispensation and legitimacy in the country. The mechanism consisted of a collegial presidency of a president (from the Kinshasa government) and four deputy presidents (from the RCD-Goma, the MLC, the political opposition and the Kinshasa government). Each deputy president was in charge of a governmental commission: the political commission (RCD-Goma); the economic and financial commission (MLC); the reconstruction and development commission (Kinshasa government); and the social and cultural commission (political opposition). The national government was to comprise the president, four deputy presidents, 36 ministers and 25 vice-ministers. The speaker of the 500-seat National Assembly was to come from the MLC, while the chairmanship of the 120-seat Senate was left to civil society. However, care was taken for each component to be included in the bureaux of both the National Assembly and Senate. Power was also shared at provincial level as governors and their deputies emanated from both ‘components’ as well as ‘entities’ to the ICD. Power-sharing was pushed even further to include public enterprises, which were to be managed by representatives of parties to the ICD during the transition period. In so far as the security sector was concerned, the same power-sharing philosophy led not only to the integration of the various armed forces into the new *Forces Armées de la République Démocratique du Congo* (FARDC), but also to an equitable distribution of posts among parties in the army staff, the police and security services at national and provincial level.

It is in taking into account this peculiar and ‘sophisticated’ transitional architecture that Swart and Solomon (2004:2) assert that ‘the DRC provides for an interesting yet troubling discussion not only of the conflict itself, but of the actual steps initiated to restore peace, stability, security ... by those individuals who found themselves at the centre of its violent outbreak’. Even the so-called institutions of support to democracy (referred to earlier) had to abide by the equitable power-sharing principle. Though their chairmanships were allotted to civil society – as an indication of their impartiality – their composition took into account the representativeness of all involved parties.

Though commendable, the commitment of Congolese parties to the ICD to a peaceful transition was not enough to guarantee the success of the process. External actors, especially the international (Western) community, had to bring about the crucial support (human, material, financial, etc) and political leverage much needed in African peace processes for the Congolese transitional dispensation to aim towards success. However, Mbeki was adamant that South Africa (and Africa in general) would not be outplayed by
major Western powers. Mbeki’s and South Africa’s continuous support towards the DRC was to find justification within Mbeki’s African renaissance ‘ideology’ which promotes, among other principles, the ownership of Africa’s destiny by Africans. At the same time, Mbeki ought to have been led by the dominant paradigm in international politics whose actors have acknowledged that the success of peace processes is largely dependent on the amount of attention allotted to transitional mechanisms and post-conflict policies. After it had played a key role in getting the final agreement signed, South Africa turned its efforts to peacekeeping, diplomacy (political leverage) and logistical support in the organisation of elections in the DRC.

**Pretoria as peacekeeper: Army reconstitution and security sector reform in the DRC**

According to Swart and Solomon (2004:17), Mbeki was concerned with peacekeeping in the DRC as early as December 1998 when, still South Africa’s deputy president, he put forward the concept of a peacekeeping force composed of the belligerents themselves under a neutral command. The rationale behind the idea was that the sheer size of the force needed in the DRC was far greater than either the UN or the world’s major military powers would be willing to provide.

After the Lusaka Agreement was signed in July 1999, this concept materialised in the Joint Military Committee (JMC), an interim ceasefire police body consisting of representatives of all the belligerents, assigned with the mission of tracking, disarming, cantoning and documenting all Congolese as well as foreign armed groups operating in the country. The effectiveness of the JMC was later put in jeopardy by financial constraints, despite South Africa’s R1 million contribution.

On the other side, Mbeki and his government joined those others who were urging the UN to establish a peacekeeping force for the DRC, lobbying both the General Assembly and the Security Council. Their effort was crowned with success when the UN decided, in January 2000, to establish the UN mission to the Congo. According to Landsberg (2006:178–179), ‘Mbeki had committed South Africa to playing an active role in MONUC.’ At this time, he adds,

> South Africa [had already] budgeted an amount of R80–100 million for the mission ... In April 2001, South Africa dispatched the first contingent of military support staff to back up the MONUC forces. By the end of 2000, some 100 technical specialists of the South African National Defence Force (SANDF) had been deployed in the DRC. In addition, some eighty support staff had already left for Congo ...

At this point, in May 2003,
President Mbeki made an urgent appeal to Kofi Annan to authorize [MONUC] to act more aggressively in defending civilians or to make way for an envisioned African Peace and Intervention Force. President Mbeki, as AU Chairman, appealed to Annan that UN troops should be given a mandate to open fire on militia attacking civilians in renewed ethnic clashes in Bunia [in Ituri district], eastern Congo (Swart & Solomon 2004:37).

In response, the UN Security Council authorised the deployment of the Interim Emergency Multinational Force (IEMF) under French leadership. This force enjoyed full combat status and operated in the north-eastern region of the DRC, including the Ituri district, of which Bunia is the main city. On 1 September 2003, MONUC took over from IEMF in Bunia after the UN Security Council had finally agreed, on 28 July 2003, to strengthen MONUC by giving it a Chapter VII mandate.

While South Africa was successful in getting the international community drawn into the peace process, it was strengthening its own role. Pretoria was instrumental in training units of the integrated Police Nationale Congolaise (PNC), who were to play a key and outstanding role during the 2006 elections in the DRC. South Africa was also active in the process of integration and transformation of the Congolese national army, FARDC. Its efforts were included in the multilateral setting and concerned the training of new integrated brigades as well as the demobilisation, disarmament, reintegration and reinsertion process.

**Diplomatic aspects of South Africa’s engagement in the DRC**

As soon as he came into office in 1999, Mbeki started to engage diplomatically with Zimbabwe and Rwanda. His aims were to convert these two governments into power brokers in the resolution of the Congolese crisis and to start cutting the Congolese conflicting parties from their vital sources of support.

It has been shown earlier that Pretoria’s engagement with Rwanda increased after the signing of the Kabila-Bemba Sun City Accord in April 2002. Though Pretoria could not condone the agreement, because it was signed outside the ICD and did not include all the Congolese parties, it remained concerned over Rwanda’s influence over RCD-Goma. Further commitment toward Rwanda was thus deemed necessary by Pretoria as it would ‘isolate’ RCD-Goma, making it more likely to work towards agreement when the ICD resumed.

Soon after the final agreement was reached among the Congolese parties on 1 April 2003 in Pretoria (following the 17 December 2002 agreement),

President Thabo Mbeki reaffirmed South Africa’s commitment to the [Congolese] peace process, and declared that his country’s engagement with the DRC had not ended with the signing of the Final Act, [and] that
lasting peace rested on successful implementation of the agreement (Swart & Solomon 2004:34).

Another aspect of South Africa’s use of its political leverage over the transition in the DRC came to light when Mbeki took a trip to Kinshasa in late 2004 to bring Ruberwa and his ‘group’ back to Kinshasa and into the transition process. The deputy president and some of his party’s officials had suspended their participation in the transition institutions after the killing – supposedly by elements of the Burundian rebel movement, Forces Nationales de Libération (FNL) – of 159 Banyamulenge refugees in the Burundian Gatumba camp on 13 August 2004.

The electoral process and South Africa’s preponderance in the DRC

Among the crucial objectives of the transition in the DRC was the organisation of general elections in the country. However, gargantuan challenges faced the DRC if it had to hold transparent, free and fair elections. The size of the country, coupled with the lack of meaningful infrastructure, was one such challenge. Another concern arose from the lack of experience and skills among the Congolese in electoral practices, as the 2006 democratic elections were the first such experience for many of them. Additionally, people lacked civic education that would enable responsible participation in multiparty elections. But the most critical challenge was the fairness of the parties themselves and their readiness to abide by the election outcomes.

It is estimated that South Africa spent over R50 million to assist the DRC elections, particularly the constitutional referendum in 2005 and the two-round presidential, legislative and provincial elections in 2006. The South African Independent Electoral Commission (IEC) worked closely with its Congolese counterpart to train its personnel in electoral practices. Pretoria not only took charge of the printing and transportation of ballot papers, but also provided security in critical areas and deployed large numbers of observers throughout the electoral process.

However, President Mbeki’s policy approach toward the DRC crisis, as in other African conflicts, has been different from Mandela’s to the extent that it has been more multilateral. While highlighting South Africa’s crucial role in the process, he has avoided claiming credit, but has shared the glory of success with all stakeholders.

Beyond Mbeki and South Africa: Other reasons that the transition in the DRC was likely to ‘succeed’

South Africa’s involvement in the DRC has proved crucial to the ‘success’ of the peace process in Central Africa’s largest country. However, other factors that enabled the one-plus-four formula to hold include:
The commitment of the international community: Through MONUC the international community has played a critical role in the success of the Congolese transition. The Comité International d’Accompagnement de la Transition (CIAT), consisting of major willing diplomatic corps in the DRC, has also played the important role of ensuring that contact and dialogue were maintained among Congolese political players as well between them and the international community. For instance, through the deployment of EUFOR (European Union’s Intervention Force) and its police unit (EUPOL) in April 2006, the international community was able to prove its level of commitment to the Congolese people.

The weaknesses of Congolese parties to the transition: All had more to gain within the transition framework than outside it. Kabila was president; war had ‘ended’ through negotiations, and his army would never achieve a military victory in the short and medium terms. The RCD-Goma had its internal quarrels between ‘radicals’ (Tutsi and allies) and ‘moderates’ (others). The long spell out of power eroded its integrity and viability, more so when Rwanda was being put under pressure by the African and international communities to disengage from the DRC. At the same time, the MLC, which was obtaining its support from Uganda, was being weakened. The deteriorating situation in the Ituri district forced Uganda to focus more on its borders and to significantly reduce its support for Bemba. The RCD-ML and the RCD-N were to lose ground owing to the escalation of violence in Ituri and the emergence of new fighting groups such as the MRC and the UPC. The political opposition and civil society were too fragmented to create united political fronts. The Mai-Mai militias had to jealously protect the political recognition they had earned for the first time in the history of their struggle.

The exhaustion of African stakeholders: On whichever side they stood, all African countries involved in the conflict were gradually losing legitimate justification for their continued support, let alone presence, in the DRC. The threat of UNITA rebels in Angola had vanished. Kabila’s government was no longer under imminent threat of being overthrown to need Zimbabwean protection. Security on the DRC-Rwanda border had improved, and the FDLR was unlikely to cause a major threat to Kagame’s government in the short and medium terms. With talks in Sudan with the LRA, the Ugandan government had no clear rebel opposition that was able to challenge its army from the DRC.

Conclusion: The monster turned into a saviour, for how long?

The peace process has been an occasion for South Africa to acquire maturity in the peacemaking business. As a new player in African and international politics, South Africa
deserves admiration for what it has managed to achieve in an African context where not much space is left for outsiders to intervene, if they are not simply mistaken for other contenders and dealt with as such by conflicting parties.

Mandela’s unilateralism in approaching the crisis almost cost South Africa its pride and credibility. Mbeki managed to bring South Africa back into the process by relocating the ‘agonising’ ICD in South Africa. He went beyond the limitations of the formal facilitator, Sir Ketumile Masire, to ‘impose’ on the Congolese parties to the ICD a ‘political monster’ that was neither known to them nor easily bearable, given the nature of the crisis, the actors involved, and the interests at stake. However, Mbeki was aware of the risks involved with his proposed ‘monster’. He therefore committed to guaranteeing that all stakeholders – both internal and external – assumed at best their roles.

Nevertheless, South Africa’s commitment to the DRC will not be isolated from the Southern African powerhouse’s economic concerns. The way in which South Africa will channel its economic interests in the DRC and the enormous challenges the country still faces are likely to tell how long the Congolese officials and people will continue to regard Mbeki and South Africa as real ‘Pan-Africanist’ peacemakers.

References


The mining sector in the Democratic Republic of Congo: Problems and prospects
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The mining sector in the Democratic Republic of Congo: Problems and prospects

Richard Cornwell*

It would not seem too cynical to suggest that one of the principal driving forces behind the international community’s concern about, and commitment to, a successful outcome to the process of political consolidation in the Democratic Republic of Congo (DRC) was its interest in securing the formation of a legitimate government that could act as a signatory to mining contracts. The previous situation, in which the authorities in Kinshasa and the various rebel groups exercising de facto sovereignty over much of the mineral-rich territory of the east, might have provided an environment conducive to the looting of resources but not to long-term investment in this African treasure house.

Now, with the elections over, and President Kabila firmly placed in power, the situation has changed. The imagined military threat once posed by his defeated chief rival appears to have faded, and even in the troubled east the recalcitrant General Nkunda is slowly

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being brought into line. This is not to say that there will not be further alarms and outbreaks of violence, but in the current situation it is difficult to anticipate a threat large enough to threaten the current political dispensation.

Nevertheless, as the major international mining companies will be aware, any calculation of the contractual risks and opportunities in the DRC’s potentially rich mining sector requires an understanding of the country’s legal and administrative framework, its political culture, and the timeframe within which a new government may expect to form an effective legal administrative framework over the whole national territory.

The civil war affected different parts of the country in various ways, including its impact upon mineral extraction. In the east, control over mineral resources (principally gold, diamonds and coltan) played a major part in the war economy, and also attracted the intervention of neighbouring states. This dynamic did not disappear under the transitional government. Katanga and Kasai (copper, cobalt and diamonds) were spared from the most violent predators, but still fell foul of politically connected speculators. It will take time to bring local mining operators under control, linked as many of them still are to international networks. Conflict between industrial mining concerns and the army of artisanal miners who support as much as 20 per cent of the population will be a hazard throughout the mining sector. This is probably an issue that has been overlooked by many, yet it could well prove the thorniest of all the problems facing the sector.

In terms of the Peace Accords of 2003, a parliamentary commission was appointed to investigate the mining contracts awarded to international companies between 1996 and 2003. The Lutundula Commission’s work was systematically obstructed within and outside the DRC, and its report was successfully delayed to make a parliamentary discussion of its findings impossible. The commission found that several contracts were either illegal or of dubious developmental benefit, and recommended their termination or renegotiation. It also urged that legal action be taken against a number of prominent political or corporate figures and recommended that all negotiations for new mining concessions be frozen pending the completion of its work, which it wanted to extend to mining contracts concluded since the beginning of the transitional government in June 2003. The recommendation of a moratorium on new contracts was simply ignored by President Kabila, and Gecamines assets were largely negotiated away. Nevertheless, it may be taken as a positive sign that Lutundula himself appeared on the pro-Kabila platform during the election, signifying perhaps that this particular bone of political contention has been buried.

Disagreements over mining contracts and concessions certainly will continue to cause problems. The new Mining Code and Registry are supposed to address some of these concerns, but await implementation. Much depends, however, on the ability and political will of government to achieve stability and to implement the legal and business frameworks required. The idea of a politically neutral legal system is a novelty for the DRC.
Full implementation of the code, especially by smaller players, will take some time. All, Congolese and foreigners alike, suffer the consequences of a non-functional, and hitherto highly politicised, judicial system which has indulged in selective application of a complex legal code. Though there have been no expropriatory actions recently, official channels often do not provide rapid recourse in the event of property seizure that has been carried out by Congolese security forces, supported by questionable court judgments. Foreign enterprises do enjoy a measure of advantage in this respect over their Congolese counterparts, because of the influence of foreign diplomatic missions, and the potential for larger firms to generate tax revenues and jobs.

Legislation regarding the mining sector notwithstanding, the issue of land rights remains politically fraught, and the ability of the central state to enforce its will in this regard will probably be affected by local balances of power for some time, imparting a measure of expediency to the execution of policy. Rights to, and the allocation of, such rights have played a central part in the politics of the country’s most troubled provinces. The extension of the authority of the central state will be the business of several years, not months.

The question of who in the DRC will benefit from the country’s minerals has become increasingly politically charged. This has become a major issue among internal and external NGOs and advocacy groups, and has potentially important consequences for those international investors careful of their reputations.

The DRC has never really experienced a period in which the rule of law has been paramount in a disinterested sense. The rules of the economic game have always consisted of one set of unaccountable, short-lived and arbitrary laws succeeding one another, or existing in contradiction, and applied capriciously and selectively, while presenting themselves as immutable, eternal and incontrovertible truths. For most Congolese, the ‘illegal’ informal economy has been the only means of survival for many, and legality has been synonymous with state-organised theft.

If a strong government now emerges, the dynamics of the squabble over mineral concessions will change, in that there will be more incentive to create a reliable revenue flow for the state, rather than for the individuals comprising the government. Corruption and judicial maladministration will not disappear, but if the mining majors make common cause, instead of allowing their competitive instincts to allow for a policy of divide and rule, certain fundamentals could change favourably, making for a more predictable business environment. Such a trend would obviously be favoured by the IFIs and by the major donors and backers of the peace agreement. That the new DRC administration will need massive revenues from the mining sector if it is to fulfil expectations in terms of even modest service provision is not in doubt. Here exists a possible synergy of internal and external interests.
Between justice and reconciliation: 
The survivors of Rwanda

Anne N Kubai*

This article examines the dilemmas of post-genocide Rwanda, where society finds itself caught between justice and reconciliation. One of the major challenges for Rwandans today is to engender reconciliation in a deeply wounded nation and do justice to both victims and perpetrators. It is difficulty to affirm the victims, punish the perpetrators and at the same time bring about reconciliation between them. Yet there are unequivocal claims, especially from the victims, that there can be no justice without reparation and there can be no reconciliation without justice. To bring about justice and reconciliation, the Gacaca process was put in place, but it has turned out to be a source of fear for the perpetrators, who are desperate to bury the evidence by intimidating the survivors, and for the survivors, who are now living in fear of their lives. Consequently, the rising insecurity of survivors has become a matter of national concern, and the challenges to the Gacaca process are threatening to hamper its progress. But this apparently is the only viable justice system for communities to carry out trials at community level, for it was there that the crime of genocide was committed in a mass-killing frenzy. Truth telling and confessions by perpetrators, and forgiveness by victims have been identified as crucial steps towards reconciliation, but the dilemma lies in the inherent contradictions in the application of these concepts: truth, confession and forgiveness.

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Introduction

The Rwanda genocide that took place in three months in 1994 claimed the lives of approximately 1 million people – a significant proportion of the total population in this small Central African country. The genocide that shocked the world and left the country so deeply traumatised has been described as unique because it was not just Hutu killing Tutsi, but husbands killing their wives, uncles killing their nephews, and mothers killing their children. As Kaggwa (2003:1) graphically described it: ‘[T]he fighting was hand to hand, intimate and unspeakable, a kind of blood lust that left those who managed to escape hollow eyed and mute.’ People who knew one another well carried it out: neighbours killed their neighbours and teachers killed their students, while colleagues killed their colleagues at places of work, including hospitals and church premises. The story behind this scourge of violence is long and complex. The genocide has its origins in historical and contemporary patterns, from 19th- and 20th-century colonialism to 1990s political opportunism, and from structural adjustment to ethnic polarisation.

Thirteen years after the genocide, its effects are still visible and the most important task for all Rwandans is to engender reconciliation and justice. However, bringing about reconciliation, and at the same time bringing justice to thousands of victims and perpetrators, poses one of the greatest challenges to the government and society. Nevertheless, appreciable progress has been made by the current government under the Genocide Statutes of 1996, which facilitated the reduction of the huge numbers of those detained for genocide crimes to about 130 000 by December 2000. After provisional releases in 2003, May 2004 and July 2005 it is estimated that 50 000\(^1\) detainees remain incarcerated. On the one hand, the trauma and suffering emanating from the detention of such a large number of people linger, a situation that will have enduring negative impact upon the entire society. On the other, the release of large numbers of prisoners accused of genocide crimes so that they can participate in the Gacaca justice process has become an additional psychological burden for the survivors and victims of the atrocities who have to live in the same communities as their tormenters.

The post-genocide population was roughly divided into three broad categories: the returnees, that is, a large proportion that returned from exile; those who did not leave the country during the genocide; and the génocidaires, who were accused of perpetrating the genocide and are in prison or are yet to be brought to justice. Admittedly, finding a balance between justice and reconciliation and between retribution and forgiveness is a delicate process and a major challenge for Rwandese society. Justice affirms the survivors and shows that a new moral order, in which there is no fear, has been created. Perpetrators are also wounded and cannot easily accept guilt and shame for their actions, thus healing and reconciliation become difficult:

- How do we affirm survivors and cast out the ‘Tutsi’ identity of the victims and the ‘Hutu’ identity of the perpetrators?
How do we identify the perpetrators, who are living side by side with the victims, punish them and bring about reconciliation?

Yet reconciliation must be achieved and justice seen to be done. But the nature of reconciliation presents a problem. Reconciliation is inherently encumbered with many layers: at national, inter-community and intra-community levels, and at the level of the individual, who has to reconcile himself or herself with a life indelibly marked by genocide. Certainly, this multifaceted reconciliation requires a multi-dimensional approach to address these layers simultaneously, which is not a mean task by any standards. Aid workers and diplomats note the desirability of ‘justice’ and ‘development’ in post-conflict societies, but the dispassionate technical jargon used by outsiders risks making the healing sound simple, as if it were a straightforward four-step process. It is these challenges to justice and reconciliation in post-genocide Rwandan society that this contribution aims to elucidate.

**Traditional justice system – Gacaca justice**

Traditionally, as Rutikanga (2003) confirms, Gacaca served four important functions:

- It brought together the offender and the offended
- It sought the truth
- It addressed the conflict
- It reconciled the parties

Elders and community leaders in the traditional social setting would sit on the grass to hear, discuss and resolve conflicts between groups or individuals. The leaders would hear both parties and arbitrate. Depending on the nature of the conflict, they would adjudicate in a way that would ensure not only that justice was done, but also that the conflicting parties were reconciled. This was done as fairly and as democratically as possible, following laid-down rules and procedures that were known to the community; and served as a safeguard against the miscarriage of justice because of bias or incompetence of the adjudicators.

**Restorative mechanism**

With an evidently strong political will to bring about justice and reconciliation, the government has re-invented and formalised the traditional Gacaca justice system.
The Gacaca process hinges on two laws. The 1996 Organic Law on the Organisation of the Prosecution of Offences constituting Crimes against Humanity (Genocide Law) established four categories of offenders liable to prosecution:

- Category 1 for leaders of genocide, notorious killers, rapist and those who perpetrated acts of sexual torture
- Category 2 for murders and accomplices
- Category 3 for those who committed murder without intent to kill
- Category 4 for those who damaged property

According to the stipulations of the Gacaca Law of 2000, offenders in categories 2, 3 and 4 are eligible for commuted sentences following the provisions of the law. Pursuant to Organic Law no 16/2004 of 19/6/2004, the system was restructured, with the result that the district and provincial Gacaca courts were eliminated; the number of judges was reduced from 19 to nine; category 4 was done away with; and the other categories were expanded. This restructuring resulted in provisions for rape victims, estimated to be over 250,000 (Human Rights Watch 2004:6). Thus the Gacaca system, though based on the principles of the traditional justice system, has been adjusted to deal with the crimes of genocide, which are not only different from the intra-communal and interpersonal conflicts of traditional society, but also large in scale and complex in nature.

Restorative justice emanates from traditional mechanisms of conflict resolution in many parts of the world; and it has been ‘argued that traditional forms of justice might be of great value as instruments in the reconciliation process in developing post-conflict countries’ (Bloomfield et al 2003:112). The traditional Gacaca justice system is considered the most viable and tenable system of justice at community level, where a collective frenzy of hatred led to the dehumanisation of a section of the population and thus the attempt to exterminate them en masse, hence the decision to revive and adapt it. Gacaca in the post-genocide situation aims to serve similar functions, but in a totally different situation after the genocide:

- To reveal the truth about genocide
- To expedite trials for genocide suspects
- To eradicate the culture of impunity among Rwandans
- To foster reconciliation
To do justice to victims and perpetrators

The Gacaca courts are not just a way to deliver justice to the huge number of awaiting-trial prisoners, but are envisioned as a key restorative mechanism, a means to contribute to the national process of social reconstruction. The goal of Gacaca is to promote reconciliation by providing a platform for victims to express themselves, encouraging acknowledgements and apologies from the perpetrators, and facilitate the coming together of victims and perpetrators ‘on the grass.’ The restorative justice approach is predicated on the assumption that in a conflict situation victims and offenders have all been hurt. It therefore emphasises the reconciliation of the parties and the healing of wounds arising from the atrocities. Thus, as Bloomfield et al (2003) illustrated, it seeks to rebuild social relations and make it possible for victim and perpetrator to live in the community without hatred, fear or bitterness.

Essentially, that is the envisaged restorative role of the Gacaca: to provide a platform for telling the truth about the genocide that claimed a million lives; it is hoped that this will lead to healing for both victims and victimisers. Gacaca courts are empowered to hand down sentences that include community work schemes that can directly benefit the most destitute families of victims. Under these provisions, if someone confesses before being denounced, he or she is entitled to a substantial decrease in sentence. Importantly, confessions are acceptable only if they include ‘revelation’ of one’s co-conspirators. Certainly, the application of the Gacaca justice system is an unprecedented legal-social experiment in its size and scope. Whether this new system will be able to accomplish either or both of these goals is, however, currently the topic of open debate (to which I shall allude below).

Challenges for restorative justice as exemplified by the Gacaca

While restorative justice has certain limitations, retributive justice may not be possible in certain post-conflict situations. For instance, in Rwanda, some see the current process as ‘victors’ justice’, perhaps because the root causes of the conflict do not seem to have been addressed. The history of community hatred accumulated over decades does not seem to have been adequately approached, perhaps because there are different understandings and interpretations of the history of this society. Resentment nurtured over a long time cannot be wished away, even if people are not openly voicing it.

While restorative justice may be helpful, whereas retributive justice may be counterproductive, it is also likely to be perceived as injustice to victims who see reparation and even punishment as vital ingredients of justice. This is illustrated by the genocide survivor organisations that remain rather apprehensive of the Gacaca justice system. For instance, the umbrella
organisation for genocide survivors, Ibuka (‘remember’), recently stressed the need for reparation, saying that justice cannot be achieved without addressing the issue. Some victims also express the feeling that the gravity of the genocide atrocities and the intensity of their suffering, as well as the enormous loss of lives and property, cannot be adequately compensated through forgiveness and restorative justice as mechanisms for dealing with the post-genocide situation. Some see it as ‘cheap justice’, which leaves them hurting.

The aims of Gacaca are noble, but the challenges make their achievement extremely difficult. Evidence shows that the process is caught between justice and reconciliation. For instance, although Gacaca courts can hand down sentences, the system is conceived as restorative justice rather than punishment, and is aimed at bringing about the healing and rehabilitation of both the victim and the perpetrator. The challenge here is not only to deal with the need for doing justice, but also to ensure restraint from an uncompromising pursuit of justice, which can lead to further conflict. As Estrada-Hollenbeck (2001:66) observed in his discussion of the attainment of justice through restoration, while people’s perception of fairness is important, the challenge is to bring about reconciliation and justice among a people who are still experiencing deep pain and suffering. To ask victims to forgive appears to many to be an insensitive demand, and even an emotional burden. Is it possible to ask a woman who has lost six children, husband and relatives to forgive those responsible for her deep pain and loss? Again, without justice, forgiveness alone can perpetuate impunity.

Admittedly, it is difficult, in spite of the numerous efforts, to manage the complex interaction between justice and reconciliation. While retributive justice provided through the courts is necessary, it competes with the need for reconciliation that is essential for the emotional and social restoration of both victim and perpetrator. Some victims feel there is no justice when perpetrators who make confessions are forgiven, and their prison sentences are commuted. Hence, the question of justice as a prerequisite for reconciliation has hampered the search for unity and reconciliation. Some even accuse the government of providing simple solutions to difficult and sensitive issues, by encouraging people to confess, plead guilty, and in return have their sentences commuted. ‘Does a confession subcontracted in this way allow them to really acknowledge their guilt which appeals for forgiveness? Is this not a way of refusing to administer justice’ (Kigali nd:60).

Evidently, although the merits of Gacaca far outweigh the demerits, the system faces numerous obstacles. Some of these are intrinsic to the system, for example the scope: there are thousands of Gacaca jurisdictions all over the country and the logistics are difficult to manage. For instance, at the beginning of 2006 the re-demarcation of the provincial administration caused anxiety among the population. The National Executive Secretary for Gacaca courts had to assure the public that the process of re-demarcation would not affect the Gacaca system in any way; they would continue to run from cell to the national level.
It cannot be over-emphasised that Gacaca currently offers the most viable and perhaps the only way to bring the entire community to trial by the community and for the community, ‘considering that such crimes were publicly committed in the eyes of the population, which thus must recount the facts, disclose the truth and participate in prosecuting and trying the alleged perpetrators’ (Organic Law No 16/2004). However, this type of justice system, which involves community participation, is prone to abuse, vendetta and corruption, and indeed instances of bribery to induce acquittal or otherwise influence the verdict have been reported to the authorities. The frequency of such cases is difficult to ascertain because the Gacaca system covers the whole country and perhaps not all cases of corruption are reported. But in a number of cases, even the *inyangamugayo* – that is, the ‘people of integrity’ who constitute the ‘Seat of the Gacaca Court’ as stipulated in Section II Article 8 of Organic Law No 16/2004 – have been implicated not only in corruption, but also in genocide. This is becoming an additional burden on a system that is stretched to its limits.

Being people-driven, the Gacaca justice system should be participatory and restorative, but owing to the open public nature of the trials, the assembly can be inherently hollow and open to strife. For instance, in one case that received extensive media coverage, the judges were openly criticised during the trial, with some of the people in the assembly demanding withdrawal of the verdict. In this particular case, the local community was divided down the middle over the detention and trial of a local church leader because of allegations of complicity in genocide. In addition, when conflicting evidence is adduced by witnesses, it becomes difficult to conduct a fair trial or give a verdict.

One of the foremost challenges to the achievement of justice and reconciliation through the Gacaca trials is the prevalence of intimidation of genocide survivors and witnesses. In an attempt to obliterate evidence, some witnesses have had their houses burnt down, some have been attacked, and others killed. For instance, the alarming murders in Gikongoro in December 2003, after which the Senate set up an ad hoc commission to investigate, were carried out before the Gacaca trials began. Sources in Gikongoro indicated that the methods of killing were the same as those employed during the genocide and it was feared that this heinous crime would be a potential threat to the Gacaca courts, which were due to start in the following year. Since the Gacaca trials began in March 2005, there have been sporadic murders of witnesses and survivors, and it seems that as the momentum of the Gacaca process increases, the incidence of these killings is escalating. The case of a genocide survivor who was hacked to death by his neighbour over a disagreement with the victim’s uncle, who is the president of a local Gacaca court, could well illustrate the level of insecurity at community level.

Consequently, many witnesses have refrained from testifying for fear of reprisal and this is impacting adversely on the whole process. National Human Rights Commission (NHRC) and Ibuka have consistently cited violations of human rights, especially against
survivors, in their reports; and in recent times, the rising insecurity of survivors and witnesses has become a matter of national concern. It has been brought to the attention of the Senate and the president of the republic, who issued a stern warning and directed that those involved should be brought to book.

Perhaps the problem of intimidation may be solved if certain measures to protect the survivors and witnesses are put in place. However, it is even more difficult to deal with the subtle dilemmas emanating from the intrigues of witnessing against one’s neighbour or family members. When one has to testify against a family member, one risks being ostracised by the family and even the community, but one risks prosecution by the state for declining to testify or withholding evidence, as the law clearly states ‘that testifying on what happened is the obligation of every Rwandan patriotic citizen and nobody is allowed to refrain from such an obligation whatever reasons it may be’. Here one is caught between loyalty to family and loyalty to state. There is no easy way out of this catch-22 situation. It is doubtful that justice is done in these circumstances.

It is also emerging that the Gacaca process has become a source of insecurity not only for survivors and witnesses, but also for some of the perpetrators, who are afraid of vengeance for what they did. Consequently, a number of people fled the country for fear of reprisals for giving evidence at the Gacaca trials. As for the perpetrators, their fears can be best illustrated with the case of about 1000 released prisoners who voluntarily went back to the prisons after they had been set free. They could not bear the thought of living side by side with the victims and their families in the communities, and were afraid of reprisals. They claimed that they felt safer behind the high walls of the prisons.

Germane to this, the unintended consequences of the process, which aims at reducing the number of detainees in prisons, will be the incarceration of thousands who are convicted of genocide crimes in the ongoing trials. Of about 700 000 people who are likely to be tried by Gacaca courts, many will be found innocent and set free, sentenced to do communal work or pay fines. The confessions of thousands of ex-prisoners and survivors during the trials will inevitably trigger an inexorable rise in the rate of incarceration by the thousands who will be incriminated by new evidence of complicity in the atrocities. How and where these people will be imprisoned is not an easy question to answer. Hence, it seems that the Gacaca process will ultimately not resolve the prison crisis.

Even if we estimate that only 10–20 per cent (Samset & Kubai 2005) of those who will stand trial will receive prison sentences, this risks leading Rwanda ‘back to square one’: a group of about 100 000 people in prison, with sentences varying in length, some up to 30 years. While the logistical challenges will be huge, an equally important question is to what extent is this scenario likely to help Rwandans to reconcile, with such a huge number of prisoners languishing in jail, leaving their families in poverty, stigmatised and traumatised?
Nature of reconciliation

In the last decade, there has been an appreciable increase of interest in the theme of reconciliation, with the South African Truth and Reconciliation Commission (TRC) setting new standards for troubled societies. In today’s context of conflicts, oppression, civil wars, etc., reconciliation is becoming increasingly important. As Kaggwa (2003) pointed out, reconciliation is not a univocal concept. For some, it is an ideological device created to deal with past crimes and thereby face the future; some use it as a means of resolving conflict; and for others, it is a means of ensuring justice for the victims of violence. Finally, it can be a method of coming to terms with the experience of pain, and/or facilitating the moral reconstruction of a shattered society.

Reconciliation is a process, an over-arching process in search of truth, justice and forgiveness and ultimately the healing of a wounded society. Reconciliation makes it possible for former enemies to live together, without necessarily loving one another or forgetting the past. It makes possible the creation of a just society with changed attitudes and even beliefs. The challenge lies in redesigning age-old relationships to make it possible for genuine changes of attitudes that influence people’s behaviour in conflict and in peace. Effective reconciliation is a safeguard against the recurrence of violence. But reconciliation is a process that has to take time and move at its own pace: it cannot be accelerated. It must be inclusive; all sectors of society, not only the victims and the perpetrators, must be included in the process, because violence has certain ramifications for the whole society.

Reconciliation still elusive

With an evidently strong political will, the government has embarked upon a path of social transformation with a view to rebuilding a ‘united, reconciled and peaceful’ society and has therefore put in place structures and mechanisms, foremost of them being the National Unity and Reconciliation Commission (NURC). NURC was appointed in 1999 with a broad mandate to facilitate national reconciliation. NURC was envisaged as working at the national and grassroots levels, and therefore it organises workshops, seminars and national summits on the theme of reconciliation. It also organises community events that provide the forum for discussing reconciliation; and seeks to promote civil education in ingando or solidarity groups for released prisoners and demobilised soldiers. However, its critics say that it is a government instrument that is too vertical, with little impact at grassroots.

The executive secretary of NURC underscored that ‘attaining unity and reconciliation is a gradual process. There is need for collective policies towards reconciliation that will enable us solve the remaining issues once and for all such that unity can become a
complete reality.’ The question of reconciliation is complicated by the need for justice, with which it is inextricably linked. Second, the inexorable pain and human suffering as a result of the genocide are deep and this has certain implications for reconciliation. It is necessary to acknowledge that it is not humanly possible for a deeply pained and traumatised survivor of genocide to forgive and forget while he or she continues to suffer the pain and trauma of genocide.

As many Rwandans say, forgiving is an effort that one makes in order to make life liveable, especially since victims and the ex-prisoners have to live together as neighbours again. One approach is to encourage truth telling and confessions by perpetrators. Thousands of detainees who confessed were released while awaiting trial, and jail sentences were commuted for others. But it is not humanly possible to ascertain the genuineness of the confession; and many of the prisoners and ex-prisoners admitted during interviews that they confessed because of the benefits to be gained.

This is not lost on the survivors and victims, who find themselves living side by side with the killers and even outnumbered by them in some places. The threat is unspoken, but it is there, it is palpable, and for these people, it is expected that reconciliation is still a long way off. Describing the experiences of living in the same communities, some survivors said that in spite of having forgiven and reconciled, they found it hard to look each other in the eye. Some even said that they felt that the killers still harbour ‘bad feeling’ towards them. Some survivors confess that they have not really forgiven and reconciled with their tormentors. A woman survivor once told me that she did not forgive the killer of her children and her brothers and sisters, though she said that she always greeted him whenever she met him. ‘I forgave him because the church told me to forgive him. He confessed to killing only the two girls, but he killed all the members of my family,’ she said. In such instances, it cannot be said that reconciliation has occurred yet. There are two sides to this case: first, she knows the man did not tell the whole truth, so he got away with a more grievous crime than was acknowledged, therefore, his confession is undoubtedly not genuine. Second, she did not genuinely forgive him, but did what the church instructed her to do as a Christian. Therefore, she lives with inexorable pain, and the presence of this man in the neighbourhood is a constant reminder of her loss.

The recently drafted national Policy on Unity and Reconciliation indicates that in spite of the much-publicised government-driven process, reconciliation is yet to be achieved. There are numerous challenges to reconciliation in this society, one of which is the political price of reconciliation. In civil wars, militia leaders and warlords are integrated into governments of national unity for the sake of peace and reconciliation. The merits and demerits of this practice in Africa are subjects for academic debate. In Rwanda, the government of national unity had to be inclusive of all communities, hence some high-ranking officers, government ministers, major generals, members of parliament and other prominent personalities in the government were implicated in the genocide; and
perhaps as new evidence is adduced during the Gacaca trials, more will be incriminated. These revelations are likely to have a ripple effect on fragile community relations.

By December 2005, the number of leaders implicated in the genocide had risen to 28,477. This situation poses a serious dilemma to the very notion of reconciliation. On the one hand, if the government were to screen its workforce, with a view to finding out who might be implicated in genocide, this would not only undermine the notion of unity and reconciliation, but also entrench the idea of ‘victors’ justice’. It is difficult for Rwandans to transcend or bridge their identity dichotomy. Such a process would be counterproductive to national reconciliation.

On the other, justice and reconciliation are inextricably linked and, as Ibuka has reiterated, there can be no reconciliation without justice. Justice must be done and those who are implicated must be brought to book. If a significant number of people in government lose their positions and are prosecuted, this might be construed as a process of purging members of one community from the government, and could awaken latent memories of the institutionalised forms of exclusion that characterised Rwanda society for decades before the genocide. Thus the government finds itself in a dilemma: the law has to take its course, and the Gacaca justice system has to prevail in due course, while accusations of retaining potential accomplices and perpetrators persist.

Though it has been said repeatedly that reconciliation is the way out of the spiral of violence and vengeance, reconciliation is not a choice for Rwanda, it is an urgent need and essential for all. The deep wounds of this society are not limited to the survivors and victims who were targeted during genocide, as is often said. The perpetrators are wounded in a different way by the consequences of their own actions. Many of them cannot easily accept responsibility for their deeds and come to terms with what they did. When asked why they killed, some say that they had ‘lost’ their ‘human nature’; that they ‘were not human beings’ when they were hacking their friends, neighbours and even family to death. Others say they were ‘merely following instructions from the government’.

There is no doubt that these people live a life of denial, weighed down by the burden of conscious knowledge of the gravity of what they did to their fellow countrymen and women. Added to this is the burden of stigma, which is extended to their families, who may not have participated in the crimes. In a sense, they too are victims of the genocide ideology, which they embraced and implemented with conviction, and for which they are now paying dearly. Owing to the complexity of the situation, the perpetrators are seldom seen in this light. One can argue that if they were to be seen from this perspective, it would not only complicate the reconciliation process, but also obliterate the issue of justice. Yet it seems that there would be no reconciliation without justice. This is a vicious cycle and efforts at true reconciliation must address the whole gamut of the ‘injury’ of the Rwandan society.
Unity and reconciliation cannot be forced or rushed through certain mechanisms and events, as sometimes we see at orchestrated reconciliation events at which perpetrators and victims are brought together ‘to be reconciled’. The most important avenues that can be used to bring about unity and reconciliation involve structures and institutions that promote and serve harmonious living, not coexistence. Coexistence implies tolerance of something that one would well do without. It does not imply a unified and reconciled society. Reconciliation must include a change in psychological orientation towards one another, whereby victims and perpetrators see themselves as members of the community and nation; accept and see the humane side of ‘the other’; and endorse the possibility of a constructive human relationship or engagement with each other.

Reconciliation between groups after extreme violence is usually a gradual and often tedious process. For reconciliation to happen, attention must be given to the ‘woundedness’ of perpetrators. Reconciliation requires that perpetrators begin to open themselves to the suffering of others and to their own responsibility for their actions. Thus reconciliation must be driven in two directions: that of the perpetrator, and that of the survivor. This is not to say that the perpetrators should escape responsibility for their crimes, but that they need to be involved in the processes of social reconstruction as much as they were involved with its destruction. For such a small country as Rwanda, it was not difficult to mobilise the population to participate in a popular mass killing; similarly, the population can be mobilised to understand the causes of genocide and its consequences today on the entire population. This is necessary to eradicate the culture of impunity and foster reconciliation.

Conclusion

The question of justice in Rwanda has been complicated because the nature of the crime – the popular killing frenzy at community, family and individual levels – must be addressed at the same levels. Besides the logistical problems emanating from the enormity of the Gacaca process, the dilemmas and challenges of this situation are monumental because the killers and the survivors have no choice but to live together. The majority of those who committed the genocide are poor people and hence the question of reparation becomes untenable. Even if it were possible to give reparations, who would give and who would receive them? Would it not again be a matter of victors’ justice? Yet survivors organisations and individuals are unequivocal in their claim that there is no justice without reparation and there is no reconciliation without justice. Sometimes there is no agreement as to whether healing comes before reconciliation or vice versa, but it seems that, when healing begins, prospects for reconciliation become better. When reconciliation occurs, it generates security and trust. But in Rwanda today, these two elements are largely absent; there is mutual mistrust, and the intimidation and killing of survivors and witnesses has enhanced age-old suspicion.
Understandably, these dilemmas hamper the achievement of justice and the resultant intimidation and the killing of survivors and witnesses is a desperate attempt to bury the evidence against the perpetrators. If this trend continues unabated, the quest for justice is likely to be replaced by fear of reprisal and a struggle for sheer survival, the two elements that would ultimately impede the Gacaca process, which apparently, in spite of its enormous challenges, is the only hope for Rwanda to address the spiral of violence that has left this society smirting in the pain of utter self-destruction.

It has been acknowledged that, eight years after the establishment of the NURC, reconciliation is still elusive. In spite of rigorous efforts by government to bring about unity and reconciliation among the citizens, significant results are yet to be achieved. In these circumstances, the people of Rwanda might find themselves between the devil and the deep blue sea.

References


Notes

1 See Ministry of Justice Records 2003. In early 2003, the government released close to 25,000 people, many of them having confessed to participating in genocide. Again in 2005 (the third provisional since 2003) 36,000 suspects were released to await the Gacaca trials.

2 Gacaca jurisdictions with 11,000 tribunals nationwide were inaugurated in June 2002.


4 Recently, Gacaca courts have handed down sentences of up to the maximum of 30 years to those found guilty of crimes against humanity.


9 I have interviewed many inmates and ex-prisoners and recorded their testimonies for a book research project. The material is being analysed.
The challenge and meaning of justice in northern Uganda
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The challenge and meaning of justice in northern Uganda

Karen Williams*

Even though the peace talks in northern Uganda have faltered, attempts at negotiations between the Ugandan government and the rebel Lord’s Resistance Army are continuing. The current rapprochement between the two sides is the most significant move towards peace in the twenty-year civil war in northern Uganda. Even though the war has been extreme in its brutality, it is little known of outside the region – with reports on the conflict often portraying a protective government pitted against a crazed rebel group. But the issues are much more complex. The article examines the history of abuses and atrocities committed by both sides; the wider implications of the conflict for the north; why the rest of Uganda are seemingly disinterested in the conflict; and the politics behind why northern civil society have little trust in the Ugandan government or the International Criminal Court (ICC). The current prospect of peace has also stirred up the debate around justice and the forms of justice for victims of both rebel and government atrocities. And this is where the biggest cleft between the northern civil society and officialdom (government and international NGOs) resides. The article further examines the implications of the ICC’s work in Uganda, and why there has been such widespread hostility towards it from northern civil society. The article also asks if – beyond the end of fighting and terror – peace will really mean that northern Uganda can finally partake in the prosperity the rest of the country has almost taken for granted.

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Introduction

Even though the peace talks in northern Uganda have faltered, the region may currently have the best opportunity in twenty years to start a meaningful peace process. But peace has been promised before, and as the Ugandan government and rebel Lord’s Resistance Army (LRA) try to find a way to move forward beyond the initial contacts and subsequent faltering talks, long-standing demands for redress and justice in the Acholi districts in the north have been re-ignited, as have questions on just what peace will mean for the long-term rehabilitation of the north. It is a moment of irony: the hope of peace and the end of the brutal civil war may act as a catalyst, reminding civilians of the roots of the war and asking just whose justice is being implemented across the north.

More than a million people have been displaced across Uganda’s north and many children have grown up in grim displacement camps where violence, unemployment and alcoholism are rife. This is in addition to the overarching threats of abduction, killings and raids by the LRA into the camps, as well as the violence perpetrated by soldiers guarding the camps and those stationed in the area.

Besides the political and military processes opened between the LRA and the governments of Uganda, southern Sudan and the Democratic Republic of Congo (DRC), it is in what happens to the perpetrators of atrocities and how Acholi society reconstructs in the event of peace, that a divide has opened up sharply. On one hand has been the arrest warrants issued by the International Criminal Court (ICC) against LRA leader Joseph Kony and four of his top commanders, and on the other hand has been local calls among the Acholi to use traditional structures to re-integrate former fighters back into the community – as well as possibly extending forgiveness and amnesty to Kony and his henchmen.

One of the more common questions asked by civil society members and people you speak to in northern Uganda is just why the war has been allowed to go on for so long. It cuts to the heart of the bigger questions around the conflict and situates the north as more than just the recipient/victim of LRA atrocities. The question encompasses the way the Acholi see themselves – as outsiders (sometimes unwanted outsiders) in relation to the rest of Uganda; the suspicion with which the Kampala government is viewed; and the view that the Ugandan government has allowed the war to continue for twenty years as a punitive measure against the Acholis for their hold on government and the army before President Yoweri Museveni took power.

The LRA engages in relatively few attacks on the Ugandan People’s Defence Force (UPDF), making civilians in northern Uganda the main target of attacks instead. (HRW 2005:15). Human Rights Watch has summarised the LRA strategy and practice in the north:
The LRA is responsible for years of willful killings, beatings, large-scale abduction, forced recruitment of adults and children, sexual violence against girls whom it assigns as ‘wives’ or sex slaves to commanders, large-scale looting and destruction of civilian property, forcing the displacement of hundreds of thousands and being a prime factor in the destruction of the economy of northern Uganda and the resultant impoverishment of its inhabitants. Many northern Ugandans have abandoned hope of justice – although not of personal revenge – and long for peace at any price ... The LRA continues to commit mass killing of civilians in northern Uganda, keeping the population – and its own combatants, mostly forcibly recruited during childhood – in a constant state of terror ... Those abducted persons attempting to escape are killed or seriously wounded as an example to other abducted persons (HRW 2005:15–16).

LRA activities and the Ugandan government’s response to the insurgency have had a devastating effect on the local population – especially on civilians in the north. It is estimated that up to 80 per cent of civilians in the three Acholi districts (Gulu, Kitgum, Pader) live in displacement camps, with others living in bigger towns or displaced to other areas. More than a million people are estimated to live in displacement camps (Allen 2006:53).

But the camps have brought no security. Camp residents have been killed, raped and assaulted regularly by the army guarding the camps, and often civilians have been tortured, assaulted and killed when they have gone out of the camp for the day to hunt or to tend their crops. (They are then accused of being rebel collaborators.) The LRA have also regularly staged audacious raids into the hearts of the camps, with soldiers often either running away, or not coming to help in time.

Through the years, there have been various inconclusive peace talks. Most of these were initiated by church groups in the north (most notably the Acholi Religious Leaders’ Initiative – the ARLPI) and, preceding the southern Sudanese intervention in 2006, by a former minister in President Museveni’s government, Ms Betty Bigombe.¹

The International Criminal Court

The war in northern Uganda was the first investigation launched by the ICC and, as such, will set precedents for other African – and international – interventions. It is also the most high-profile investigation by the ICC. Through this action, the ICC was intervening in a twenty-year old conflict that has displaced much of northern Uganda’s population, brutalised civilians – especially children – and completely impoverished the region. Nevertheless, there was little cheer from local civil society groups in Uganda’s
north when the ICC announced it was opening a docket on ‘the situation in northern Uganda’. To those familiar with the politics of the war before the ICC intervention, the hostility was not surprising.²

The LRA’s war in northern Uganda is not a forgotten conflict: in fact, it has never been a priority of international, African or Ugandan attention. It is a twenty-year war that has been playing out largely invisibly to all but its victims.

If the twenty-year war has been brutal, targeted civilians – especially children – and displaced almost the entire Acholi population, why has there not been unanimous acceptance and rejoicing at the ICC moves to prosecute LRA leader Joseph Kony and four other commanders?

The ICC process was immediately identified with the political machinations of the Ugandan government when, on 29 January 2004, the ICC, represented by Chief Prosecutor Luis Moreno-Ocampo, held a joint press conference with President Museveni in London to announce the start of ICC investigations into the LRA. For anyone familiar with northern Uganda, the decision to hold a joint press conference with President Museveni to announce the ICC investigation would have been seen as a major political mistake.

Furthermore, the decision to investigate the LRA at the request of the Ugandan government would also have struck many familiar with the war in the north as a move that would immediately make the ICC politically suspect to many northern civil society groups. Yet the ICC seemed blindsided by the opposition to their investigations by especially church and local NGO groups in the north.³

Announcing the start of the investigations at the side of President Museveni – as well as at his invitation – fed greatly into the perception that the ICC was an extension of Ugandan government policy in the north. This was also exacerbated by two things:

- The focus of the investigation is the LRA
- The ICC has no independent means of implementing its warrants

Since then, the reactions to the ICC investigation have been varied in the international community (with more and more international NGOs giving their support to the process as time went on) but with indigenous, local civil society groups repeatedly calling for the ICC to either drop or defer the LRA investigation.

The differing opinions on the value of the ICC process seems to be split between international NGOs and the international community (among others) and the local,
northern civil society (though it is not limited to such a linear designation). But the larger question at play is how all victims of the LRA (and not just Acholis in the north) can have a sense of justice and restitution, how will the government forces be held accountable for atrocities and violence committed in the north during the two decades of the civil war, as well as how northern Ugandans – in particular the Acholi people – can be made to feel as if they are part of the country and that the government is not hostile towards them.

There is little denying the extent or brutality of LRA atrocities. But less reported is the role of the army in the north – with consistent allegations of rape, murder and torture made by the civilians it is meant to protect – and in the large displacement camps across the region. The Refugee Law Project (RLP), based at Makerere University in Kampala, have similarly expressed disappointment that the ICC investigation in effect lets the government off the hook (RLP 2005:21).

Such opposition to the ICC stems not from an outright opposition to prosecutions, but as a reaction to how government abuses will be handled. ‘The Ugandan People’s Defence Forces (UPDF) has committed crimes against civilians with near impunity,’ said Human Rights Watch (2005). HRW continues:

The UPDF has unlawfully killed a number of civilians in northern Uganda in recent years. People found outside the camps are commonly assumed by the army to be rebels or ‘rebel collaborators’ and frequently find themselves being shot at by the army. But several victims have been shot inside the camps. Many shootings occur at night at close range, and are deliberate and not merely cases of mistaken identity as the army often asserts in its defense. Other deaths are the result of beatings so severe the victim dies ... The killings sometimes seem to be for no discernible reason – other than because the soldiers can do as they wish and later claim the civilians injured or killed were ‘rebel collaborators’, whatever the circumstances.

Regardless of the presence of possible rebels or rebel collaborators inside displaced persons’ homes inside the camps, the UPDF has the duty to take all feasible precautions to protect the civilian population under its control against the effects of the attacks. Soldiers carrying out an attack must be able to distinguish between legitimate military targets and civilians. Shooting into huts inside displaced persons camps where there was no apparent rebel activity is an indiscriminate use of force in violation of the laws of war. The summary execution of any person is a war crime (HRW 2005:24–26).

In addition, there have been numerous (and consistent) allegations of torture and other forms of abuse (like severe beatings and detentions) against the UPDF. Rape and sexual
violence is very common in the camps and in the community and is perpetrated by soldiers as well as community members (HRW 2005:32).

The ICC has challenged these perceptions and allegations, saying that to fulfil its mandate, it will not only investigate the LRA activities, but will investigate everyone. It is, however, highly unlikely that either the army or government will finally be held accountable for its actions in the north – the more likely scenario is that if they are to finger army abuses, the ICC will hand over the case for local Ugandan courts to prosecute. Coupled to this is that most of the major Ugandan army crimes happened before the Rome Statute (that formed the ICC) came into being.

The ICC says that the UPDF crimes are ‘much less clear than the LRA crimes’, and if the Ugandan army crimes fall within its jurisdiction, it will consider the issue of complementarity – whereby the local court structures will have first opportunity to try those charged.⁵ But this supposes that the ICC will issue new warrants – in addition to the five already out for the LRA. The ICC has said that it would issue new warrants if new massacres occur. Another likely scenario is that the ICC could hand over the information on the UPDF abuses to the government to process in local structures.

Despite the atrocities committed in the north and the destabilisation and insecurity it has brought, for the army, it has also meant a steady, profitable business. Local newspapers have published investigations into army top brass benefiting from corruption for supplies in the north. Anthropologist Tim Allen (2006:49) writes:

The war in the north kept the army occupied and benefited many soldiers economically. Certain senior officers are well known to have become relatively wealthy from the situation. It is, for example, an open secret that the army was involved in cattle rustling.

Advantages of ICC intervention

One of the main advantages in having the ICC prosecute the LRA leadership is that it gives a level playing field to seeking redress for rebel atrocities. The Acholi people have been the main focus of the justice efforts – largely because the war has been concentrated in the Acholi districts in the north. The Acholi are not the only people who have suffered from the LRA violence and atrocities over the past twenty years.⁶ Besides their violence against the people of southern Sudan (and possibly at their new bases in the DRC), the LRA have in the past targeted areas populated by the Madi, Langi and Teso people in Uganda. (Most of the violence against these three groups occurred before the signing of the Rome Treaty, which brought the ICC into being (Allen 2006:101).) Allen (2006:102) writes:
Among Madi people in Adjumani district and to a lesser extent among Langi people in Lira district, I have found an interest in punishment and compensation with an ethnic/tribal aspect. It is likely that the ICC would find people among these populations who would willingly agree to testify in court, partly because they will have less fear of informants and reprisals, and also because they will not be required to accuse their own people. If this happens, there is a danger that the court proceedings could end up being effectively biased against the Acholi as a group, based on long-standing ethnic/tribal divisions.

The non-Acholi character of the LRA actions have also not escaped the ICC, which has also been holding outreach missions with various organs in these non-Acholi communities who were victims of the LRA. The court has also often found that the Madi and Langi communities (whom they have been working with) have been more supportive of the ICC process – largely because they do not have any tribal affiliations like the Acholi. The court also found that these communities are sometimes likely to have a tougher stance where concerns prosecuting the LRA.

The regional and inter-country reverberations of the LRA atrocities have found hostility even among people who are supportive of the peace process. The Acholi Religious Leaders’ Peace Initiative (ARLPI), a religious group trying for years to reach out to the LRA, have noted that on visits to southern Sudan, they have had to apologise to the Sudanese, since fellow Acholi from the LRA were committing atrocities against the Sudanese.

The religious leaders

When Interpol issued arrest warrants for the LRA leadership (on behalf of the ICC), church leaders in the north criticised the step for having the potential to intensify the war (IRIN 2006). The IRIN report quotes Monsignor Matthew Odongo, the vicar-general of the Roman Catholic diocese of the northern district of Gulu, who also represents the ARLPI:

‘As religious leaders, we are concerned about the announcement by Interpol. The ICC and Interpol should hold on and give room to negotiations and see how far this dialogue can go,’ said Monsignor Matthew Odongo ... ‘We think that there is no contingency plan for the ICC or Interpol to arrest Kony and his commanders when government, with an army, has failed for the past 20 years’ (IRIN 2006).

In the months since the warrants were issued, their fears appear to have been unfounded. But the larger objections remain:
They felt that the ICC process interfered with the amnesty process as well as various attempts by them (and other mediators) to reach out to the LRA.

They feared that the warrants would result in the LRA escalating attacks against civilians. (There’s been a pattern of the LRA increasing attacks after the government announces new offensives in the north.)

They questioned the government’s bona fides – especially given its record of behaviour in the north.

The issue of who talks for the north has come into play. Researchers like Tim Allen have pointed out that there is a disparity between what northern civil society and the religious leaders (on one hand) say, and what he has found when talking to victims in the displacement camps – where, he says, more victims say they want Kony and the LRA leadership tried (Allen 2006).

But the religious leaders – as representatives of civil society – have been consistently reserved and sceptical about the ICC’s intervention and its implications for peace in the region. The reluctance of (a large part of) northern civil society to endorse the ICC process has been one of the main surprises to outsiders – and is among the main differences on pronouncements on the war by indigenous Ugandan (especially northern) groups, and international NGOs. And, despite the international NGOs often characterising the split as being between those who want justice and those who want impunity, the Acholi religious leaders’ concerns (and some civil society) are more nuanced – and more political.

‘Our position from the beginning was not that we were against the work of the ICC,’ said Sheik Musa Khalil, vice-chairperson of the ARLPI. ‘We feel the rebels caused a lot of atrocities and we feel that [the ICC brings justice]. However, the timing is our first concern. Our feeling is that bringing the ICC in before the conflict ends is putting the cart before the horse and that was our major concern from the beginning.’

The ARLPI have also been involved in various mediation efforts (by Professor Washington Mkunu and Ms Betty Bigombe) – earning them the ire of the Ugandan government and the suspicion of the LRA as well – ‘we were not sure if the northern clergymen were laying traps for them’.

Father Carlos Rodriguez, a prominent former member of the ARLPI, now works with the Justice and Peace Committee of the Catholic Archdiocese of Gulu. He points out that much of the initial fears (including those around the ICC’s impartiality) have been proved wrong.

The ICC is not playing an obstructive role to amnesty, as we thought in the beginning. Since May 2004 to February 2005 more rebels have benefited from the amnesty than...
before. ‘And something strange happened with the commanders coming out with 50 to 70 people [with them]. Our opposition was not correct and the facts have proved us wrong. Also, about children in danger – all this time abductions have decreased and are now rare.’11

Northern civil society also point out that the amnesty law has proven to yield fruit – and want for it to be given more chance to work.

Implementing the arrest warrants

The early accusations of bias against the ICC came about because of the way it announced the investigations into northern Uganda – by holding a joint press conference with the Ugandan government. Given the fact that the government – and particularly President Museveni – is a major dynamic in the problems of the war and will most likely be a major obstacle in trying to politically remedy the conditions that brought about the northern rebellions – it is not surprising that many northerners were and are as suspicious of the ICC as they are of the Ugandan government.

Given the government’s history in northern Uganda, and President Museveni’s statements on the north throughout the twenty years, it was almost inevitable that his decision to refer the war in the north to the ICC is seen as a new strategy by him.12 President Museveni’s statements and actions on the north can be summed up as follows:

■ He has consistently vowed to finish off the LRA militarily
■ He has frequently undermined mediation efforts
■ Every time the government has announced a new offensive (often with a deadline by which to wipe out the LRA), the LRA have intensified attacks. This has not stopped the Ugandan government from announcing new military offensives and deadlines – despite the civilian costs attached to the retaliatory attacks
■ Civic groups who have been part of mediation efforts with the LRA have often been branded as being in cahoots with the rebels. In fact, there is very little love lost between the Ugandan government and the northern church leaders
■ The president has set tight – often unworkable – deadlines when mediation efforts have gone under way
■ The Ugandan government has often been seen as not supporting peace and mediation efforts and only half-heartedly being behind the amnesty process
But there are advantages for the ICC to working with the government.

The ICC was not dependent on the Ugandan government to launch the investigation: the Security Council could also have referred the situation to the court. But having the government refer the case to the ICC made it easier to investigate procedurally, and assured them up to now that they had the backing of the government – unlike an investigation in Darfur, for example.

President Museveni enjoys great support, advantages and legitimacy from the international community, and by calling in the ICC, he is essentially ‘internationalising’ the conflict – making it seem as if he is acting in the interest of his people and that the LRA have been the only side to have committed atrocities. In turn, the Ugandan government is portrayed as being at its wits’ end in trying to end the conflict, in which the government has acted as a protector of citizens. But the political divide between the north and the south in Uganda remains.

If you speak to many northerners, you will often hear them asking why the government has allowed the war to continue for so long – the implication being that to some extent the government’s been unwilling to stop Kony. If Museveni’s government – and Museveni himself – is seen as running an administration that is hostile to the north, the inference in the benefits of the war for him are the following:

- It has given him legitimacy – especially in the rest of the country – when he has often personally directed anti-LRA operations from the north
- Moving people into displacement camps have further impoverished the Acholi regions – while much of Uganda has had steady development and economic growth. Especially since the camps have offered little protection to the civilian population, the perception is that the end result of the displacement is that the back of Acholi society has been broken (especially economically)
- The length of the war, the marginalisation of the north from the rest of the country, and the actions of the army towards northerners have reinforced the belief of northerners that LRA terrorism serves the government well as it is a way of punishing the north and is payback for the various actions by northern politicians and soldiers towards the rest of the country in the pre-Museveni era

The fact that the ICC has no mechanism of implementation is one of its weaknesses. In northern Uganda it has been seen as a further sign of being an extension of Ugandan government politics. Within the Ugandan territory, it will rely on the UPDF to arrest Kony. (The UPDF have been given permission by the Sudanese government to pursue the LRA into southern Sudan. It is not clear if that extends to operations to arrest Kony.)
In the DRC, it will rely on Congolese troops as well as the United Nations Mission in the DRC (MONUC). So, if the Ugandan army will be the ones left to exercise the ICC warrants against the LRA top command, how will this be different or independent from Museveni’s war efforts the past twenty years?

The recent ceasefire further complicates the issue of implementation, since the countries who are either party to it, or involved in the process, are the ones who are supposed to exercise the arrest warrants. These are the DRC, Sudan (especially southern Sudan) and Uganda. If they are now offering Kony incentives and amnesty as a way to lay down arms – and peace holds great advantages for each of these governments – what incentive is there to implement the warrants?

**Impunity versus justice**

Regardless of what happens with the arrest warrants for Kony and his four acolytes, the problems of northern Uganda will remain. The arrest of the LRA members indicted by the ICC will in all likelihood end the war. But, focusing too much on Kony poses the danger of observers in a post-Kony future mistaking the absence of war for a real, viable peace and the achievement of justice across the board.

Focusing solely on the statistics of the humanitarian tragedy in the north, or by focusing narrowly on the mechanics of catching Kony and implementing the letter of the law, will miss the profoundly political problems in the north. And it is precisely in finding a mechanism to deal with the long-standing political and societal problems at the heart of the war that the question of forms of justice becomes crucial. This is also where the divide between indigenous northern civil society and international NGOs are the greatest. A number of Westerners have interpreted the locals’ stance as somehow ‘folksy’ and out of touch with the rest of the – Western – world, but the concerns put forward by the ARLPI and other local civil society organs can also have a different reading. Rather than a simple, literal reading focusing just on reconciliation and reintegration, it can also be seen as them raising the question on building a viable peace in the north.

The disillusionment and distrust that northerners feel towards the government cannot be underestimated. It is important to remember that many northerners feel that the war has been *allowed* to continue for so long – not least of which as a punitive measure against the Acholis. Therefore, what northern Ugandan civil society is also expressing is a distrust of a mechanism driven by the government (which has largely set itself up in opposition to opinion in the north), and by the larger world which has shown scant interest in the war up to now. It is little wonder that civil society feel they have to go it alone, and ultimately they are the ones who must ensure that peace will come to their communities.
However, it is in what to do with the LRA that there is a great divide between the international community and local rights groups. This has simplistically been characterised as a split between ‘justice’ and ‘impunity’. In effect this means that the international groups want ICC prosecutions, and Acholi civil society also want traditional reconciliation mechanisms used. The reactions from Acholi victims in the camps are varied – with some calling for ICC prosecutions. The difference is likely more nuanced – and political.

The Refugee Law Project (2005) says that:

The strength of feeling against the ICC should not be read as an indication of either civilian support for Kony, or as support for impunity ... While the ICC may deter future rebels from committing atrocities against civilians, the Court is not capable of addressing the deep-rooted political causes of the conflict. Instead it is seen as providing a convenient escape route for the government to avoid having to address such causes.

Northern religious leaders have also wanted to implement traditional justice programmes which would see the re-integration of ex-combatants into the community, and the acknowledgement of wrong. But many outsiders have questioned whether this is an appropriate mechanism for dealing with the LRA. The specifically Acholi rituals will also not take into account the demands of other groups – and whether they want Acholi traditional justice at all.

Northern community leaders have for years been talking of resurrecting Acholi reconciliation and mato oput ceremonies whereby wrongdoers are re-integrated into the community. However, there is controversy on whether this ceremony was done in its proper form in recent years, whether it is appropriate for use outside inter-clan conflicts – and also that it is a specifically Acholi cultural symbol, and does not address the non-Acholi victims of the LRA, or even Acholis who might want the rebels prosecuted.

**Conclusion**

Even if the guns fall silent, complete reconstruction of Uganda’s north is still an unresolved – and unspoken of – issue, as is the matter of whether the north will ever be able to share in the development and prosperity enjoyed by most of the rest of the country. But it is not only Uganda that stands to benefit from peace in the north. Just as the LRA was part of the proxy war between Uganda and Sudan, so too will the reverberations of peace have a regional impact and consequence. And it may be that the biggest gains (including material advantages) from a northern settlement will be felt in southern Sudan, and not northern Uganda. One of the surest ways to consolidate their gains and build up the framework
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of viable state for southern Sudan is through getting the LRA out of their territory. (The LRA apparently shelter with groups who do not support the Sudan People’s Liberation Army – SPLA.) A lasting peace between the Ugandan government and the LRA may be the surest hope of a successful southern Sudanese state in the future.

It is not surprising that the southern Sudanese government – in particular southern Sudanese vice-president Riek Machar – has in recent months been at the forefront of efforts to bring Kampala and the LRA together. The Ugandan government has reciprocated by sending senior delegations to talks and offering LRA leader Joseph Kony and his command amnesty. The southern Sudanese mediation effort was significant in that for the first time there is a serious attempt by the Ugandan government to talk to Kony. Up to now, President Yoweri Museveni has vowed to finish off the LRA militarily, consistently undermined any peace efforts, and regularly demonised northern Ugandan church leaders who have had talks with the LRA as ‘collaborators’.

Besides maintaining bases for twenty years in southern Sudan (as well as apparently living among southern groups not friendly to the Sudan People’s Liberation Army/Movement – SPLA/M), the LRA also committed atrocities in southern Sudan. Owing to its sponsorship by Khartoum, the LRA remains a destabilising force in the area and a proxy army of the Khartoum government if the south would want greater autonomy or to secede after the area’s transition period. Therefore, any internal Ugandan settlement with the LRA allows the SPLA to consolidate its position and power before a referendum on southern Sudan’s status.

The Ugandan government has offered amnesty for Kony and his acolytes indicted by the ICC if they came out of the bush, and Machar has also asked the ICC to withdraw the warrants. This cleverly usurps the exact same calls made by the northern Ugandan clergy since the ICC opened the Ugandan docket – but it is unlikely to happen. The ICC said they had targeted the top leadership in the indictment, leaving the rank-and-file to partake of the amnesty process for LRA fighters that has been under way in Uganda.

Little will convince northerners that Kampala has not allowed the war to continue for two decades to punish them for holding on to military and political power in the years before Museveni marched on Kampala. It was no wonder that northern civil society saw the ICC as a new ploy by Museveni to wipe out the LRA. Although there are technical provisions to withdraw warrants when it is in the interest of peace, any attempts to withdraw the warrants now (after many discussions with northern Ugandan civil society came to naught) and after the publication of the Interpol notices will further reinforce the belief that the ICC’s interest often dovetails with that of President Museveni’s.

The difference in Kampala calling for the ICC warrants to be withdrawn – and northern civil society mounting the earlier call – is that it is in the government’s interest to effect a
whitewash of the causes and history of the conflict, including army abuses and atrocities, and to silence a final call for redress and integration of the north into the gains that the rest of Uganda has taken as a given in the Museveni years.

It has been in Museveni’s interest to characterise Kony as a madman who wants a fundamentalist Christian state – ignoring LRA demands for a government that is not hostile to the north and LRA questions around Museveni’s democratic credentials (which have become more shaky since he changed the constitution to be elected for a third term). But this in no way minimises the scale of LRA atrocities.

The LRA are a regional dynamic, but a post-Kony future is primarily a question of whether the government is prepared to rebuild the north and make it part of the country. Whatever happens with the ICC indictments or the peace talks, for northern Uganda, justice across the board and a real sustainable peace must mean more than simply the absence of war. Internationalising the conflict by calling in the ICC and, recently, having southern Sudan behind peace efforts, means any final settlement is driven by outside interests. This makes the position of the Ugandan government almost unassailable – as the dynamics now are between the ICC, southern Sudan, the LRA and Kampala. (Besides the LRA, the other players are all to some extent supportive of the Ugandan government.)

In effect, this removes northern civil society as a player in the war’s resolution – and up to now they’ve been the only voice consistently calling for the Ugandan government to be held accountable for its actions in the north, including addressing the political causes of the rebellion and the impoverishment of the area over the past twenty years.

The current attempts at talks are uncharted territory – the only precedents are the actions of the two sides over twenty years. The LRA only negotiates when it is weak, and as a tactic to regroup and replenish supplies before launching fresh attacks. Kampala has never seriously backed any peace initiative with the LRA – and there are questions on whether the north has been steadily underdeveloped as a punitive measure, or through deliberate neglect.

What is on the table is a settlement between two combatants, not a transitional programme for the region or for northerners. In the long term, the biggest losers may yet be the people of northern Uganda. Peace will take the daily terror out of their lives, but peace could also entrench their marginalisation as the causes and history of the rebellion are never acknowledged or addressed.

The complexity of the northern Ugandan conflict stretches further than the debates on justice and reconstruction and the role of international prosecutions in ending the war. As in Liberia and Sierra Leone (where the civil wars were also largely run by child
soldiers), in northern Uganda, many LRA perpetrators of atrocities face the position of simultaneously being victims and perpetrators. They are essentially abducted, brutalised children forced to kill – yet at the same time are the perpetrators of grave atrocities against their own communities. Added to this is the feeling of victimisation and marginalisation by the Acholi people, as well as consistent army atrocities against them, and it is little wonder that the response of local civil society is to reach inwards, trying to find local ways to rehabilitate its children who have turned into murderers, rather than trust any offer of justice from either Kampala or the Hague. It is not just about wiping the slate clean or allowing impunity to occur – the wider resonance is that northern Uganda is grappling with a justice that talks about rebuilding the coherence of a shattered, brutalised community. It is looking at building a peace that will allow their children who have killed and maimed for two decades, to finally come home.

References


Discussions

Discussions with Roger O’Keefe, Cambridge, Britain.

Telephonic discussions with Ron Atkinson.

Notes

1 Originally from northern Uganda, Ms Bigombe was once Minister of State for the Pacification of Northern Uganda, a title later changed to Minister of State in the Office of the Prime Minister, Resident in Northern Uganda.

2 The ICC also say they were not blindsided by the opposition to their work – and do not expect other interventions to go any smoother.

3 The court, though, maintains it was not surprised by the hostility towards it.

4 When you talk to local people in northern Uganda, you get a better understanding of Kony’s wide use of collaborators and people who supply the LRA with goods from the main towns. Working with the LRA does not automatically denote sympathy for Kony’s cause. It must be remembered that a significant number of people in the LRA (not only the fighters) have been abducted – and collaboration can take place with abductees approaching family members to help them. I don’t know if civilians have been coerced into helping the LRA under the threat of family members in the bush could be harmed if they don’t. Some adults – who were abducted and escaped as children – have also told me that Kony’s ability to ‘predict’ especially military events (like the army
going to attack them) could also be explained by the fact that Kony could be getting the information from ‘spies’ and ‘informants’ – rather than from his spirits talking to him. These former abductees have also mentioned that this might be the strategy behind the child abductions – it is much easier to control and manipulate them and psychologically intimidate them than adults. Kony’s psychological hold over abductees – coupled with the brutality within LRA ranks – cannot be underestimated. Coupled to this is the fact that some children have been abducted more than once.

5 Interview with ICC representative (who requested anonymity).

6 Concomitant to this is the belief in the rest of Uganda that the war up north is largely an ‘Acholi problem’. The divide between the north and the rest of the country is deep – compounded by the fact that most of the country has been developing exponentially, while the north has become increasingly impoverished. Added to this, is that the Acholi (like the Karamajong) are often seen (by southerners) as very animist in belief and culturally different from the rest of the country. To put it colloquially, many non-northerners cannot fathom why Kony – an Acholi – is attacking other Acholi in the name of freedom, and why the Acholi cannot reign in their ‘brother’.

7 To this I would add another explanation – unlike the Acholi, they probably don not perceive themselves as having been let down by the government and marginalised and targeted by the Ugandan state – and hence are less defensive about their identity and solidarity.

8 Interview with ICC representative.

9 Interview conducted on 26 June 2006.

10 Interview with Sheik Musa Khalil.

11 Interview with Father Carlos Rodriguez, 27 June 2006.

12 Museveni has consistently said that he wanted to finish off the LRA militarily – and not through negotiation.

13 The fact that the LRA was part of a proxy war between Uganda and Sudan has furthered this tension – especially given American support for Museveni. Kony, in transcripts of early mediation attempts, points to the support of the West and how it legitimises Museveni’s anti-democratic actions. The closeness of the West – especially the US – to Kampala has further drawn the ire of the LRA when President George Bush put the LRA on a list of terrorist organisations after the Sept 11 2001 attacks on the US.

14 Based on discussions with Roger O’Keefe, Cambridge, Britain.

15 This is not to deny the very real atrocities and crimes against humanity committed by the LRA.

16 MONUC is the UN peacekeeping force in the DRC and is currently the largest UN contingent in the world.
Whose justice?  
Contextualising Angola’s reintegration process

Inge Ruigrok*

Over the past decade, international efforts to end protracted conflict in Africa have directed large streams of funds towards the disarmament, demobilisation and reintegration of former combatants in rural areas. While designed as an integrated approach, the emphasis tends to lie on short time frames of transition through centrally managed programmes that narrowly target ‘the demobilised’. Despite the good intentions of these programmes, there are a number of questions that need to be answered, particularly how the beneficiaries perceive them. This essay tries to answer some of these questions by analysing Caluquembe, a district in central Angola where villagers were subjected to violence on an everyday basis, and where since the war ended in 2002 hundreds of former UNITA soldiers and their families were reintegrated. The essay argues that the ongoing ‘normalisation’ efforts of reintegrating displaced people and demobilised soldiers are facing a number of challenges due to the narrow targeting of benefits, the lack of involvement of local government, the absence of any form of national reconciliation, and the emphasis on economic reintegration in an environment of extreme poverty and social exclusion. The essay also draws a number of lessons that could benefit reintegration efforts in the Great Lakes Region, particularly for the Democratic Republic of Congo and Burundi.

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Introduction: Angola’s reconciliation process

Angola presents a quite unique and challenging context for a reintegration process, as the country lived through such a long episode in which there were two relatively clearly defined social and political structures, supported by rival ideologies. Both sides have built their internal mobilisation and support through the formation of an exclusive political, even national identity, while claiming to be the voice of the more authentic Angola. At the same time, the political and military divisions were both blurred and fluent during the sequences of war since independence from Portugal in 1975, and often even crossed families. It is now a common belief in broader Angolan society that reconciliation is foremost a process that takes place on a micro-level, with help from the churches, expressed often as somos todos irmãos, ‘we are all brothers’.

Another factor that complicates Angola’s post-war transition is the very nature of this process. The end of war was abrupt and for most, unexpected. While images of the trophy— a lifeless Jonas Savimbi lying on the grass in his underpants – were broadcast all over the world, President José Eduardo dos Santos flew to Lisbon to discuss the new situation with the Portuguese government, and then to the United States to meet with President George W Bush and Ibrahim Gambari, the UN Under-Secretary for African Affairs. Back in Luanda, on 13 March 2002, President dos Santos announced a peace plan that instructed the Angolan Armed Forces (FAA) to stop all offensive actions against UNITA (União Nacional pela Independência Total de Angola) rebels.1 From then on, events followed one another in quick succession. On 4 April 2002, a new peace agreement was signed in which both sides promised to complete the implementation of the Lusaka Protocol.

In fact, the political transition occurred without the MPLA (Movimento Popular de Libertação de Angola) conceding any power. The government’s conviction has always been, especially in the last phase of war, that it was protecting the Angolan people and that its military campaign was a defence of democracy and sovereignty, a war that had to be waged for peace. It made a great effort to portray Angola as a ‘normal’ country, above all through the restart of the constitutional drafting process.2 It is for these reasons that the government never felt the need to apologise for any wrongdoings, contrary to UNITA, whose secretary for political issues, Abílio Kamalata Numa, appeared on Rádio Nacional on 6 January 2003 to ask for forgiveness from Angolans who were directly or indirectly affected by UNITA’s mistakes.

Angola’s 27 years of war has produced winners and losers, although the government has refrained itself from displaying a victorious mood and adopted a forgiving attitude, pre-empting prosecution and punishment for all. Reconciliation has practically been synonymous to a blanket amnesty for crimes committed in the context of war; such laws were continuously updated to include the next phase of conflict. An amnesty clause was
part of the 2002 Luena Memorandum of Understanding, which reiterated the ‘national reconciliation’ as called for in the Lusaka Protocol. At the same time, reconciliation concerned the broadening of Angola’s political structures on national and sub-national level to include UNITA, and more recently, with the end of conflict in the province Cabinda, Fórum Cabindes para o Dialogo (FCD), and to establish a joint national army and police force.

In the shadow of these arrangements between elites, ordinary Angolans were told to forget the past and look forward to the future. Such an effort to move on is not without danger as injuries are not so much forgiven but publicly ignored, leaving them to fester. The risk is that collective memory becomes a political tool, as the alternation of forgetting and remembering itself etches the path of power (Minow 1998:119). Yet, the complexity of the wounds have even made civil society activists believe that an institutionalised response to human rights abuses (which included a ‘scorch earth’ policy pursued by the FAA to wrench guerrillas from their support base while the increasingly isolated UNITA forces engaged in savage responses) would not be a favourable option in Angola today. The discourse is much about the necessity of having a ‘social peace’, a settlement that goes beyond a military agreement to include ‘transparent political competition’. ‘It is more important that people are lifted out of poverty, and have access to opportunities. Maybe, much later, through a national debate, we can look at the political side to try to understand the lessons that caused the conflict to last for so long. Not at this moment.’

In actual fact, Angola’s most inclusive national reconciliation initiative so far is the government’s reintegration programme, which it drew up as war ended in 2002 after which it was made to fit the framework of the World Bank’s Multi-Country Demobilisation and Reintegration Programme (MDRP). The policy represents the inauguration of a nation-building process in which the Angolan state has increasingly positioned itself as the harbinger of post-war reconstruction. Today, President dos Santos – portrayed as Angola’s ‘peace-president’ – openly admits that only one million people in Angola have the basic conditions for living, a public acknowledgment that would have been unthinkable a few years ago. Reintegration, with its emphasis on the fight against poverty and the diminution of political and economic disparities, aims to advance redistributive justice. Improving the benefits and opportunities offered to the military demobilised from active service became a main focus. Priority is placed in the rural areas that were most affected by war, and the re-launching of agricultural production.

This essay explores one aspect of this reintegration process, namely its local legitimacy. How do those affected perceive the trans-nationally designed policies that seek to reconcile their local society? And how do these policies fit with the way people re-imagine peace, in their homes and in their daily lives? Such questions matter because a
durable and integrated justice process can lead to greater legitimacy and thus to a greater chance of delivering enduring peace. On the other hand, a reintegration process linked to national reconciliation always runs the risk of a trade-off between security and justice. Addressing these issues calls for a bottom-up and contextualised perspective. The first part of this essay situates Angola’s reintegration programme with its redistributive justice features within a wider political framework. The second part brings the perspective of the people of Caluquembe, just one district in the interior of Angola where the outcome of the reintegration process will be determined. The essay concludes with some lessons drawn from the Angolan case for the region.

Reintegration and its political context

The inter-linkages between conflicts in central Africa inspired the World Bank in April 2002 to design a regional approach to channel international donor support to demobilisation and reintegration activities in the region. Under the umbrella guidelines of the MDRP, individual country plans are conceived in conjunction with national governments. Qualifying for support are African countries that participate in the regional peace process for the Great Lakes Region, and that established domestically ‘appropriate institutional arrangements’ for a national MDRP. The programme aims at enhancing the prospects for stabilisation and recovery in the region. Disarmament, demobilisation and reintegration of ex-combatants are necessary to establishing peace and restoring security; the programme philosophises, which are in turn pre-conditions for sustainable growth and poverty reduction. In this process, the World Bank’s role is threefold: the international financial institute acts as manager of the MDRP Secretariat, as administrator of the Multi-Donor Trust Fund and as co-finance of national programmes.5

The Angolan government, a signatory to the Lusaka agreement that formally ended conflict in the Democratic Republic of Congo (DRC), commenced a series of talks with the World Bank on a possible Angolan version of the MDRP in May 2002. By that time, it was already clear that such a programme would only relate to the reintegration of former combatants in local society, and not to the process of disarmament and demobilisation. To avoid any repetition of the flawed processes of the past, the government had prioritised the demobilisation of 97 138 UNITA combatants, of which 5 007 would stay in the FAA, while 40 would be integrated into the national police. It was effectively managing this stage single-handedly, although it had postponed the security reforms that included the discharge of 33 000 FAA troops.6 Disjointedly from the demobilisation process, which was managed by the Joint Military Commission in which both MPLA and UNITA were represented, a comprehensive reintegration program for the demobilised UNITA combatants was put on paper. This policy fleshed out the agreements made between the former belligerent parties in the Luena Memorandum of Understanding and for which the government sought donor funding
to share the estimated costs of US$55 million. The Institute for Socio-Economic Reintegration of Ex-Military (IRSEM), an agency within the Ministry of Assistance and Social Reinsertion (MINARS), would be in charge of implementation, while a special inter-ministerial commission would keep an eye on policy development and carry political responsibility.

The World Bank recommended a revision of the government’s plans, which would integrate the demobilisation and the reintegration process into one national programme. Such a strategy could then be broadened to include not just the UNITA combatants demobilised under the Memorandum of Understanding, but also 33 000 FAA troops that were to be demobilised, and ‘old case-loads’. This last category included 191 400 combatants identified for demobilisation and reintegration under the two former peace processes, but that were abandoned in mid-stream as donors withdrew funds in the wake of renewed war, having received none or only part of the assistance to which they were entitled. For the ‘new case-loads’, the World Bank envisaged a ‘transitional safety net’: a cash allowance that would cover the basic needs of the ex-combatants for a period of twelve months.

Importantly, the assistance to the reintegration of ex-military should be made beneficial to the wider community and consistent with the support to over four million returning civilians and to broader recovery efforts at the local level. A social component would form part of the reintegration programme, with projects focused on reconciliation. Although the government had also clearly envisaged this in its own reintegration programme, the World Bank rationalised that a single centralised government agency would manage the combined reintegration efforts better. A presidential decree created a national commission, Comissão Nacional de Reintegração Social e Productiva dos Desmobilizados e Deslocados (CNRSPDD), in early June 2002, which substitutes the inter-ministerial commission. IRSEM continues as the implementing agency, while responding to the Executive Committee of CNRSPDD, which is headed by the minister of Assistance and Social Reinsertion (MINARS).

The integrated approach that the MDRP demanded was built into the second draft policy, Programa Geral de Desmoblização e Reintegração (PGDR), which the Angolan government presented on 10 October 2002. This was a three-year programme, starting from the demobilisation phase in April 2002, although the government financed this component on its own account, which at the time already exceeded US$100 million. But the final negotiations between the World Bank and the Angolan government planned for November 2002 were delayed to the end of January 2003. Outstanding issues had to be resolved in the exact design of the PGDR, which the World Bank and its donors called the Angolan Demobilisation and Reintegration Programme (ADRP). These were concluded in late March 2003 after which the World Bank gave its green light to an IDA credit of US$33 million.
The amount still needed for the reintegration programme, whose costs was calculated at US$179.7 million, was a US$48,4 million grant from the MDRP Trust Fund and US$16.6 million bilateral donor funding, in addition to further government contribution (World Bank 2003c). Yet, there were concerns among donors regarding the pace and nature of the government’s demobilisation efforts. Military IDs, for instance, were not always distributed prior to discharge from quartering areas, and there were indications that some former UNITA troops were taken to places for resettlement against their will. Donors who supported the MDRP Trust Fund felt that IRSEM was not prepared enough to implement such a wide-ranging and complex reintegration programme, and even if it was, the amount of opportunities that could be offered to the demobilised soldiers in their areas of return was still too little (World Bank 2002).

In general there were teething troubles regarding donor involvement in Angola’s post-war rebuilding efforts. For the World Bank, the ADRP forms part of a larger package, labelled the Post-Conflict Rehabilitation and Reconstruction Programme (PCRRP), which broadly aims at achieving macro-economic stability, and the implementation of a ‘pro-poor post-conflict spending program increasingly focused on service delivery’ (World Bank 2003a). If a country is to qualify for donor funding, such a general recovery programme must be based on a Poverty Reduction Strategy Paper, of which the Angolan government only presented a draft version in September 2003, without the required three-years macro-economic framework (Ministério do Planeamento 2003). Also, an agreement on an IMF-supported programme is necessary. As Angola is considered to be a ‘high-risk high-reward’ country, with oil reserves that are not just providing astonishing business opportunities, but also severe development concerns, the conditions attached to the donor aid were even tougher. The government had to pick up the pace with finalising an oil sector diagnostic study, and reduce ‘its extra-budgetary and quasi-fiscal outlays’. Furthermore, support to the ADRP would be linked to increased transparency regarding public financial management, the government’s plans for the security sector, a reduction in the size of the FAA, and a substantial government contribution to financing the ADRP.

On durability: Reintegration policy in practice

Despite the overall objective to help consolidate socio-economic stability in Angola, and in the Great Lakes Region in general, the World Bank defined its intervention as a short-term measure, intended to give a first push to recovery. Accordingly, the ADRP, which finally came off the ground in March 2004, consists of an array of sub-projects, all limited in time. Each sub-project offers ‘opportunities’ to a group of ex-combatants in the area where they returned to, based on their wishes and skills, and on what the local economy has to offer. Agriculture is identified as a key possibility for the career-changing soldiers, also because the government hopes to re-launch this sector that once
produced the finest coffee in the world, and develop rural areas that were so affected by war. But demobilised soldiers may also choose to start small businesses, or receive on-the-job training while they are involved in community building projects. If an ex-combatant qualifies, he or she may receive additional ‘complementary opportunities’ such as micro-credit and job placement in a public or private institution.

The implementation of the ADRP is based on a two-tire strategy. IRSEM, which has offices in each of the country’s 18 provinces, forms the centre of the institutional web. As the implementation arm of CNRSPDD, it is in direct contact with the World Bank, although the money flow goes via an independent financial management unit. IRSEM also prepares inventories of the different reintegration projects, the majority of which it contracts out to larger implementing partners who either developed specific activities themselves or established partnerships with smaller organisations that work at grassroots level. These ‘primary partners’ are usually international NGOs such as CARE, or UN agencies that supplement IRSEM’s management capacities while providing technical knowledge and capacity building to the smaller service providers.

This is the programme design on paper. In practice, the time span for reintegration sub-projects proved to be too short, exhausting the smaller organisations that are actually implementing the ADRP at the local level, rather than strengthening them. As the coordinator of one organisation voiced:

[A]n agricultural project can’t be implemented in 9 months, there is not enough result by then. There is this bureaucratic network. The payment for the project comes in three phases. Each time, we have to submit a progress report to IRSEM in the province and they send it to IRSEM at national level and finally to the World Bank. It takes two months to analyse it, and in the meantime, the next phase is blocked. Formally, the project has already finished but we have only received 50 percent of the budget. We are now trying to overcome this situation. The process was difficult in the beginning. We had to think about how to engage with ex-military that had fought on the side of the rebels. We were fearful. But once we began it went well, and now we are worried that we have to leave in the middle. We would like to give support until there is minimum stability, so we can look back and say that it was worth the effort.10

Originally, the ADRP would start before June 2003. The implementation was postponed to March 2004, and then it still took close to a year before the first sub-projects were up and running as IRSEM’s partners had to be selected, and their proposals reviewed. By the end of 2004, only 7 288 demobilised UNITA soldiers were benefiting from projects under the ADRP (IRSEM 2005), while the first thousands had already returned to their areas of origin or choice two years earlier. Smaller reintegration projects filled
the gap in the meantime. The MDRP Trust Fund allocated about US$4,3 million to an UNDP-led pilot project in central Angola that targeted 4 891 demobilised UNITA troops, although only 3 117 of these were recent ex-combatants, the assistance mostly concerned short-term training instead of sustainable employment opportunities. When the project ended in June 2005, close to 45 000 ex-combatants had received agricultural assistance through FAO, although the planned 50 000 agricultural toolkits had hardly been distributed. Also, the government had started its own reintegration initiatives by offering 6 500 ex-combatants jobs at the ministries of Health and Education, while a further 4 448 had received professional training under a programme run by the Ministry of Public Administration, Employment, and Social Security. Approximately 8 000 demobilised soldiers had by early 2004 already found employment at other public or private institutions, without any support, or with financial assistance from sources other than the MDRP (World Bank 2005).

In the rural areas, where most ex-combatants returned to, there often was a dazzling variety of reintegration schemes, set up for the time being by local church groups or NGOs. These projects could only cater to a handful of demobilised soldiers, and offered limited assistance and few benefits. When the much larger national programme was finally formalised, in many cases all demobilised soldiers came to register. Yet, the ADRP not only disqualifies the ‘old-case loads’, ex-combatants who were demobilised in the context of the two previous peace processes. Also, soldiers that had recently been demobilised, but had already benefited from any other reintegration project, were excluded from the opportunities offered under the ADRP even if they did not feel reintegrated enough yet. This resulted in a substantial degree of confusion and misunderstanding.

When the time span of transnationally designed programmes is short, there is a high possibility that they would have few benefits due to their limited involvement of local state institutions. Working with state institutions is often a drawn out, tedious and highly political process. International donors often prefer to quickly put up their own camps instead of working with local authorities. Such an approach may also jeopardise the durability of the assistance, as well as other processes such as transitional justice.

In Angola, where the general reconciliation process has taken such a strong development angle in the absence of any legal or quasi-legal response to human rights abuses, the coordinating and monitoring task of authorities that are closest to citizens seems to be particularly important. The ADRP broadly recognises that the process ‘should be implemented in close coordination with local and provincial administrations to ensure that all activities targeted at ex-combatants remained consistent with overall integration activities at local level’ (World Bank 2003, paragraphs 21, 91 and 92).

Yet, in practice, the programme seems to rely entirely on central government agencies with decentralised directorates in the provinces, and on NGOs as implementing
partners. The CNRSPDD has branches outside Luanda that are responsible for resettlement and reintegration, but these are limited to the provincial level and meet on an ad hoc basis. Generally, the ADRP follows the contours of contemporary state administration in Angola, which remains highly centralised, with vertical accountability relations, despite the adoption of a law that realised a partial devolution of the country’s political-administrative affairs from Luanda to sub-national governments.11 These state reforms have not yet percolated to the lower levels in a significant way. For instance, most of the ministerial responsibilities have not been delegated to the municipalities.12 Aggravating this situation are the blank spots in state administration at the level of bairros and povoações. These lowest administrative units still have no legal framework, leaving a great part of the population, particularly in rural areas, at the outer edges of the state.

**People’s perceptions: The case of Caluquembe**

An obvious, yet not frequently asked question that comes to mind when studying transitional justice processes, designed on a transnational scale, is what legitimacy these programmes have in the eyes of those affected. People’s reactions to such initiatives are often manifestly diverse. They depend primarily on what type of justice that is administered, and how it is administered, as well as on the background of the people, and their experiences over time. These experiences do not only include people’s encounters with direct violence, and conflict resolution settlements, but also the large-scale process of mobilisation of materials and social resources societies at war usually undergo, and the opportunities and capabilities people have themselves to heal the wounds of war and rebuild their lives and their societies.

It is this question that is central to the following case study of Caluquembe, a district 190 km northeast of Lubango in south-central Angola, although an extensive examination goes beyond the scope of this essay.13 Caluquembe, as the breadbasket of Huíla province, was a hotly contested area in Angola’s last two war episodes. Although there were incidents of fighting on its outskirts all along, particularly in 1987, the district was drawn into a situation of full-scale war when UNITA occupied the area in March 1991 and attempted to install its own administrative structures there. Initially, the rebel movement enjoyed sizeable support from the population. This changed with the violent run-up to the elections of 1992, a first exercise in democracy that is engraved in people’s minds as a traumatic event. Even when the government recaptured Caluquembe in October 1994, the district remained surrounded, turning into a patchwork of government and rebel-held areas. The population that did not flee to safer grounds remained trapped, largely out of reach for humanitarian agencies, until war ended in 2002.

Today, Caluquembe is one of Angola’s former war zones where UNITA and MPLA are sharing power in the municipal administration office, while the district’s population has
returned to rural life with its lush green hills. Peace brought many changes to Caluquembe. Often cited is that a free movement of people is again possible, that ‘the war does not let us lose our children any longer’, and that the risk of losing land and animals has disappeared.‘I am not a deslocado any more. Having to leave was the most difficult thing that happened in my life. It is very sad. A person loses everything, also respect. To live on the land of others is difficult.’ Deslocado (‘displaced’) identity among people who had to flee war refers to loss of land and home; it is an empty identity. ‘A deslocado is not respected. It is someone who lost everything. That hurts a lot, principally when you know that you still have the strength to work. I don’t want to remember that I was once called like that.’

Simultaneously with the returning villagers, 1,074 soldiers that were demobilised under the Memorandum of Understanding settled in Caluquembe. Most, if not all, were born there, and rejoined their families. For some, fighting for UNITA was a question of survival. Not just because it provided a job and an income, or they believed that life would become better once UNITA was in power, but also because they had become party members and feared for their life when war restarted in 1992. Others were abducted as children and forced to fight in UNITA’s army. ‘In 1984, I was taken together with my grandfathers with whom I lived to Chicomba, which was under UNITA’s control from then on. Even though I was only 17, I was installed in FALA. Politicians who wanted power against all costs used us.’ Interestingly, although they were taken by UNITA against their will, as children, they stayed in military life for a very long time, sometimes up to 20 years. All interviewed ex-soldiers stayed for more than ten years, having never been demobilised in the context of previous peace processes. ‘In 1994, there were troops that had to stay to reinforce the party structures. These ones did not go to the quartering areas. There was a fear that they would desert if they would be taken to the FAA. These soldiers were selected beforehand.’

Politics is a topic that still causes great fear. The experience of having fought on the side of the ‘losers’ and being reintegrated into a local society that suffered vicious UNITA attacks, has silenced many people. The first days at home were difficult. In some areas, people think that only UNITA killed and the other side did not. They clearly remember, while they were living in a government-controlled area, when UNITA attacked and took their fathers, brothers, their animals and burned their homes. These acts left indelible marks in families:

I think the worst situation has already passed. But these first days, when we really got there, the situation was not good at all. People react and say: ‘The ones that have reached my age know very well that my father died, and the oxen went, and who did all this? It was an individual of UNITA.’ But now the situation is improving, little by little.

Both demobilised soldiers as returning villagers say that they hoped to return to their land, to return to cultivating, to find back their family. Family relations seem to have been the most important reintegration ‘mechanism’.
In the last years, I didn’t agree anymore with the war. All I wanted was to return to my land and start a new life. After the war, I decided to install me here in Ngola, because I knew that in the place where you were born you are always welcomed. Until now, nothing bad happened. I found my family again via the party bureau of UNITA, and because I had always a good relationship with them, the reintegration was easy. The life we are having now is very different from military life. With more time, I think we will be able to say that this life is better.21

Caluquembe’s 1 074 ex-combatants are a target group for the ADRP, although only 800 qualified for the reintegration support that started in January 2006, including 7 women and 19 disabled. Others had already benefited from the carpenter’s project the local Catholic Church had set up for ten months with funds from the government, in which their wives learnt how to cook and clean. Also an Italian NGO had started a small initiative, and the government had distributed some cattle, in the hope that the ex-combatants would form a cooperative.

Within the ADRP, most of the demobilised forces work as farmers. Five ex-combatants were given one male and two female goats for breeding, and two oxen they have to share. Additionally, they received basic agricultural equipment and seeds to start growing crops. A group of 35 opted for on-the-job training while building a school for the community, which earned them a salary of US$50 for six months. Twenty ex-combatants started their own businesses, such as a pharmacy, a furniture workshop, etc. They borrowed US$300 out of a rotating fund without paying interest. In six months, they made a profit, and refunded the start-up capital. The ADRP in Caluquembe ended in September 2006. By that time, 622 out of 800 qualifying demobilised soldiers had received support. Nationally, just over half of all demobilised UNITA combatants were by then covered under the programme. IRSEM had signed contracts with the implementing partners for the reintegration of 53 387 ex-combatants, of which 52 974 were benefiting from assistance.22 The ADRP was supposed to finish by the end of 2006, but the programme has been prolonged for an indefinite period.

Security concerns represented by the former UNITA soldiers led the channelling of existing resources within the ADRP first and foremost towards their assistance. Other war-affected people would receive assistance under broader, national programmes, such as the poverty-reduction strategy. Still, as the ADRP recognises the need to guarantee that reconciliation at the local level is not jeopardised by the focused support to ex-combatants, a social component was built into the programme. The social reintegration strategy includes sensitising local communities to the return of demobilised soldiers and vice versa, raising the ex-combatants’ awareness of their civic rights and responsibilities, and inform them about health related issues, including HIV/Aids. But such activities have usually taken place during the demobilisation phase and are not really sustained
throughout the reintegration process in local communities, when they are most needed. The economic aspects of reintegration dominate.

Such an exclusive support to ex-combatants, however limited and brief, creates an imbalance in a society that as a whole is recovering from war, and where most people – on average in Angola 68 per cent of the population – live below the poverty line, and even 26 per cent live in extreme poverty. Villagers’ reactions vary: ‘I don’t like the demobilised. They killed my children. The wound heals but the scars stay forever. When you look at the scars again, you know that someone has hurt you. It is as they say: you can clean your face but to clean your heart is more difficult.’ ‘The support to the demobilised is justified because they are receiving some skills to restart life. But it is important that they know that the rest of the people have the same difficulties as the demobilised. Everyone here is restarting life and if these rights only go to the demobilised, it leaves us thinking that they are being paid for having made war.’ ‘The demobilised is receiving his share. It is important that they are not thinking of war any longer. But we, as Angolans that suffered in the war, also have our rights, although we never picked up the arms.’

Both villagers and ex-combatants speak of reconciliation as ‘forgiveness’ and ‘to live well with others’. ‘Reconciliation is to forget the war and to forgive the brothers that went with UNITA.’ ‘Reconciliation is forgiveness, that a person can be the way he wants and that nobody accuses him of past crimes.’

**Conclusions: Angola’s lessons for the Great Lakes Region**

With most of post-war population movement now complete, Angola is at crossroads. Decisions made today will determine whether the huge population of recently displaced and former combatants can fully reintegrate into a peacetime society. This is especially so because reintegration assistance became so intimately linked to a wider, long-awaited process of national reconciliation, in which ‘justice-doing’ is directed at durable livelihoods and social inclusion. Reintegration was formulated to be a ‘transformational’ process linked to pronounced development goals, rather than ‘transitional’ reintegrations of ex-combatants into civilian life.

Yet, reintegration assistance in the form of a national version of the regionally designed MDRP did not encompass these features in practice. Although the demobilisation process commenced immediately after the signing of the April 2002 Memorandum of Understanding, a comprehensive reintegration strategy was delayed, which was mainly due to tough conditions imposed by donors and an apparent lack of institutional capacity on the government’s side. Simultaneously, the reintegration policy increasingly narrowed its target group and benefits, exhausting local organisation that implemented
the programme at grassroots level. Such an approach jeopardises the opportunity a reintegration process represents for achieving political stability and building peace.

In addition, the lack of involvement of local governments as coordinating and supervising agencies on the local level where people are rebuilding their lives, and the emphasis on economic reintegration in an environment of extreme poverty and social exclusion, proved to be particularly problematic, increasing the latent potential for recurring conflict. This ties into the problem that quick-fix reintegration strategies are difficult to reconcile with the need for rebuilding social cohesion, and healing. A contextualised approach, which keeps a strong eye on the wider political landscape, and local particularities including experiences and perceptions, would greatly benefit reintegration strategies, not just in Angola but also in the DRC and elsewhere in the greater Great Lakes Region. Although conflicts might have taken a regional or trans-regional character, reintegration and rebuilding may still take place on a local scale, among a variety of actors in specific contexts. The legitimacy of a transitional justice process is an important, and often underscored, determinant of its outcome. A fitting conclusion should be this quote from one of the people who fled his family because of war: ‘If there is an area where the bees once stung, and you want go back there, you have to take it slow, you have to go carefully.’

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Notes

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2 República de Angola, Lei 1/98 de 20 de Janeiro.

3 Lusaka Protocol, annex 6, agenda item ii4, general principles, paragraph 5.


5 Currently, nine countries in Central and Southern Africa receive support under the MDRP: Burundi, Rwanda, the DRC, Congo Brazzaville, Namibia, Zimbabwe, Angola, Central African Republic and Uganda. (World Bank 2002a).

6 For an overview of Angola's disarmament and demobilisation process, and early reintegration efforts, see Gomes Porto and Parsons 2003.

7 Comissão Intersectorial para o Processo de Paz e Reconciliação Nacional (Comité Executivo), Programa de Reintegración Social dos Desmobilizados dos Ex-Militares da UNITA, Abril 2002.

8 During the Bicesse peace process, 134 289 troops were demobilised (10 402 of UNITA's army FMU and 123 887 of the government's FAPLA). After the signing of the Lusaka Protocol 57 111 combatants were demobilised (48 700 of FMU and 360 of the FAA) (IRSEM 2005).

9 Decreto Presidencial 5/02, Regulamento da Comissão Nacional de Reintegración Social e Productiva dos Desmobilizados e Deslocados.

10 Interview with Ação para o Desenvolvimento Rural e Ambiente (ADRA), Caluquembe, 4 October 2006.

11 Decreto-Lei 17/99 de 29 de Outubro / Orgânica dos Goversos Provinciais, Administrações Municipais e Comunais.

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14 Interviews with villagers, Caluquembe, October–November 2006.

15 Interview with 46 year old man from Vatuco comma who fled with his family to Quipungo – 1993–2002.

16 Interview with 59 year old man from Lomba comma who fled with his family to Caclula and Lubango – 1995–2002.

17 Interviews with demobilised UNITA soldiers, Caluquembe, October–November 2006.

18 Interview with 39 year old demobilised UNITA soldier, Ngola comma.

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24 Interview with 58 year old woman from Lomba.
*comuna* who lost her two children who were fighting on the government side.
26 Interview with 58 year old man from Vatuco *comuna* who fled to Malipi, Quipungo, in 1993 until 2002.
27 Ibid.
28 Interview with 33 year old demobilised UNITA soldier from Calepi *comuna*.
29 Interview with 46 year old man from Vatuco *comuna* who fled with his family to Quipungo in 1993 until 2002.
The role of women in the reconstruction and building of peace in Rwanda:
Peace prospects for the Great Lakes Region

Cecilia Ntombizodwa Mzvondiwa*

In view of the fact that women bear the heaviest burden of failed states, it is inevitable and logical that they should play a central role in designing and implementing peace-building programmes. This not only improves the quality but also the increases the chances of success and the consolidation of peace. This article uses Rwanda to highlight how women are affected by collapsing states and prescribes the role that they can play in reconstructing societies emerging from violent conflicts. It strongly recommends the inclusion of women in post-conflict reconstruction and peace-building as model for good governance.

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**Introduction**

Focus on the role of women in conflict prevention, in the reconstruction of failed states and in peace-building is not merely a question of equity and fairness (Steinberg 2003) but arises from the knowledge and experience that bringing women to the peace table improves the quality of agreements and increases the chances of success in planning, implementing and fostering peace. Unfortunately, policy-makers and analysts have neglected the role of women. This neglect is all the more deplorable because in most failed states women suffer most from the consequences of conflict and social fragmentation that accompany failed states. This discussion is premised on this assertion.

First, the working definition of failed states is adopted, and highlights the reasons that Rwanda fits into this category. Second, a brief history of Rwanda before, during and after the genocide is explored, to provide insight into the importance of the role played by women in ‘resuscitating’ that country. This will flow into the rationale for the focus on Rwanda as a model for initiatives in human security and peace-building. The paper will conclude by evaluating Security Council Resolution 1325 as key to implementing peace in our world. The merit of this resolution is to allow women to participate fully, not merely as victims of war and post-war situations, but as stakeholders and activists providing a new perspective on the urgent needs for security and development. It is hoped that this approach will contribute to what may be termed ‘feminised diplomacy’: diplomatic approaches that rely on methodologies and qualities that are unique to women.

**Concept of a ‘failed state’**

The concept of a ‘failed state’ is complex in that there is no universally accepted definition or criterion. The complexity stems from the confused use of the term by various groups, making it a contested conception. Researchers and academics use it as an analytical concept, while policy-makers, politicians and powerful states utilise it as a value-laden label for self-interest pursuits (Helman & Ratner 1993). Even investors and multinational corporations (MNCs) are interested in this concept, since it helps to determine where to put their investments. Rotberg (2000) defines a failed state as ‘a nation consumed by internal violence and incapable of delivering positive political goods to its citizens’. ‘Political goods’ means human security in all its facets, for only when security has been sustained, does delivery of all other goods become desirable. Thus, this discussion adopts Rotberg’s definition for the prime reason that he sees state success as anchored in providing human security for its citizens with its heterodoxy a condition for state failure.

In 1994, the situation in Rwanda depicted Rotberg’s conception of failed state. The collapse of the central government sparked massacres in which 800 000 of the majority
Tutsi and the moderate Hutu were killed in a record span of a hundred days. Going beyond Rotberg’s definition, Rwanda in 1994 exhibited most, if not all, of the twelve factors that are used as criteria to rate a state as having failed. For example, there was mounting demographic pressure, with massive movements of refugees to neighbouring countries and abroad. There was a legacy of vengeance seeking, with the Hutu determined to annihilate the Tutsi. There was uneven economic development along group lines. The Tutsi had prospered in colonial times, but after the 1959 revolt and subsequent 1962 independence from colonial rule, the Hutu took their turn. A sharp economic decline, partly caused by the IMF and World Bank’s structural adjustment programmes (SAPs) and mismanagement by the Rwandan government, contributed to the failure. President Habyarimana turned a blind eye to the realities of what was taking place in the country, manipulated ethnic tensions, and incited violence to divert public attention. There was a progressive deterioration of public service and widespread violation of human rights as people were killed like flies, and women were raped and subjected to bodily mutilation and discrimination on the grounds of gender and ethnic origin. The only factor that was not fully met is that there was no significant intervention by external actors. (We shall not explore that here, but merely observe that the non-intervention by the international community has remained a daunting and soul-searching experience to many.)

While these criteria show how in 1994 Rwanda qualified as a failed state, it is useful to look at the events before and during the genocide as well as its immediate aftermath. In pre-colonial Rwanda, ethnic categories had been relatively fluid, based mostly on wealth. But the Belgian colonial administration consolidated local power in the hands of Tutsi chiefs and privileged the Tutsi over the Hutu in land rights, education, access to power and socio-economic opportunity (Powley 2003). Independence in 1962 brought about the overthrow of the ruling Tutsi minority and the birth of a ‘social revolution’ that culminated in the genocide of 1994. This genocide was gendered: women were targeted because they were women.

All Tutsi women were targeted, simply because they were Tutsi, and large numbers were killed often after having been subjected to sexual violence and torture ... Educated, elite women were attacked, regardless of their ethnicity. Some Hutu women were subjected to violence by RPF soldiers in revenge for the violence perpetrated by Hutu men (Newbury 1988).

Hutu extremists formulated ‘the ten commandments’, which were nothing but methods of unleashing hatred for Tutsi women. It is estimated that 250 000 Rwandese women and girls were victims of some form of sexual violence (Izabiliza 2003). Because of the prevalence of HIV/AIDS, 66 per cent of women who were raped tested positive for the disease. An unknown percentage of women became pregnant. Rwanda is predominantly Catholic, and the Catholic Church, which is well known for its patriarchal and dogmatic stance on the issue of abortion, influenced the decision of Catholic mission hospitals to
refuse abortions to these women. Some women participated in the genocide alongside their brothers, fathers and sons. They killed, tortured, informed, and collaborated with killers. As a group, women were not blameless, although they represented only 2.3 per cent of the participants, but for the most part they were victims (Powley 2003). One major factor that led to the extreme violence against Tutsi women was inter-ethnic marriage. These women were betrayed by their husbands – some of them were killed by their own husbands who were under pressure from extremist Hutus. The logic was, ‘either you kill your Tutsi wife or we kill you’ (Avega-Agahozo 1998).

The role of women in reconstruction

The conflict in Rwanda was to some degree gender based (as shown above), and recovery must be too! Gender-based and sexual brutality was employed as a tool for violence and conflict. This is a trend that we see today in civil wars, for example in the Democratic Republic of Congo (DRC), in which hundreds of women are raped every week. Reports from organisations such as Médicins Sans Frontières and Human Rights Watch show how every day clinics have to deal with sexually transmitted diseases, HIV/AIDS and the trauma that goes with these experiences. In Darfur, gruesome rape cases are reported. Thus the role of women in reconstruction and peace-building has become imperative.

In the immediate aftermath in Rwanda, women and girls constituted 70 per cent of the population. This provides a strong rationale for the focus on Rwanda as a model in the reconstruction of a failed state (Powley 2003). Owing to the demographic shift and social upheaval, Rwandese women have assumed non-traditional roles, including leadership in the public sector. The women were in the forefront of finding homes for orphans, caring for survivors and rebuilding homes (Izabiliza 2003). In the private and public sector, women emerged as leaders in fields in which they had once been virtually invisible, such as bank tellers, cab drivers, mechanics and cabinet members (Enda 2003).

From the discourse so far, one can deduce an internal paradox in which state failure, which culminates in civil war or genocide, can bring about new opportunities for women to transform their lives in terms of their independence and empowerment. Conflict opens up unintended spaces for empowering women, producing new socio-political and economic realities. Realities such as these drew attention to a more subtle and unfamiliar distinction and achievement provided by the Rwandese women. Women were able to use the opportunities that arose during the genocide. They became heads of households, assumed land rights, rebuilt homes, repatriated thousands of displaced people, and made important decisions.

Comparative research reveals that this new empowerment is not always sustainable. For example, in Mozambique, after the conflict, the chiefs did not recognise the new roles
and responsibilities that had been gained by women. In Eritrea, heroines and women icons soon lost their newly gained independence after the war. In Rwanda, though isolated cases of backlash still exist, the difference is that the government acknowledged the ingenious ways in which women bore the brunt of the genocide with resilience and endurance, and yet stood up with boldness and determination to rebuild their families, their communities and their country. Thus the government put in place mechanisms to defend the spaces created for women during the struggle.

This leads to an assessment of how the government of Rwanda made the inclusion of women a hallmark of its programme for post-genocide recovery and reconstruction (Powley 2003). This approach is novel in both intent and scope, in that it resonates with, and gives meaning to Security Council Resolution 1325 of October 2000, which calls for the involvement of women in the reconstruction of nation-states. The role of women was formalised in the constitution, which set aside 20 of the 80 seats in the Chamber of Deputies for women. Throughout all levels of government in Rwanda, positions have been created to address women’s issues and gender concerns. At national level, the Ministry of Gender and Women in Development coordinates with the government in gender-mainstreaming policies, creating gender focal points in other key ministries and conducting gender awareness training. At provincial level, there are civil servants with gender and women portfolios. At district level, the post of vice-mayor for gender has been created and local women's councils are active at cell levels. At the official opening of a gender-training workshop for parliamentarians in 1999, President Paul Kagame said:

The question of gender equality in our society needs a clear and critical evaluation in order to come up with concrete strategies to map the future development in which men and women are true partners and beneficiaries. My understanding of gender is that it is an issue of good governance, good economic management and respect of human rights (Powley 2003).

One can infer that the government did not regard these aims as philosophical ideas, but as necessary, practical mechanisms for reconciliation and reconstruction. In the March 2001 sectoral and district elections, Rwanda employed an electoral mechanism aimed at including women (and the youth, who were formerly unrepresented). Each voter used three ballots: a general ballot, a woman ballot and a youth ballot. The triple ballot voting technique was effective in getting women into office and building the partnership that Kagame talked about. While this technique guaranteed women’s participation, it created space for women to compete and gain experience in campaigning and in serving in government (Powley 2003). Historically, women’s participation in politics and decision-making in Rwanda has been insignificant, owing to the patriarchal social structure of this society, with one exception: Queen Muhumuza, wife of King Rwabugyiri, gained prominence by becoming involved in political struggles, including the fight against colonialism. She was banished from Rwanda and was killed in Uganda by colonialists.
Unfortunately, her role has often been portrayed as negative and used to discourage women from public participation.

Another mechanism used by the government is a parallel system of women’s councils and women-only elections. These are grassroots structures, elected at cell level by women only (and then through indirect election at each successive administrative level), which operate in parallel with the general local councils, and represent women’s concerns. (Izibiliza 2003). The role of the women’s council is one of advocacy rather than policy implementation. Women are involved in skills training and awareness campaigns. They articulate women’s views and concerns on education, health, and security to local authorities. This system has been effective in that it brought some women into the national parliament. It breaks the traditional bonds that have characterised male dominance and women’s subordination in Rwanda. Berthe Mukamusoni, a parliamentarian, says: ‘Hitherto women were not supposed to talk, or “think” in the public arena; the women’s councils have been a mobilisation tool educating women to express their views.’ However, although Rwanda is used as a model in this discussion, the participation of women is still in its infancy; a lot needs to be done to fulfil these initiatives. For example, the women who participate at grassroots level and in the councils are doing great work, but their involvement is often disparaged as ‘volunteer’, charitable or social. (Had these positions been occupied by men, they would have been funded and paid.) Women have strength in grassroots organisations; they are involved in providing food for the community in the agricultural sector; and they have to provide clean water for the families. These vital contributions cannot be regarded as merely social and charitable.

**What has been the impact on the role of women?**

In Rwanda today, women hold nearly 49 per cent of the seats in the Lower House of Parliament. This is the greatest representation worldwide, according to a tally by the Geneva-based Inter-Parliamentary Union. In 2003 the union reported that Rwanda ‘had come the closest to reaching parity between men and women of any national parliament’, replacing long-time champion Sweden (Enda 2003). This set-up has seen women’s contributions to good governance. Women began serving in the executive, legislative and judiciary arms of government. This kind of high-level involvement is likely to have a great impact on how girl children perceive their role in Rwandan society. It calls for a challenge to the government of Rwanda to reform the educational system to ensure that girls have access to education, should women’s empowerment and their role in peace-building and reconstruction be sustainable. The first executive secretary of the National Unity and Reconciliation Commission, established in March 1999, was Aloisia Inyumba. She saw its conception, design and initial programmes (Powley 2003). The commission shaped its agenda through grassroots consultations throughout the country.
and initiated civic education programmes. Today, Fatuma Ndangiza, another talented woman, is the executive secretary of this commission.

In 2001, Rwanda revived a traditional conflict resolution mechanism: the Gacaca system. This is a traditional participatory and restorative judicial process, which today is modelled on the Truth and Reconciliation Commission (TRC) in South Africa (Meintjes et al 2001). Women are being elected as judges in this system, a position traditionally reserved for highly respected men. Although researchers have pointed to the weaknesses of the system, it suffices to highlight the role played by women. Women are the primary witnesses of the genocide and so will be the best to deal with reconciliation. Women participated in drafting the new constitution in May 2003.

The post-genocide period has been characterised by women performing non-traditional roles such as decision-making, managing financial resources, building households and roads, thus increasing their access to and control over resources and above all participation in the reconstruction and development process. The socio-economic empowerment of women in the reconstruction period has brought tangible changes in community perceptions of women; it has redefined roles and responsibilities for women and contributed to building ‘lasting peace’ and restoring reconciliation. Women have contributed remarkably to the repatriation of refugees, working side by side with men in constructing houses (thus breaking taboos such as one that says that if a woman constructs a house, it leaks). This is not to suggest that women can reconstruct a failed state on their own, but their outstanding contribution in Rwanda provides a strong model for good governance. There are many other ways that demonstrate what the women in Rwanda have done in the past eleven years in the reconstruction and rebuilding of the state. The focus for this discussion is to show how in seeking human security and peace for the world, it is imperative to include women as partners and beneficiaries, not only as victims.

Conclusion

The assessment of women’s role in the reconstruction of a failed state is timely in that a number of conflicts in Africa and elsewhere are gendered. Women have been targeted and used as weapons of war in much the same way that terrorists target civilians. In the DRC, thousands of women have been raped; the same can be said of Liberia, Sierra Leone, Somalia and Sudan. On another note, in the pursuit of ways to prevent conflict, and build sustainable peace, the world is searching for effective means of establishing human security. This is why the United Nations declared a decade for women (1976–1985), recommending that one third of legislators in states should be women. The UN has gone further in the initiative by Security Council Resolution 1325 to involve women in the process of reconstruction and peace building. One recommendation to the Security Council would be that while Resolution 1325 is a positive step, women’s involvement
must go beyond nation-states. Women’s representation in the Security Council itself must be advocated. This is where the highest level of diplomacy and decision-making takes place. While many have acknowledged the positive role of Rwandese women in reconstruction and peace-building, women need to be fully empowered to compete in presidential elections. Perhaps they could learn from Liberia, where Ellen Johnson-Sirleaf became president in 2006. The international community has to accept the example provided by Africa for world initiatives in global governance, and not push it aside as models for Iraq, Afghanistan, East Timor and Cambodia.

References


The Democratic Republic of Congo: Beyond the elections
David Kampf

Burundi: An ongoing search for durable peace
Jan van Eck
The Democratic Republic of Congo: Beyond the elections

David Kampf*

The world watched and lauded the Democratic Republic of Congo’s historic elections in 2006. The country has been ravaged by war, inequality, injustice, corruption, poor health, hunger and poverty and the elections were generally regarded as a step towards ending this history of suffering. Given the circumstances, the elections were a resounding success but the root causes of the conflict and neglect remain. The pervasive problems will cripple the new government if they are not immediately addressed. This commentary argues that the elections should not serve as an exit strategy and that there should be continued and increased international attention to ensure security and stability. The elections should also not be seen as the final chapter in a peace process but rather as the first step in solving the evils that plague the DRC. The elections were not the answer, but simply means to an end.

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Introduction

There was widespread relief and satisfaction following the successful October 2006 presidential elections in the Democratic Republic of Congo (DRC). The world heaved a sigh of relief at the conclusion of the country’s first democratic elections since independence in 1960. Despite the logistical nightmare and history of diverging and competing interests, citizens elected a leader in spite of fears that there would be large-scale violence and a stalemated outcome. The inklings of democracy are now apparent. But, a democratic election means next to nothing if it is merely a brief respite in a protracted crisis. An election only matters when it fosters, establishes or supports a functional, responsive and stable government. The actual problems must be dealt with for a durable peace to emerge.

Will the recent elections in the DRC improve its current situation? An election is not a solution, but a means for finding an answer or reflecting on a conclusion. What happens now and in the future is more important than the election or its results. The success of the electoral process should inspire a renewed effort to demobilise rebel groups, integrate militias into the national army and slowly build a responsible government that can address the needs of the population.

The DRC is a largely forgotten and failed state in Central Africa associated with an endless scramble for power and resources. Rulers who enriched themselves at the expense of the citizens have plagued this mineral-wealthy but poverty-stricken country. The Congolese people endured a brutal colonial occupation and over thirty years of Mobuto Sese Seko’s despotic rule before Laurent Kabila was swept to power in 1997. Kabila enjoyed backing from Rwanda (this was partially an extension of the Rwandan war), Uganda and other neighbouring countries. Some of the same neighbours who propelled him to power, however, soon denigrated his actions and choices. A number of countries had legitimate complaints that rebel forces were using the DRC’s land to stage raids.

One of the bloodiest wars the world has witnessed in fifty years officially began in 1998. Rwanda, Uganda and Burundi attempted to topple Kabila, but other states, including Angola, Zimbabwe and Namibia, came to his defence. With the inclusion of over half a dozen states and mercenaries from around the world, it was dubbed the ‘African world war’. In 2001, Laurent Kabila was assassinated and his son, Joseph, ascended to power. Tensions decreased as there were greater opportunities for diplomacy and by 2003 the war was formally over. The International Rescue Committee estimates that four million people have been killed due to the war and its effects since 1998 (Coghlan et al 2006). ‘This makes the crisis in Congo the deadliest anywhere since the end of World War II, dwarfing Bosnia, Kosovo, Darfur, and even the South Asian tsunami’ (Brennan & Husarska 2006). A large proportion of these deaths were indirectly caused by the fighting – preventable and treatable diseases and malnutrition that plague the
war-ravaged country. Recent studies suggest that over 1 000 people still die in relation to the conflict every day (Coghlan et al 2006).

Despite the severity, the war received limited international attention. There was a widespread perception that the DRC possessed little geopolitical significance. For instance, notwithstanding its inclusion in Médecins Sans Frontières’ (MSF) annual list of the *Ten most underreported humanitarian stories* for the past eight years, the country has gone ‘virtually unnoticed to the rest of the world’ despite the ‘extreme deprivation and violence endured by millions of Congolese’ (Médecins Sans Frontières 2006). World powers and the international media simply ignored the tragedy. But with the elections and a greater reason for hope, the cameras returned. The attention, however, was fleeting. ‘The elections may have thrust the DRC into the media spotlight for a brief moment, but the extreme deprivation and violence endured by millions of Congolese continued unabated and out of view’ (Médecins Sans Frontières 2007).

On 29 October 2006, Congolese voters marched to the polls for the second round of presidential elections amid sporadic violence and constant threat. The runoff pitted the incumbent, Joseph Kabila, against Jean Pierre Bemba (who has been accused of war crimes by international human rights organisations). The election was supported by 1 200 European Union troops and the United Nation’s largest peacekeeping force – 17 600 strong. The UN spent over $500 million to ensure the event’s success and credibility. Thankfully, international observers deemed the election relatively free and fair, despite claims of irregularities and isolated incidences of violence. Even when tensions began to rise as the results were confirmed, Bemba conceded defeat and vowed to form a loyal opposition. With the strength of the UN force, EU troops and the challenger’s promise for peace, major unrest was averted. Kabila took office on 6 December 2006 with international fanfare.

The voting was touted as the remedy to all Congolese problems. Stories lauded the accomplishment and credited world leaders with altruistically assisting in the historic achievement. International media highlighted the event’s importance. The *New York Times* ran an article immediately following the first round in July entitled ‘Congo votes in its first multiparty election in 46 years’, emphasising that the election ‘was no small feat’ (Gettleman 2006). The occasion marked the culmination of years of peace efforts and perhaps the pinnacle of positive foreign involvement.

As the post-election euphoria dissipates, should we assume that the goals have been accomplished? Is this the end? Should the international community walk away with faith that stability and security are assured?

With success in hand, EU peacekeepers began leaving the DRC immediately after their mandate ended on 30 November 2006. Leaders hailed the election and the mission’s
triumphant conclusion. Javier Solana, the EU foreign policy chief, was quoted in November proclaiming that ‘things are going more in the right direction’ (Associated Press 2006). The number of UN personnel may also fall as countries debate the benefits of a continued presence and attempt to balance the cost and impact. The fear is international focus and pressure will subside as the election slips into oblivion.

The election’s limitations have been neglected. An election is a tangible example, but democracy is more than voting. There is little possibility for an accountable government to emerge even after successful polls, violent conflict was contained and losers restrained. The DRC is one of the most corrupt countries in the world. Transparency International ranked it near the bottom of its Corruption Perceptions Index 2006. It has been unable to provide adequate education and healthcare. The economy disintegrated after years of strife – ushering in endemic poverty and weakening government institutions, and allowing military forces (the national army and militias) to abuse and exploit the civilian population.

The problems of governance will not be solved with voting alone. Everything is interconnected. Without security and stability, the devastating effects of the conflict will not ease or erase. Without reducing corruption, the economy will not thrive and the country’s resources will not benefit the entire population. Without means to retain food or receive medical care, health indicators will not improve. Without a successful peace-building process in the DRC, there is a great possibility that the Great Lakes Region could be destabilised again in the future. The DRC’s post-conflict reconstruction should entail reconciliation, restorative justice, respect for the rule of law, consolidation of democracy, security sector reforms, and disarmament, demobilisation and reintegration (DDR).

For the foreseeable future, the obstacles are immense and perhaps insurmountable. So what’s the point? Why spend so much money on a hopeless country in a location of the world that apparently carries little geopolitical weight? Since the election is over and violence has largely been prevented, why should the international community bother to stay involved? In order for the election to achieve any of its stated objectives, the political leadership – with the support of the international community – must confront the daunting tasks of meeting citizens’ needs. The election can inspire and propel change, but a proper understanding of the problems and their ramifications is essential.

Broadly speaking, immediate action must be taken to improve the economic, political and military situations. The DRC must utilise its rich natural resources and put in place government institutions that can lift the Congolese people out of poverty. Control and ownership over its resources must be clearly defined and enforced and unfair contracts with international companies must be renegotiated to make certain that civilians reap future benefits. Through transparency, accountability and the installation of properly running government institutions, corruption and its ill effects can be minimised –
enabling citizens to draw more benefits from the political process while giving them opportunities and incentives to respect the rule of law. Armed groups currently retain access to weapons (the availability of small arms perpetuates and fuels the conflict) and maintain spheres of influence. Foreign powers have the ability to improve security by developing the Congolese security forces’ capacity by integrating and disarming rebels. UN peacekeepers must intensify disarmament in order to guarantee stability. All improvements will facilitate others, but failures will negate other accomplishments.

International involvement – whether it is the United Nations, African Union, United States or European Union – has the potential to be beneficial and alter the DRC’s long-term outlook if it supports the newly elected and installed government. The elections should not be used as an exit strategy to abandon the country in its greatest hour of need. This support is crucial for the government’s legitimacy and support, without which the leaders will be tempted to use other means to obtain.

The solution to accumulated Congolese problems is not in the election, but in what follows – peace or conflict, stability or chaos, development or poverty, democracy or dictatorship. The root causes of the suffering – hunger, poverty, inequality, injustice, illegal activity and competing interests – must be dealt with immediately and directly. It is an exercise in nation and state building, and the election was merely the beginning.

References


Burundi: An ongoing search for durable peace

Jan van Eck*

Introduction

The signing of the Ceasefire Accord (CFA) in Dar es Salaam, on 7 September 2006, between the government of Burundi and the last remaining armed movement, the Palipehutu-FNL (*Parti pour la libération du peuple hutu – Forces nationales de libération*), should – once its implementation has been concluded – represent the official end of the Burundian peace process. Once this is done, it should conclude ten years of internationally sponsored negotiations, during which no fewer than five separate peace accords have been signed between the Burundian parties. This excludes the ‘Convention of Government’ and the ‘Internal Partnership’, which were negotiated internally by the

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parties themselves immediately after the beginning of the crisis in 1993. However, in
spite of these non-stop negotiations and the holding of democratic elections in August
2005, few Burundian and international roleplayers would be brave enough to claim that
the Burundian peace process has been completed and that Burundi has finally achieved
durable peace. The reasons for this are obvious.

Although the CFA ended formal combat between the government of Burundi (GOB)
and the Palipehutu-FNL (FNL), which brought welcome relief to the people of Burundi,
implementation of the accord had not started by mid-January 2007. Although this was
mainly because the GOB granted the FNL temporary immunity only three and a half
months after the signing, all indications are that the implementation process will be
faced with further challenges.

Because the FNL signed the accord under massive pressure and the threat of severe
regional and international sanctions, this agreement is extremely fragile. Numerous
issues that the FNL wanted to negotiate were left unresolved. Undertakings by the South
African facilitator, Minister Charles Nqakula and his team, that the FNL would be able
to negotiate these issues after the signing of the accord have not been realised and will
result in these issues cropping up during the implementation process – and after. The
GOB initially refused to participate in negotiations with the FNL in Dar es Salaam and
had to be pressurised to do so by external actors. This resulted in them being extremely
reluctant negotiating partners. Coupled with the FNL’s lack of willingness to sign the
peace agreement, it should be evident that the implementation of this accord will take
longer than many people hoped. The saying that ‘you can take the horse to the water,
but you cannot make it drink’ obviously comes to mind.

Nor has the election of a new democratic government in 2005 removed the perception
that Burundi still lacks durable peace. On the contrary, the seriously destabilising situation
inside Burundi since the elections has dashed Burundian hopes of entering a new era.

Faced with widespread criticism from opposition parties, civil society leaders and
organisations and the media that it is not honouring its promise of good governance,
the new National Council for the Defence of Democracy – Forces for the Defence of
Democracy (CNND-D) government of President Pierre Nkurunziza, instead of
engaging its critics in dialogue, has resorted to large-scale repression and human rights
violations. These actions have not only affected the internal situation, but have had a very
negative impact on the negotiations in Dar es Salaam. The immediate past president,
Domitien Ndayizeye, was stripped of his immunity by the Burundian parliament and,
together with a former vice-president (Alphonse Kadege) and four others, was jailed for
more than five months on what are generally accepted as trumped-up charges of ‘plotting
a coup d’etat’. This resulted in the FNL questioning whether the temporary immunity
that the GOB was granting them would suffer the same fate: ‘How can we return to a
country where political freedom does not exist? (While some journalists and civil society representatives were jailed – one for seven months – others were intimidated, threatened and subjected to interrogation. Hundreds of civilians, accused of being ‘sympathetic’ to the FNL, were arrested, tortured and even killed by state agents.)

The growing opposition inside the country to these actions by the GOB, and the accompanying fear and insecurity that this created among Burundians in general led to attempts by opposition groups, including the FNL, to build a broad anti-government alliance. Instead of stabilising the situation, such a development could result in the government becoming even more intolerant.

The most serious challenge facing Burundi today is not necessarily the FNL and the implementation of the CFA, but the repressive and undemocratic behaviour of the government. The challenge facing all external actors at the moment is to ensure that newly elected democratic governments practise good governance. And, while all role-players should obviously continue their attempts to ensure the successful implementation of the CFA, an equal effort is simultaneously needed to convince the government to change its behaviour. This will make a major contribution towards creating the kind of environment inside the country that will encourage the implementation of the CFA – and the return of the FNL to Bujumbura.

**Violations of peacemaking principles**

Although this internal destabilisation and the slow progress being made with the FNL contributed to questions about the durability of the process, this scepticism has its origins in the 11-year Burundian peace process. Burundians, in all those years of negotiating agreements, did not believe that they had achieved a genuine breakthrough, and did not feel that they could celebrate anything (since there were always remaining problems). This requires a closer look at the process.

Over many decades, peace practitioners, academics and others have developed a set of clear, universally acceptable and workable principles of successful conflict resolution and peacemaking. Among these are inclusivity, consensus, compromise, ownership of the process and solutions by the parties (homegrown solutions), dealing with the root causes (of the conflict) and reconciliation. These principles were confirmed as ‘African principles of conflict resolution’ at a UN conference in Addis Ababa in 1999. These principles were strictly applied during the South African peace negotiations, which was one of the major reasons for the success of the South African transition.

But in the Burundian peace process, virtually every one of these principles was ignored or violated. After the signing of the Arusha Peace Accord in 2000, one of the
key advisers of the then facilitator, former South African president Nelson Mandela, publicly admitted that this was indeed the case. In an article in the Cape Times, a South African newspaper, in which he hailed Mandela’s success in getting the parties to sign, he attributed this success to the fact that Mandela ‘had broken virtually all the principles of good negotiations and peace-making’.

Key features of the Burundian peace process

Inclusivity

If all the main political and political/military parties involved in the Burundian conflict had been included in the Arusha peace process and the signing of the Arusha Accord of 2000, there would have been no reason to continue for another six years. Nor would we have found ourselves in the situation at the beginning of 2007 where yet another ceasefire accord still has to be implemented. Instead of Arusha applying a policy of maximum inclusivity, the main armed Hutu political/military movements, which were the only ones active in the battlefield (besides the Burundian Army) were excluded in spite of their requests to be included. This would remain the Achilles heel of the process.

It was only in early 2000 that Nelson Mandela (after taking over as facilitator from former Tanzanian president Julius Nyerere, who had been the facilitator since 1996) invited both armed movements to join the process. Although they welcomed his decision, his simultaneous statement that ‘the process was virtually completed’ and that the Arusha parties had to sign ‘within months’ unfortunately created the impression that they would not be granted enough time to participate fully in the negotiations. Both movements therefore remained outside the process.

To bring an end to the war that continued unabated inside Burundi after the signing of the Arusha Accord, the facilitators continued to try to bring the various armed movements into the process. But because the facilitation had gone ahead with the signing of the Arusha Accord and the installation of the first transitional government, in spite of the absence of the Hutu military movements, this made them reluctant. Working on the assumption that some could be brought in more easily than others, the facilitation decided to bring them in one by one, a so-called incremental approach. Excluding the armed groups and then using the incremental approach had certain serious consequences, however:

- Both the war and the peace process were seriously prolonged: whereas the CNDD-FDD was included in 2003, the FNL had still not been included (at the time of writing) and will only be included once the CFA has been successfully implemented – something which is not guaranteed
Because the war continued in spite of negotiations and peace agreements being signed, this undermined the relevance and legitimacy of the process. The armed movements launched major attacks every time the Burundian negotiators left for Arusha or signed an accord, which actively contributed to this.

Parties that had been included claimed that those excluded did not have to be brought in, since they ‘represented the same objectives as the excluded’, and those parties would join automatically once they had signed an agreement. The falseness of this claim was proved regularly. This not only created animosity between the included and excluded, but seriously undermined the willingness of the excluded parties to negotiate. This still has an impact on Burundi.

The excluded parties adopted a moral high ground approach by stating that while those who had participated had sold out by making unacceptable compromises, they had held on to the original and ‘pure’ objectives.

Every time another armed movement was brought in, those already included that had obtained positions in the institutions had to sacrifice some of their positions to make room for the newcomers. Since all the main Tutsi parties had been included in Arusha, this competition applied specifically to the Hutu parties. This explains many of the animosities in a fierce battle for dominance.

Owing to different sets of parties signing different agreements, there was no allegiance to a single agreement. This is illustrated by the current lack of consensus between those parties who signed the Arusha Accord and those who did not.

The decision to go ahead with democratic elections after the inclusion of Pierre Nkurunziza’s CNDD-FDD in 2003, in spite of the non-inclusion of the FNL, resulted in the elections taking place against the background of an ongoing, albeit reduced, war. It also made it even more difficult for the facilitators to bring the FNL to the negotiating table.

Homegrown solutions?

During the whole peace process, not a single peace agreement was signed by the parties of their own free will. In all cases, the facilitators, together with the regional initiative on Burundi (with the support of most international players), imposed agreements on one or more of the parties. This methodology not only negatively affected the relationship between the facilitators (and other external role-players) and the party that refused to accept what was being imposed, but also resulted in face-to-face negotiations between the conflicting parties being replaced by ‘negotiations’ between the facilitators and the ‘recalcitrant’ party.
Concepts such as ‘win-win’, compromise, consensus and homegrown solutions were obviously the first casualties of this approach. Setting tight deadlines and time frames, and trying to stick to these regardless of the realities ‘on the ground’, did not allow the negotiating parties sufficient time to reach a meeting of minds or a common vision of the way in which they should move forward together. Instead of the parties being able to implement their accords in both the letter and the spirit of the agreement, the absence of any common spirit meant that they could only implement ‘the letter’. Even that was difficult, since the agreement had been imposed upon them.

This practice of imposing agreements resulted in a virtual minefield of unresolved issues being left behind. While every party that signed against its wishes – from Arusha until today – was promised that it would be able to debate/negotiate its unresolved issues ‘once they sign and return to Burundi’, this did not materialise. The feeling among these parties that they were defeated and cheated, and the anger and frustration that this generates, actively contributes to tensions inside Burundi. With the same promise having been made to the FNL, one can only hope that there will not be another repetition.

It must also be borne in mind that the new Burundian pre-election constitution, instead of representing consensus among the parties who were involved in this lengthy process, was also imposed. All the parties that represented the Tutsi political position completely rejected the draft constitution, the facilitation and the region imposed it on them. The ethnic quotas in political representation for predominantly Hutu and Tutsi parties (60 per cent for Hutus and 40 per cent for Tutsis) which were agreed to at Arusha and made the signing of the accord possible, were also changed unilaterally. However, the 50/50 ethnic quota for Hutus and Tutsis in the army was retained (for now?).

It would probably be superfluous to state that peace agreements and changes brought about in this way cannot automatically be considered durable. Unfortunately, a similar methodology was followed during the negotiations between the GOB and the FNL. Forcing the FNL to sign an agreement with which they strongly disagreed has resulted in numerous issues they had demanded to negotiate being left untouched or unresolved. The most important of these are:

- A demand for further negotiations (after the signing of the 7 September 2006 CFA) of the principles contained in the Agreement of Principles, which was signed between the GOB and the FNL on 18 June 2006. While the FNL regards these principles as too vague and broad to be implemented and they should therefore be ‘fleshed out’, the GOB has shown no willingness to agree to that

- The name Palipehutu-FNL: the intention of the FNL to register the name of its party as the Palipehutu-FNL once its leadership returns to Bujumbura has been rejected by the GOB, which claims that it is illegal in terms of Burundian law to register a
party that has what they term an ‘ethnically divisive’ name. This issue could create a major blockage if it is not resolved

- A truth and reconciliation process: while the FNL wants a social contract that will be representative of all ethnic groups and will emphasise mutual truth telling and forgiveness, the GOB wants a more conventional and formal judicial process. (In the Agreement of Principles a small step forward was made by renaming the TRC the Truth, Forgiveness and Reconciliation Commission (TFRC))

- Further reform of the Burundian security forces: while the 18 June accord states that there will be ‘transformation or ongoing reform and modernisation’ of the security forces, the two parties have contradictory definitions of these terms

- The allocation of positions to the FNL leadership: although the accord specifies that the FNL will ‘contribute resources’ to the security forces, the CFA is silent on the issue of incorporating its leaders

These and other unresolved issues are bound to crop up during the implementation process or once the FNL returns to Bujumbura.

**The Burundian process as a ‘model’ for peacemaking?**

It will probably remain a mystery why Burundi was the recipient of a peace process that lacked virtually all the traditionally accepted principles of good peacemaking. The case of Burundi presents peace practitioners and students of conflict resolution with a challenge. Should the principles of good peacemaking still be applied in peace processes (as in the South African process), or should the Burundian ‘model’ replace it? An international roleplayer commented: ‘Throw all those books on the principles and techniques of conflict resolution and peacemaking out of the window. The times have changed – since 9/11.’

Nelson Mandela and his team did not apply the principles that were used in the South African negotiations. This can partly be explained because Mandela inherited a process that lacked these principles. If these two models are indeed mutually exclusive, as the author believes, then surely both cannot bring durable peace? Although time will tell, present signals from Burundi would suggest strongly that the Burundian ‘model’ has not yet passed the test.

**What Burundi needs now**

To increase Burundi’s chances of eventually achieving durable peace, it is a requisite that a structured process of dialogue between the GOB and the internal opposition
be established. This applies specifically to those who were democratically elected to parliament. The absence of such a process – or practice – merely results in the perpetuation of the policy of exclusion, which played such a destructive role in creating the conflict in the first place. It also lies at the root of the volatility and instability that Burundi has experienced since the elections of 2005.

A similar process of negotiations, dialogue and talks is needed between the GOB and the FNL to increase the chances of the CFA being implemented and prevent unresolved issues from continuing to destabilise the country. Unless these two steps are taken, Burundians will not be able to build anything that resembles a truly inclusive national consensus and a common vision for the future. Instead, they will merely continue to stumble along and run the risk of both new and ‘old’ conflicts emerging and re-emerging.
No refuge: The crisis of refugee militarization in Africa  
Robert Muggah and Edward Mogire (eds)

The state of Africa: A history of fifty years of independence  
Martin Meredith
No refuge: The crisis of refugee militarization in Africa*

Robert Muggah and Edward Mogire (eds)

In the last two decades, there has been an unprecedented proliferation of political turmoil and armed conflicts – both internal and international – on the African continent. Invariably, these situations have generated hundreds of thousands of refugees and internally displaced persons (IDPs), with far-reaching effects on states and entire regions. For a start, the influx of refugees has placed heavy economic burdens on receiving states and destablised fragile socio-economic arrangements. Additionally, and perhaps most importantly, the changing dynamics in refugee and IDP camps – in particular the movement and use of small arms – has had and continues to have far-reaching effects on the security of states and the region at large.

Although serious academic interest in the militarisation of refugee and IDP camps is relatively recent, the militarisation of refugees on the continent has a long history. It can

be traced back to the colonial period when refugees were routinely involved in liberation wars around the continent and often played a crucial role in them. In recent times, this phenomenon has been largely associated with those parts of the continent that have witnessed political turmoil and armed conflict. The Horn of Africa, the greater Eastern and Central African region and West Africa serve as examples.

While there is no agreement on the meaning of the militarisation of refugees, surveys have shown that refugee militarisation may take various forms: direct participation, or support by refugees of insurgencies; refugees being used as proxies by host states or rebel groups to pursue political or geo-strategic goals against neighbouring states; the presence and abuse of firearms and the use of camps for firearm trafficking; the use of refugee resources to support armed conflict (voluntary and/or coercive); military training of refugees; and attacks on refugee camps and settlements.

As these cases studies have shown, the non-civilian attributes of refugee and IDP camps may be varied, sometimes extending to seemingly non-violent activities. The militarisation of such camps in whatever form, particularly when refugees engage directly in armed conflict, raises serious questions of security not only for the host state, but also for the region. In addition, militarisation threatens to undermine the existing international regime of refugee and IDP protection. Naturally, the phenomenon has posed niggling questions for a range of institutions, notably the United Nations High Commission for Refugees (UNHCR) and other humanitarian agencies.

As noted above, although the militarisation of refugees and IDPs has a long history, concern has recently been heightened by the facility with which small arms can be accessed in various conflict zones and refugee-hosting states which may be equally engulfed in armed conflict. Aside from the refugee militarisation issue, many players concerned or involved in efforts to address small arms proliferation (for example the United Nations, various other international organisations such as Oxfam International, the International Action Network on Small Arms (IANSA) and Amnesty International, as well as domestic groups) recognise, as noted by Kofi Annan, that small arms proliferation is not only a security issue, but also one that implicates human rights and development. Yet in current discourse, the linkage between refugee militarisation and small arms is only beginning to be acknowledged.

In a serious attempt to engage with these issues, No refuge: the crisis of refugee militarization in Africa, edited by Robert Muggah and Edward Mogire, considers the the militarisation of refugees and IDPs in camps in four African countries – Guinea, Uganda, Tanzania and Rwanda. It is a timely venture indeed. Formulated in consultation with various international relief and humanitarian agencies, diplomats and practitioners, the study investigates and seeks answers to five core questions:

- What is, and has been, the nature and extent of refugee and IDP camp militarisation?
What are the preconditions for refugee and IDP camp militarisation?

What are, and have been, the scale and distribution of arms availability in refugee camps?

What are, and have been, the impacts of militarisation on the security of refugees and host communities?

What are the responses of the UNHCR, host states and the region to refugee and IDP militarisation?

The book comprises six well-researched chapters. The first introduces the core issues and concepts and sets out the framework and methodology adopted in the study. The next four chapters discuss the country case studies – Guinea, Uganda, Tanzania and Rwanda, in that order. The last chapter provides an overview of findings, thus comparatively reflecting on refugee and IDP militarisation in Africa. This exercise is informed largely by the findings of the four case studies and by the burgeoning body of literature on refugee situations and disarmament.

Each case study discusses the array of practical case-specific interventions undertaken by the UNHCR to deal with the potential or actual militarisation of camps, starting with post-genocide Rwanda. In breaking with existing studies which do not always sufficiently discuss the linkages between refugee militarisation and small arms proliferation, as well as the politics associated with it, the book recognises the centrality of small arms politics to a comprehensive view of and measures to be taken in response to the militarisation of refugee and IDP camps. The book explores, with respect to all the countries studied, reasons why refugees arm themselves and focuses on the challenges encountered by the relevant agencies (in particular the UNHCR) in dealing with the problem together with host countries. The case studies reveal shared problems such as disruptive regional politics, lack of political will and corruption, as well as country-specific challenges that require targeted responses, some of which have already been instituted. The case of Guinea is perhaps the best example of creative targeted responses by the UNHCR.

The strength of this book lies in a number of aspects. First, its empirical treatment of the case studies and the comparative approach to the discussion set it apart from other works and perhaps constitute its greatest contribution. Second, while the case studies are merely representative – they are based on regional and other select criteria – they proffer new evidence on existing issues that should enable stakeholders to revisit the issues and pose new questions relating to most of the dynamics of refugee and IDP militarisation. Third, the study should go a long way in raising the profile of small arms control on the refugee agenda, being the editors’ overall objective. Fourth, the book centrally situates refugee militarisation between, on the one hand, the realist international relations
approach, which emphasises traditional security threats between states, and on the other hand, the humanitarian school, which views refugees as the harmless victims of conflict. Finally, the appended research protocol, which sets out methodologies and other relevant particulars, is a useful resource for those interested in similar or further research.

Because of its able and excellent treatment of a web of contemporary refugee militarisation and security issues in contemporary situations, the book should be a resourceful read for donors, policymakers, practitioners and academics concerned with strengthening and ameliorating refugee protection.

*Godfrey Mukhaya Musila*
The state of Africa: A history of fifty years of independence*

Martin Meredith

Attempting to document the political history of the African continent over the last fifty years is a daunting task demanding multidisciplinary skills as well as an intimate knowledge of seemingly unconnected occurrences in the different regions.

Geographically the African continent has 53 states with contiguous borders – however, politically each state is unique. Reflecting the history of the continent is the challenge that Meredith attempts to address in the 688 pages of The state of Africa: a history of fifty years of independence. The approach adopted follows the genre established by international institutions that have sought to put the blame for the lack of peace and development in Africa almost exclusively on the shoulders of its leaders. Not surprisingly, one of the reviews in the Washington Wall Street Journal was quick to assert that ‘Meredith’s book so convincingly shows [that it] is bad leadership, first and foremost, that has held the continent back’.

In this debate, without detracting from the misdemeanours of African leaders, attention to other factors is deliberately downplayed. In so doing, the equal blame that should be laid at the door of Western capitals is largely ignored. Africa remains an interesting place in terms of tracing its political history over the last fifty years through the behaviour of its leaders; however, the negative influence of neo-colonial machinations working through unelected African leaders has been minimised. In practice, however, the latter combination has left African populations at the mercy of Western capital, as evidenced in the selected case studies by the reign of such unelected leaders as Mobutu Sese Seko, Jean Bedel Bokassa, Gnassingbe Eyadema, Hisssein Habre, Houphouet-Boigny, Omar Bongo, and Juvenal Habyarimana – to name but a few. Stated differently, the actions of some of these dictators was to serve and implement foreign policy interests, generally managed by Western intelligence organisations, whilst each of the leaders lined their own pockets. Fortunately, the importance of this factor and its influence is alluded to in the book, albeit without full acknowledgement. Secondly, Africa’s decolonisation in the 1960s was subjected to a stifling Cold War influence until the early 1990s. To this end, the political history of Egypt, Libya, Ethiopia, Somalia, Angola, Mozambique, Namibia and South Africa became subjected to the dynamics of the Cold War era. Finally, the African continent remains at the mercy of global and unequal terms of trade. In the stilted arrangement, Africa has been relegated to providing primary products whose prices have been in serious decline. Together with failing African political leadership over the last fifty years, the continent has had its natural growth, political maturity and economic development effectively stunted.

The book is arranged in various parts comprising the pre-colonial, colonial and post-colonial periods. There are 35 short chapters, most averaging 5–6 pages, but with very useful chapter notes. The themes identified fall into epochs, which for purposes of brevity include: pre-colonial – up to the late 1950s; the one-party state era; military coups; and neo-colonialism and the Cold War. These imperially connected phases arrested the development of nationalism and Arab political development.

Assessing the current transitions, Samuel Huntington has called the new era the ‘Third wave of democratisation’. In this period, since the 1990s, more than 30 ‘democratic elections’ were held on the continent. The result of these ‘elections’ has, however, been disastrous as a result of the fragility of political systems and absence of the pillars of a ‘liberal democratic society.’ Instead of ushering in peace and tranquillity, the political terrain now demonstrates increased ethnic strife, and collapsed or weak states such as Angola, Mozambique, Sudan, Chad, Rwanda, Burundi, Sierra Leone, Liberia, the Democratic Republic of Congo and Côte d’Ivoire.

In writing the book, Meredith benefited from his intimate knowledge of Africa’s political affairs and its leaders. Also, he has an extensive publication record on the continent, including The first dance of freedom: black Africa in the postwar era (1984). This now stands
as his most important preparatory and interpretive work. Meredith makes important contributions to our knowledge by keeping track of the genesis of political orientation, participation and end of empire periods in the life of African presidents, some of whose contributions have become idolised and shrouded in myth. There are legends such as Kwame Nkrumah, and through the careful citations of long-time secretary Erica Powell (Powell 1984), we discover that the former had been invited, nay employed, as a full-time organising secretary by Dr Joseph Danquah of the United Gold Coast Convention and after machinations, ended up jailing his former boss. Furthermore, once in power, Nkrumah amassed a staggering wealth put at £2 322 million pounds from state coffers (Meredith 2006:695). Nkrumah’s sex life was also controversial, and he ended up with a ‘delivered’ Egyptian wife whom he met the day before the wedding (Meredith 2006:23–29). Furthermore, after he was deposed from power by a military coup in 1966, Nkrumah decided to send his family back to Egypt, managing to distance his offspring from Ghanaian affairs even after his death in exile. Meredith reflects on Nkrumah’s burning desire when, after attending endless cabinet and Ghanaian government affairs engagements, he confided in Erica Powell that ‘what he missed out most was to devote attention to his vision of bringing about African unity and for which he was prepared to resign the presidency’ (Meredith 2006:191). Viewed in this context, Nkrumah’s legacy, despite the flaws, has continued to hold high in the Pan-African community.

Meanwhile, in the Congo, Mobutu Sese Seko, the former sergeant recruited by Patrice Lumumba, turns against his boss, jails him, and participates in his assassination before openly working as a spy for the US Central Intelligence Agency (CIA) as well as Belgium (Meredith 2006:689-706). After thirty years in power, with the assistance of the World Bank and International Monetary Fund, Mobutu had amassed assets of well over US$5 billion. This dual role was to continue throughout his reign, confirming the point we made earlier that Africa peoples have experienced hardships at the mercy of unelected leaders who were in the pocket of Western governments.

Mobutu’s role is also true of the roles played by the former French Army sergeant Jean Bedel Bokassa of the Central African Republic and Côte d’Ivoire’s Houphouet-Boigny. Both were protégés, extravagant in their tastes, including the monstrous Bokassa winged coronation chair, costing some US$22 million (Meredith 2006:59–71). France, as an imperial and neo-colonial power, kept unelected presidents in office but was also quick to participate in their removal when they had become liabilities. While focusing on this dual role of presidents, we however accept the fact that some African presidents acted independently. These include General Sani Abacha of Nigeria and the millions which he stole from state coffers before dying in office.

Meredith also provides an excellent account of Ethiopia’s ‘Elect of God’ Haile Selassie, who was later deposed by military strongman Mengistu Mariam. Finally, Meredith reviews the genocidal events in Burundi and Rwanda. He also provides useful
perspectives on Somalia and its complex clan system. In the discussion, Meredith traces the foundations of Arab nationalism in North Africa leading to the exclusion of this zone from being subject to the ‘Third wave of democratisation’ as we have witnessed elsewhere, at the behest of the dominant West. In his discussion of North-Arab Africa, Martin presents a comprehensive and succinct outline that explains today’s continuing strife in that Arab-African region.

Despite the accolades, the text has its limitations. First, the political history of presidents has been limited to where it almost exclusively intersects with conflict; second, it does not examine the events in the former Portuguese East Africa, now Mozambique; third, it sketchily examines the Kenyan Mau-Mau struggle, given what we now know through Caroline Elkins’ Britain’s Gulag: the brutal end of empire in Kenya (Pimlico, London, 2005); and fourth, little is said of the struggle for independence in South West Africa (now Namibia) by the South West African People’s Organisation (SWAPO). Despite these shortcomings, this book is recommended for those seeking to expand their understanding of political developments on the continent. However, we must caution that the materials presented here are only useful to the extent that one has a basic working knowledge of the dynamics of African politics.

Martin Rupiya

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