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**Ending the Cycle of Violence in the Congo: Is Peace Possible in the
Heart of Darkness?**

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Abstract

This article looks at the causes of conflict in the Democratic Republic of the Congo over the last fifteen years and the transitional initiatives that have been taken by the national government and the international community in resolving the conflict. The author concludes that underlying causes of the conflict have failed to be addressed and they threaten to undermine the hard fought peace and engulf the region in further violence and instability in the foreseeable future. The failure of the international community and the role of neighbouring countries in the conflict have ensured that transitional process has been an uphill struggle with too many benefiting from the conflict and too few willing to stop it. Lessons learnt from other jurisdictions can prove important in guiding the future of the Congolese peace process but the peace will only last as long as it is more profitable than war to all parties involved.

Ending the cycle of violence in the Congo, is peace possible in the Heart of Darkness?

The Democratic Republic of the Congo is a country the equivalent size of Western Europe and over the past twelve years has been ravaged by one of the most devastating wars since World War Two. This conflict has involved at least nine other African countries leading it to be termed “Africa’s First World War”. The death toll currently sits at around 5.4 million and continues to increase with approximately 45,000 people being killed each month from starvation and disease¹, rape is used as a weapon of war with the UN reporting that 27,000 sexual assaults were reported in the South Kivu province alone in 2006². Peace agreements and ceasefires have been signed between various belligerents with the latest being signed on the 23rd January 2008³ but violence continues to sporadically erupt. The country now has for the first time since 1960 a democratically elected president and parliament. Yet the government remains corrupt⁴; impunity is rife both within the governing elites and rebels who control the rest of the country⁵; for many Congolese the peace in the east is nothing more than words⁶.

This article looks at the underlying problems of the conflict and the initiatives taken during the peace process, its achievements and failures as well as considering a brief comparison with other jurisdictions emerging from conflict. I will argue that serious underlying problems remain which have been inadequately addressed by the peace process or not addressed at all; and such a failure threatens to undermine the progress

¹ International Rescue Committee Report DRC November 2007. Available at - <http://www.theirc.org/special-report/congo-forgotten-crisis.html>

² Rape Epidemic Raises Trauma of Congo War, New York Times, 7 October 2007 available at: <http://www.nytimes.com/2007/10/07/world/africa/07congo.html>

³ <http://news.bbc.co.uk/1/hi/world/africa/7204898.stm>

⁴ “Congo’s Peace: Miracle or Mirage?” Jason K. Stearns 23 April 2007, International Crisis Group available at: <http://www.crisisgroup.org/home/index.cfm?id=4799&1=1>

⁵ Democratic Republic of the Congo: Confronting Impunity, HRW Report January 2004 available at http://www.hrw.org/english/docs/2004/02/02/congo7230.htm#_Toc63244330

⁶ Peace still words on paper for east Congo civilians, 27 April 2008, Reuters News: <http://uk.reuters.com/article/latestCrisis/idUKL2722629920080427>

already achieved. I will conclude by looking at the lessons that can be learnt from this unique and complex conflict, and consider the implications for the future.

Brief Background

The First Congolese War broke out in 1996 and can be seen as the direct result of the failures of international interventions in Rwanda during and after the genocide⁷ when one million Hutu refugees fled across the border to escape the advances of the Tutsi Rwandan Patriotic Front (RPF)⁸. It replaced the kleptocratic ruler Mobutu who had allowed the Congolese state to disintegrate due to state funds being diverted from social services into the pockets of the governing elite⁹ and who had supported the genocidal regime in Rwanda giving it refuge in the eastern Congo. In response to continuing ethnic violence and attacks, Rwanda and Uganda backed the rebel group the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) lead by Laurent Kabila, in the hope of improving their own security by removing anti-Ugandan rebels and the remnants of the genocidaires of the interahamwe/ex-FAR¹⁰ as well as securing economic resources in the eastern parts of the Congo.

Mobutu was toppled after a few months of vicious fighting but the new president Kabila proved no different than his predecessor and continued to incite ethnic tensions in the east of the country. Rwanda and Uganda wanted to ensure their own security by replacing Kabila with a more favourable ally and remove the rebel threat but they also sought to benefit from the economic resources widely available in the east, so began the Second Congo War with Rwanda and Uganda backing the rebel groups - the

⁷ Reconstructing the Congo, Herbert F. Weizz and Tatiana Carayannis, *Journal of International Affairs*, Fall 2004; vol. 58, no. 1

⁸ The RPF was an armed group of mostly Tutsi Rwandan refugees based in southern Uganda who had fled ethnic violence in Rwanda since the Hutu government took power in 1954. They helped the current Ugandan President Museveni take power in 1986 against Milton Obote and then overthrew the genocidal Habyarimana regime in 1994 and have ruled over Rwanda since 1994. In the Shadow of the Volcano: Democracy and Justice in Congo, Phil Clark, *Dissent Magazine* available at <http://www.dissentmagazine.org/article/?article=724>

⁹ The War in Congo: Transnational Conflict Networks and the Failure of Internationalism, L Juma, *Gonzaga Journal of International Law* (2006) 97 Vol 10:2

¹⁰ Forces Armees Rwandaises (FAR) were the defeated Rwandan armed forces of the Habyarimana regime that were defeated by the RPF in 1994 and subsequently fled into the Congo to avoid prosecution for their involvement in the Rwandan genocide that claimed nearly one million lives.

Rassemblement Congolais pour la Démocratie (RCD) and the Mouvement de Libération du Congo (MLC). However after appealing to the South African Development Community (SADC), Zimbabwe, Angola and Namibia decided to provide Kabila's regime with thousands of troops in return for lucrative mining contracts. Their intervention ultimately forced a military stalemate between government backed forces and the Rwandan and Ugandan backed forces and thereby encouraging the belligerents to seek a solution through political dialogue¹¹. Other commentators argue that this was also due to international pressure and the 'mutual concern for protecting Congo's territorial integrity and its sovereignty'¹² but international pressure had failed in twenty other previous attempts by United Nations, OAU and SADC¹³; it is more likely that failure at the military level forced belligerents to accept some sort of peace process in order to achieve their aims. The result was the Lusaka Ceasefire Agreement 1999¹⁴ which brought the major belligerents (Rwanda, Uganda, Zimbabwe, Angola, Namibia and the Congo) and major rebel groups (RCD and MLC) to agree to a ceasefire and ensured the removal of foreign troops as well as dealing with 'negative forces' such as interahamwe and UNITA. The peace process culminated with the Sun City Agreement in 2002 which agreed to the formation of a power sharing government and subsequently elections were held in 2006 and 2007 leading to the election of the first democratic government for the Congo.

Underlying Problems

In the Congo before the peace process there was four main underlying problems - economic exploitation, ethnicity, impunity, and dealing with militias, demobilisation and poverty. These problems continue to subsist since they have failed to be properly addressed or inadequately tackled by the peace process and the Congolese government and threaten to undermine the fragile peace.

¹¹ Supra n7 at p126

¹² Supra n9 at p150

¹³ Supra n7 at p126

¹⁴ Available at http://www.usip.org/library/pa/drc/drc_07101999.html

1. Economic Exploitation

Since King Leopold II declared the Congo his own private fiefdom in 1885¹⁵ the Congo has been exploited for its natural resources being rich in both minerals and timber. The recent wars in the Congo have proved no different with economic exploitation being the main impetus for continuing the war¹⁶. Both Rwanda and Uganda have been fighting their own war in the east to secure precious resources such as coltan, diamonds and gold; and have even been fighting amongst themselves killing numerous civilians in the process¹⁷. Although Rwanda and Uganda troops left the eastern provinces of the Congo in 2002 they continue to arm groups in the Congo¹⁸ and export illegal mineral resources from the Congo¹⁹.

The failure of the international community to prevent Rwanda and Uganda from exploiting Congolese resources continues to cause problems as the proxy militias which control the east of the country remain outside the law and groups like Nkunda's CNDP²⁰ can commit gross violations of human rights which the Congolese army is unable to prevent²¹ due to its ineffectiveness and under funding. The UN Panel of Experts set up to investigate the exploitation, said that the resource exploitation is 'one of the main sources of funding for the groups involved in perpetuating the conflict.'²² The Panel concluded that the 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".'²³

¹⁵ King Leopold's Ghost: A Story of Greed, Terror, and Heroism in Colonial Africa by Adam Hochschild 1999

¹⁶ 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 available at <http://www.natural-resources.org/minerals/CD/docs/other/357e.pdf>

¹⁷ Human Rights Watch Report June 2005, The Curse of Gold available at: <http://hrw.org/reports/2005/drc0505/>

¹⁸ UN/S/2005/30 available at <http://www.un.org/News/briefings/docs/2005/DRCbrf050107.doc.htm> from supra n9 at p156

¹⁹ Supra n17

²⁰ Congres national pour la defense du peuple (National Congress for the Defence of the People) a break away Congolese Tutsi groups from the Rwandan backed RCD.

²¹ Congo Agrees to Peace Deal With Rebels, The New York Times, 22 January 2008 available at <http://www.nytimes.com/2008/01/22/world/africa/22congo.html>

²² Supra n16

²³ Supra n4

The International Court of Justice in 2005 did issue a judgement for Uganda's role in the Congo finding it guilty of illegally exploiting the natural resources of the DRC and not to the benefit of the local populace²⁴. However the ICJ failed to find jurisdiction under a similar case against Rwanda²⁵, this is a disappointing result considering the destabilising effect Rwanda involvement has had on the Congo though it is hard to think that the effect of such a judgement could have on preventing such exploitation and with most trade using illegal networks it hard to think how the international community can prevent such exploitation. The Congolese army itself needs to conduct the unpleasant job of tackling these illegal networks which is something the UN's MONUC peacekeeping force is unwilling to do, until the Congolese army does so these militias will continue to be a thorn in the side of peace in the eastern Congo and are 'sabotaging a hard-won peace'²⁶. Even though a peace deal was signed in Goma in January 2008 violence continues to abate amongst rival groups²⁷. The army's inherent weakness and its failure to integrate the armed militias in its 'mixage' process²⁸ have ensured that minority groups and militias are in a better position to protect and govern themselves than the government as well as ensuring the exploitation networks which provide them with a form of employment and income in the face of the prevalent poverty and lack of public services.

2. Ethnicity

Ethnicity was the main motivating factor for Rwanda, Burundi and Uganda's involvement in the First Congolese War²⁹ and was their apparent motive for getting

p157/8

²⁴ DRC v Uganda (1999-2005) available at <http://www.icj-cij.org/docket/files/116/10455s.pdf>

²⁵ DRC v Rwanda (2006) available at <http://www.icj-cij.org/docket/files/126/10435.pdf?PHPSESSID=e70527da06d3e7229a7632e98d806cf3>

²⁶ Plundering Peace, Congolese Natural Resources, S Wertheim, Harvard International Review, Summer 2004; 26, 2.

²⁷ Supra n6 see Goma Ceasefire Agreement, and the Amani Process January 2008

²⁸ Mixage was a process which Nkunda's CNPD would integrate into the Congolese army the FARDC, but process failed due to ethnic tensions within the FARDC towards the minority Tutsis in the CNPD, see Renewed Crisis in North Kivu, HRW Report 2007, <http://www.hrw.org/reports/2007/drc1007/index.htm>

²⁹ The ethnic Tutsi Banyamulenge in the Congo were being targeted by the displaced genocidaires from the Rwandan genocide in 1994 and Mobutu was supporting their efforts in continuing the genocide. See We Wish to Inform You That Tomorrow We Will Be Killed With Our Families: Stories from Rwanda, Philip Gourevitch 1998

involved in the Second Congolese War³⁰. The wars themselves allowed militias to rise up to protect their own ethnic group or to attack others and foreign armies such as Rwanda and Uganda who used such groups to terrorise civilians³¹.

In Rwanda the political fallout of the genocide was one of the main causes of the war in the Congo³² and the failure to ensure some sort of post genocide agreement with the genocidaires or ensuring some sort of political dialogue has guaranteed ethnic strife for the foreseeable future for the region. The fears of many Hutus propagated during the genocide became true through massacres which occurred in the wake of the war³³ instilling and ensuring a culture of hatred amongst Tutsis and Hutus for years to come in the region. The ethnic Tutsi Banyamulenge still feel the ripples of genocide in the east of the Congo where the remnants of the genocidaire interahamwe (the FDLR) continue to kill Tutsis and launch attacks into Rwanda after nearly fifteen years since the genocide³⁴. The Congolese army is currently trying to remove the FDLR from its strongholds in the east³⁵ but previous military interventions by the Rwandan army to remove the FDLR failed. Maybe it is time to engage in political dialogue with the FDLR to at least start negotiations that may lead to better conditions for both Congolese and Rwanda civilians and remove the menace that it currently poses. By excluding the FDLR from the peace process they have nothing to gain from demobilisation and forced expulsion back to Rwanda to face genocide trials and yet they have everything to fight for or at least against. I do not believe that there should be impunity for their actions but that some sort of compromise is inevitable in order to remove the threat that they pose and highlights the almost Catch 22 of conflict resolution that in order to ensure peace you may have to compromise the interests of justice. This sort of compromise was at the heart of the

³⁰ Briefing: The Second Congo War: More than a Remake, F Reyntjens, *African Affairs*, Vol. 98, No. 391 (Apr., 1999), pp. 241-250

³¹ See Missio Report 2001, *Human Rights in the DRC: 1997 until present day* available at http://www.missio-aachen.de/Images/MR%20Kongo%20englisch_tcm14-11998.pdf

³² Supra n29

³³ The massacre of refugees in Congo: a case of UN peacekeeping failure and international law, N. F. Emizet, *The Journal of Modern African Studies* (2000), 38: 163-202 Cambridge University Press

³⁴ "Ripples of Rwanda's Genocide Still Rock the Eastern Congo", John Prendergast in the *Globe and Mail* 26 October 2005 from www.crisisgroup.org/home/index.cfm?id=3769&1=1

³⁵ Supra n6

Lusaka Agreement which allowed rebel groups to be in government even though they had committed gross violations.

Uganda in the eastern province of Ituri, which it created, has stoked ethnic tension in order to destabilise the region³⁶. Although there is relative peace in the Ituri province, the underlying causes such as land distribution and ensuring equality amongst Hema and Lendu groups to economic resources have not been adequately addressed³⁷. Indicting and removing warlords by the International Criminal Court³⁸ is a short term solution, it attacks the symptoms not the causes by failing to address the underlying issues of the conflict however it does encourage some form of deterrence³⁹ to further atrocities in the region by ensuring there is no impunity for gross violations of human rights and international humanitarian law yet this so called deterrence has failed to stop massacres in neighbouring regions.

Ethnicity is a major problem in the east of the Congo especially due to the spill over effect from the Rwandan and Burundi conflict between Hutus and Tutsis; however most Congolese see ethnicity as a second identity with Congolese being their first⁴⁰. The failures of the 'mixage' process and the ethnic tensions that remain in the east show that the issue is far from resolved. Many commentators have called for a 'regional solution to a regional problem'⁴¹ and this ideally is what is needed considering the ethnic forces involved. However the ethnic conflict boils down in the Great Lakes region to basically land distribution and equality, and as the events in Kenya recently have shown is that it is a more widespread problem not specific to the Great Lakes Region and an inevitable consequence of growing populations and limited resources. The return of peace to the region and the return of displaced persons can only exacerbate the problem. These issues

³⁶ Supra n9 at p159

³⁷ Congo: Four Priorities for Sustainable Peace in Ituri, ICG Report 13 May 2008 available at <http://www.crisisgroup.org/home/index.cfm?id=5425&l=1>

³⁸ ICC has currently issued arrest warrants for four warlords in the Ituri province currently three are facing trial in the Hague the first of which, Thomas Lubanga is due to begin in June 2008.

³⁹ Complementarity in Practice: The International Criminal Court as Part of a System of Multi-Level Global Governance in the DRC, W. Burke-White, *Leiden Journal of International Law*, 18 (2005) 557

⁴⁰ Supra n7

⁴¹ Supra n30

go to the heart of the ethnic conflict and need to be properly addressed alongside any regional solution in order to ensure lasting peace both in the Congo and regionally.

3. Impunity

Impunity goes to the heart of the conflict in the Congo after the spill over from the Rwandan genocide in the Congo, both wars saw massive human rights violations with civilians taking the brunt of violence. Accountability is necessary in post conflict societies to ensure new government with ‘legitimacy’⁴² but to also to ensure the ‘interests of victims... [and] preventing future atrocities.’⁴³ Redress and justice have been low on the Congo’s agenda⁴⁴ compared to countries like South Africa and Sierra Leone. Instead the Congo has been looking to secure peace at all costs with justice and accountability being left to the international community and cosmetic reforms such as a Truth and Reconciliation Commission which has proved fruitless due to its opposing membership and lack of funding or corollary enforcement powers, has failed to achieve any results. The Congolese courts themselves are inadequately funded and inherently weak⁴⁵ after years of under funding and as the Kilwa⁴⁶ and Kahwa⁴⁷ trials have shown the courts are unable to hold violators to account.

Impunity in the Congo continues to prevail both within government and in rebel movements even in the face of the peace process, leading one human rights worker in Kinshasa to comment that “impunity greased the gears of the transition.”⁴⁸ Human rights

⁴² See Repairing the Past: Refugees, Displaced Persons, Land and Property, in International Council on Human Rights Policy, *Negotiating Justice? Human Rights and Peace Agreements* (2006)

⁴³ Human Rights as Guiding Principles in the Context of Post Conflict Justice, Seibert-Fohr (2005) 13 Michigan State Journal of International Law 179

⁴⁴ Supra n4

⁴⁵ Supra n39

⁴⁶ In the Kilwa Trial involving the Congolese Army and a private company – Anvil Mining were both acquitted of war crimes which involved the deaths of 73 civilians even in the face of contrary corroborated eye witness testimony - The Kilwa Trial: a denial of justice (17/07/2007)– available at: www.globalwitness.org/media_library_detail.php/560/en/kilwa_trial_a_denial_of_justice

⁴⁷ Case involved the Ituri warlord Yves Pangu Mundry Kahwa, who was charged with war crimes and crimes against humanity, was acquitted on appeal which was ‘marred with irregularities’ - Human Rights Watch Annual Report 2007 - January 2008 DRC

⁴⁸ Supra n4

abusers have been included in the government such as RCD and MLC⁴⁹, and in the case of the army criminal behaviour has been rewarded with warlords being presented with promotions of general or colonel⁵⁰. As Stearns points out in contrast with appointments post conflict in the Balkans, Liberia and East Timor there was a vetting process to ‘exclude human rights abusers from security forces’⁵¹ this has clearly been absent in the Congo both within the army and government. One diplomat explained that “if we start bringing people to justice, where do we stop? Some of the worst abusers are at the top.”⁵²

The lead on prosecution has been taken on by the ICC however in the long run it will prove to be ineffective in dealing with the plethora of violators as the experience of the International Criminal Tribunal for Rwanda (ICTR) has shown⁵³. The ICTR and Rwandan courts have shown that the pursuit of justice can result in the ‘collectivisation of guilt’⁵⁴ of Hutus, who are seen as the guilty group rather than individuals. There is a need to ensure reconciliation while ensuring accountability such as in Sierra Leone with its Special Court and Truth and Reconciliation Commission. The imposition of a ‘half truth commission’ would severely hamper the credibility of a judicial intervention. The plethora of violators and the widespread use of child soldiers has resulted in amnesties already been used in the Congo. These amnesties do not extend to include war crimes, crimes against humanity and genocide much like the amnesty used in Burundi⁵⁵ But the failings of the court in the Kahwa trial⁵⁶ to adhere to it have shown its ineffectiveness in distinguishing those most responsible for gross violations and has compromised the criminal justice system.

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Ibid

⁵² Ibid

⁵³ The ICTR in the space of over a decade has only been able to try 21 cases. The ICTR and ICTY take up 10% of the UN’s annual budget, have been slow to process cases and too remote – see The Failing of Ad Hoc International Tribunals, R Zacklin, *Journal of International Criminal Justice* 541 2004

⁵⁴ Punishment Postgenocide: From Guilt to Shame to ‘Civis’ in Rwanda, Mark A. Drumbl, *New York University Law Review*, Vol. 75, No. 5, Nov. 2000

⁵⁵ The Democratic Republic of Congo Justice in the aftermath of peace? Håkan Friman *African Security Review* Vol 10 No 3, 2001

⁵⁶ Supra n47

As long as impunity remains there will be no deterrence and will rather perpetuate further conflict as victims interests remain unaddressed by the government forcing them to redress the situation themselves. The use of rape as a weapon of war in the Congo has ensured a bitterness and horror for many women, which is only compounded by seeing their abusers act without remorse and impunity ensuring that such actions will continue until the problem is addressed.

The role of justice in post conflict is important in contributing to the process of national reconciliation and peace as recognised by the Security Council in the formation of the ICTR and the Sierra Leone Special Court⁵⁷. The government and armed forces as well as rebels groups needs to faces the challenges of accountability in order to ensure legitimacy, the lessons learnt from Rwanda is that failure to prevent those responsible to evade facing accountability caused the subsequent wars in the Congo as the interahamwe continued their cycle of violence in almost impunity. The role of the ICC in the Congo could be important in bringing the belligerents in the east to accept peace or else face criminal prosecution but at the same time the warlords in the east are now asking for an amnesty⁵⁸ so as to undermine the ICC's jurisdiction and retain their impunity. Hopefully the Congolese governments will stick to its legislation to only grant amnesty conditionally to those not responsible of war crimes, crimes against humanity and genocide.

4. Militias, Demobilisation and Poverty

The militias in the Congo have sprung up from the wars in the Congo and the inability of the Congolese army to protect their people or region, or to prevent them from acting as a private army. With dozens of militias able to self sustain themselves through resources exploitation and feeding off neighbouring communities in their region as well

⁵⁷ Security Council Res. 955, U.N. Doc. S/Res/955 (1994), and S.C. Res. 1315, U.N. Doc. S/Res/1315 (2000) from *Repairing the Past: Refugees, Displaced Persons, Land and Property*, in International Council on Human Rights Policy, *Negotiating Justice? Human Rights and Peace Agreements* (2006) at p190/1

⁵⁸ Nkunda can gain amnesty under Congo peace deal, Reuters News, 25 January 2008 available at <http://uk.reuters.com/article/latestCrisis/idUKL2539975320080125>

as their ability to act with impunity for their crimes such as murder and rape, there is little need for them to adhere to a peace process thereby making the peace harder to secure. The failure of the national Congolese army has ensured that the militias are able to continue their operations and act with impunity until this is addressed militias will continue to be a 'thorn in the side' of the Congolese peace process.

In the wake of two wars and after a decade of fighting that has left thousands of soldiers in the Congo, with unemployment at the staggering rate of 80% and many families surviving on one meal a day⁵⁹ the demobilisation program run by the MONUC faces an uphill struggle. 60% of soldiers chose demobilisation over integration and were put on a year long donor program to fund their living expenses⁶⁰ but when this ends it will be hard to resist the temptation to return to fighting in order to survive in a country where the government provides little or no social services. The demobilisation program carried out by the MONUC forces requires rebels to give up their arms voluntarily and groups like the FDLR and CDNP are likely to continue to keep their arms until they are forcibly removed or the reasons for them to keep their arms, i.e. to protect their communities or threat of prosecution, have been allayed by the government.

The problem could be more endemic amongst child soldiers who have grown up fighting will have a hard time breaking the cycle of violence and puts enormous pressure on the demobilisation programs to ensure that it works. Many again may find that they are 'unwilling to face poverty at home'⁶¹ and with demobilisation programs lacking the funds to provide emotional or gender based support it is likely that those who fail to integrate will become 'fully fledged soldiers... [or] become prime targets for recruitment by terrorist groups.'⁶²

Investment into the Congolese economy will prove vital to ensure that there is another way of life than poverty or conflict that can ensure long lasting stability to the Congo. The experience in Northern Ireland has shown that investment can 'cement the

⁵⁹ Supra n4

⁶⁰ Ibid

⁶¹ Weary from War, Child Soldiers in the Congo, S Kim, Harvard International Review, Winter 2006, 27, 4

⁶² Ibid

peace⁶³ and the experience in the Congo should be no different as Stearns points out the inclusion of RCD and the MLC rebel groups into government has allowed them to receive lucrative government salaries encouraging them to work within the peace process⁶⁴. This process can be extended to the rest of the country as the Congo is the most mineral rich country in Africa and if its resources were managed properly it could ensure that the majority of its citizens are removed from poverty and provide citizens with an interest in ensuring the success of continuing economic prosperity and peace. But as Mangu says “people do not eat peace agreements”⁶⁵ and the need to ensure economic security is imperative to guarantee peace.

The Congolese Peace Process

The Congolese peace process was brought about by the Lusaka Ceasefire Agreement, the ‘genius’ of which was to recognise the ‘overlapping layers of interstate and intrastate actors involved in the war, and it legitimated the serious concerns of Rwanda, Uganda and Angola regarding insurgency movements’⁶⁶. Most importantly the Agreement provided for an Inter Congolese Dialogue (ICD) which was to give a national dialogue amongst the government, the armed opposition the MLC and RCD and the unarmed opposition⁶⁷ and ‘shall lead to a new political dispensation and national reconciliation in the DRC’⁶⁸ as well as addressing the need for the ICD to deal with the formation of a new Congolese army⁶⁹. It also mandated for the UN to provide peacekeepers to ensure the ceasefire amongst the parties. However fighting continued and the provisions of the Lusaka Agreement were ignored as foreign militias were not demobilised, due mainly to the inability of the army to carry out such a function and the

⁶³ Visiting U.S., British Cabinet Minister Urges Investment in Ulster, *The New York Times*, 7 December 1999

⁶⁴ *Supra* n4

⁶⁵ The Conflict in the Democratic Republic of the Congo and the Protection of Rights under the African Charter, A.M.B. Mangu, 3 *African Human Rights Law Journal* 235 (2003)

⁶⁶ *Supra* n7

⁶⁷ Later joined by members of civil society such as church and women’s groups

⁶⁸ Article III Principles of the Agreement par 19 and Chapter 5 of Annex A, available at http://www.usip.org/library/pa/drc/drc_07101999.html

⁶⁹ *Ibid* par 20

foreign armies of Rwanda and Uganda still remained. As Daley notes the Lusaka Agreement was ‘essentially a ceasefire agreement without a peace agreement which lead to neither a ceasefire nor peace.’⁷⁰ The failure to deal with the fundamental issues at the heart of the Lusaka Agreement ensured that violence continued. With so many African countries having vested interests in the Congo it was hard to reconcile the calls for peace from the OAU and the SADC when a large number of its members were the main belligerents. The Lusaka Agreement may have failed on the ground but it was a vital component of the peace process in the Congo, as it addressed some of the root causes of the conflict such as foreign militias and foreign armies as well as initiating the Inter Congolese Dialogue which would prove vital in the future in forming the new government. Like the Sunningdale Agreement 1973 in Northern Ireland⁷¹, the Lusaka Agreement provided a template for future negotiations and provided a dialogue amongst belligerents as to a way forward politically.

The assassination of Laurent Kabila in January 2001⁷² changed the political landscape in the Great Lakes Region. His son Joseph was appointed in his place and he was more open to political dialogue and fulfilling the commitments of the Lusaka Agreement. The Pretoria Agreement in July 2002⁷³ finally brought the costly war to an end with Rwanda and the DRC making commitments to the Lusaka Agreement and the removal of Rwandan troops in the Congo who numbered 20,000⁷⁴. A similar agreement was signed with Uganda in the Luanda Agreement 2002⁷⁵ but removal of such a large number of troops left a ‘power vacuum’ in the east which involved an increase in violence as proxy movement stamped their authority on the region⁷⁶. The removal of foreign forces allowed the Congo to move forward with its own internal peace process and the Inter Congolese Dialogue provided the Global and All-Inclusive Agreement

⁷⁰ ‘Challenges to peace: conflict resolution in the great lakes region of Africa’, P. Daley, *Third World Quarterly*, (2006) 27:2, 303 - 319

⁷¹ Available at <http://cain.ulst.ac.uk/events/sunningdale/agreement.htm>

⁷² Kabila Death Confirmed, BBC News <http://news.bbc.co.uk/1/hi/world/africa/1124841.stm>

⁷³ Available at <http://www.state.gov/t/ac/csbn/rd/22637.htm>

⁷⁴ Rwanda completes DR Congo pull out, BBC News <http://news.bbc.co.uk/1/low/world/africa/2302125.stm>

⁷⁵ Available at <http://www.iss.co.za/Af/profiles/DR Congo/cdreader/bin/5luanda.pdf>

⁷⁶ Supra n7

December 2002⁷⁷ in Sun City. The Agreement provided for a transitional government which would provide a power sharing government, Kabila would remain as President until the election and would have four vice presidents split amongst the four main groups – MLC, RCD, political opposition and the government. The so called ‘1+4’ formula which drew a lot of its influence from the South African experience of ‘1+2’⁷⁸ yet requires all parties to agree to reforms making the process slow and cumbersome, the US State Department refers to it as an ‘inefficient and ineffective’⁷⁹ system of governance. The Agreement also set out objectives for the transitional government to achieve within two years - a constitution, elections and the formation of a new integrated army. The agreement was a leap forward for the Congo providing it with the necessary democratic tools to reform a country which had faced decades of dictatorship and nearly a decade of war. The transitional government was formed in June 2003 and it did achieve its objectives of elections, a constitution and new integrated army, but only after a considerable delay. However after nearly five years on the underlying causes of the war have been left unaddressed and the provision of social services by the government is almost inconsequential⁸⁰ and this could prove to have major problems for the future for the Congo.

In other countries in the Great Lakes Region ethnic tension has caused decades of violence with some countries sidelining the issues of power sharing with belligerents, (such as Rwanda) whereas others have made concerted efforts to ensure representation within government such as in Burundi. In Rwanda after the genocide the RPF took power; since 1994 the country has been a multiparty state but has been dominated by the RPF but the political fallout of the genocide was exported to the Congo in 1994 and dialogue with Hutu genocidaires has been seen as prohibitively ‘divisionary’ and thereby deemed illegal by the state⁸¹. In Burundi a consociational government like that in the Congo has been setup after a brutal civil war and has had to deal with some of the

⁷⁷ Available at <http://www.reliefweb.int/rw/rwb.nsf/db900SID/MHII-65G8B8?OpenDocument>

⁷⁸ Supra n7 at p137

⁷⁹ US State Department Investment Climate Statement 2006 available at <http://www.state.gov/e/eeb/ifd/2006/64000.htm>

⁸⁰ Supra n4

⁸¹ Supra n37

problems which the Congo faces such as rebel militias, dealing with impunity and ethnicity. As Lemarchand points out that consociational could work in small countries like Rwanda and Burundi but it faces major problems in the Congo in trying to reconcile so many diverse views within such a large country⁸². Violence followed the opposition losing the presidential elections in 2006⁸³ showing the fragile balance in which the government operates. Lessons learnt from Northern Ireland peace process show that power sharing is a process which involves compromises and patience to hold out against violence, “You have to keep the process moving forward, however slowly. Never let it fall over”.⁸⁴ In the Congo more time is needed for the peace process to work fully but in order to do so fully the underlying causes of the conflict must be dealt with in order to ensure lasting peace.

Conclusion: Lessons Learnt and the Future of the DRC

The Congo has after a decade of war is beginning to emerge as a functioning democratic state, breaking the ties with the dictatorship past and ensuring peace is the way forward. Although the peace process and transitional government enacted democratic process and institutions there are still serious underlying problems that remain which have not been fully addressed and require urgent attention in order to secure peace for the future. After the recent post election violence and the ending of the conflict in the Kivus it seems that the Congolese themselves see that violence is in the ‘death throes’⁸⁵ of the old ways and that new ways forward are required. Bringing democracy as diverse and complex as the Congo was never going to be an easy task as Clark states in relation to countries like the Congo and Iraq, “bringing democracy to such countries is invariably

⁸² Consociational and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo, R. Lemarchand, *African Affairs* 106/422, 1-20 (2006)

⁸³ Securing Congo’s Elections: Lessons from the Kinshasa Showdown, International Crisis Group Briefing, 2 October 2006 available at: <http://www.crisisgroup.org/home/index.cfm?id=4412&l=1>

⁸⁴ Great Hatred, Little Room: Making Peace in Northern Ireland by Jonathan Powell quoted from http://entertainment.timesonline.co.uk/tol/arts_and_entertainment/books/non-fiction/article3584043.ece

⁸⁵ Supra n4

destabilising”⁸⁶, as was the case in the Congo in the past few years since the Sun City Agreement. Since then progress has been made but as the conflict in neighbouring Burundi in the 1990s has shown is that even democratic institutions can be grossly undermined by violence.

The Congolese peace process showed that political dialogue could work to achieve the parties’ objectives instead of resorting to the use of military force. The use of the ICD as a political forum proved to be an important vehicle for achieving a sustainable peace amongst the main parties. The Congolese experience also shows that you can put former belligerents into power and make it work, the danger also is that failure to get involved in the peace process and the government is that it can leave you isolated and this was something that encouraged the MCL and RCD to stay engaged in government despite their threats to leave⁸⁷ and it has also secured them to work within a political environment rather than a violent one. However exclusions of groups such as the FDLR from the peace process is an opportunity that has been missed to ending their cycle of violence through political dialogue.

Although Lijphart’s consociational model of government ensures fairness by allowing the representation of the main parties it has proved to be ineffective in ensuring the reforms necessary to cut the ties with the violent and corrupt past in the Congo. The problems of consociational government have been highlighted by the Northern Ireland experiment where after ten years the executive is only now starting to operate. For power sharing in the Congo to work the system should possibly change to the ‘1+2 formula’ of South Africa in order to ensure more effective governance, this may involve compromising democratic representation but may be necessary to ensure a more effective and efficient government which needs really to rebuild a ‘stateless’ country.

The weakness and lack of impartiality of the Congolese judiciary has also ensured a lack of supervision and regulation of the government, which is necessary in providing checks and balances to a democratic system. The role of ICC in the Congo could prove to

⁸⁶ Supra n8

⁸⁷ Supra n4

be important in reforming the judiciary in its complementary role⁸⁸ but further international investment and training is necessary to ensure a fair and impartial system which can be a deterrent against gross violations by ending the culture of impunity which continues to pervade in the Congo.

The weakness of the army needs also to be addressed; the failure of the ‘mixage’ integration program and its inability to tackle rebel groups in the east poses serious obstacles in securing peace in the country. This is a major failing of the transitional government and was the only principal objective under the 2002 Agreement which it failed to fulfil. This has been echoed through an Amnesty International report which has warned that the army’s effectiveness is a ‘precondition for peace and stability’⁸⁹. The failure and lack of funding of the demobilisation program could also threaten to undermine the hard won peace.

The economic exploitation of the Congo will prove to be a difficult issue to resolve and can only be brought about by an effective army willing to protect the Congo’s resources. The announcement of Chinese investment in the Congo⁹⁰ and possible further British and American investment⁹¹ could prove helpful to the peace process but as Belgian exploitation over hundred years ago and Rwanda and Ugandan exploitation more recently have shown such exploitation has never benefited the Congolese people. The Congolese should work with such investments to ensure that they are the one’s profiting from their natural resources and not other countries.

The international community needs to stay engaged in the Congo, the road to creating a successful sustainable state requires time and patience and cannot be resolved by quick fixes. The failure of international community so far in the region such as in Rwanda in 1994 continue to echo in the Congo, as the rebel leader of the CNDP, Laurent

⁸⁸ See White – Burke supra n39

⁸⁹ Amnesty International, ‘DRC: Stability threatened as country fails to reform army’ (London, 2007) (AI Index: AFR 62/002/2007) from DRC: Political Transition and Beyond, F Reyntjens, African Affairs, 106/423, 307-317 (2007)

⁹⁰ Investment worth \$9 billion including the building of roads, hospitals and schools, from China to seal \$9bn DR Congo deal Newsnight 14th April 2008 available at <http://news.bbc.co.uk/2/hi/programmes/newsnight/7343060.stm>

⁹¹ Newsnight 15 May 2008 available at http://news.bbc.co.uk/1/hi/programmes/from_our_own_correspondent/7403703.stm

Nkunda recently said “My major fear is that we will end up like Somalia.”⁹² The failure of the Hutu government in the 1980’s to engage into political dialogue with the refugees on its border with Tanzania and Uganda caused the refugees to form the RPF and to fight a civil war in Rwanda in the 1990’s to return back to their country. The failure of the current Rwandan government to deal with the FDLR in the Congo could spell a repeat of history.

The future of the Congo is dependant on the willingness of the Congolese government and the international community to effectively tackle the underlying causes of the conflict which have been concealed by the veneer of democratic institutions. The peace in the east is very much in a fragile state and the lack of any substantive reform of the conditions in the east will continue to cause violence in the future as recent events have shown⁹³. Foreign investment and an equitable share in the Congo’s natural resources could ‘cement’ the peace in the Congo for all sides, but with corruption rife amongst the government it is unlikely to occur until corruption and accountability are taken seriously. Peace in the Congo will only succeed if it is more profitable than war.

⁹² Fighting for Peace, interview with Laurent Nkunda, The Guardian, 22nd April 2008

⁹³ Laurent Nkunda’s CNDP recently took over a large part of North Kivu and threatened to overthrow the Kabila government but was later arrested by the Rwandan army who invaded in a joint Congolese-Rwandan mission to deal with the FDLR the results of which have yet to be seen.

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