Pursuing Peace, Democracy and Justice in the Democratic Republic of Congo

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Introduction

This paper, drawing on field research, explores the challenges of pursuing peace, democracy and justice in conflict and post-conflict societies, using the Democratic Republic Congo (DRC) as a case study. In early 2006, three key developments precipitated my fieldwork in the DRC: rapidly changing patterns of violence in the Great Lakes region, the buildup to the DRC's historic first elections since independence, and new attempts to bring perpetrators of mass crimes to justice.

In the midst of widespread conflict, the DRC confronts a series of fraught questions: Can a highly fragmented state of 250 ethnic groups, with a long history of violence, corruption, and extreme poverty, embrace democracy and create effective political institutions? Can individuals responsible for committing atrocities be held accountable? And can democracy and justice contribute to a stable, vibrant nation in the long term? Given the DRC's strategic importance, bordered by ten countries in the heart of Africa, these are not merely questions for the nation but for the Great Lakes region and the continent as a whole.

Historical Background to the Congolese Conflict

The last decade in eastern Congo has been one of greed and ethnic hatred, involving a host of local, regional and international actors. This follows a century of ruthless exploitation of people and natural resources since King Leopold II of Belgium fixed the borders of "the Congo" in 1885. After Belgium granted the Congo independence in 1960, national leaders inherited a fragile country. Capitalising on the state's weakness, General Joseph-Désiré Mobutu seized control of the Congo in 1965, declared himself president, and in 1971 renamed the country Zaire. Mobutu, supported by the West as a bulwark against communism in Central Africa, created a vast kleptocracy, amassing personal wealth and bankrupting the state.

A deal in early 1993 between Mobutu and Rwandan president Juvénal Habyarimana, which allowed Banyarwanda (particularly Hutu) to take over territories around the towns of Walikale and Masisi in western North Kivu, sparked interethnic violence that has since continued across eastern DRC. A fragile peace was achieved in late 1993 but collapsed after the arrival of more than one million Hutu refugees in mid-1994, fleeing the advance of the Rwandan Patriotic Front (RPF), the predominantly Tutsi rebel force that ended the genocide of Rwandan Tutsi. In July 1994, thousands of Hutu refugees who were still armed and, with the help of Congolese Hutu, began killing local Tutsi, thus transporting the ideology of the Rwandan genocide to Zaire. Meanwhile, in the province of South Kivu, members of the *interahamwe* (Rwandan Hutu militias trained to kill Tutsi during the genocide), Mobutu's army, and the local population that had adopted the anti-Tutsi rhetoric of North Kivu killed thousands of South Kivu Tutsi, known as Banyamulenge.

In August and September 1996, a Banyamulenge uprising, backed primarily by the Rwandan government and supported by Burundi and Uganda—which all had grievances against Mobutu and were deeply concerned by the growing insecurity in eastern Zaire—led to the formation of the *Alliance des Forces Démocratiques pour la Libération du Congo/Zaire* (AFDL), whose spokesman was Laurent-Désiré Kabila. The AFDL overran Mobutu's forces, capturing Kinshasa in May 1997. Kabila installed himself as president and renamed the country the Democratic Republic of Congo.

The DRC was soon plunged into a second continental war. Kabila's rebel alliance disintegrated, as his association with Rwanda in particular began to hurt him politically, and Rwanda, Burundi, and Uganda failed to receive the remuneration they expected for helping him topple Mobutu. Kabila's former allies remained in Congo and plundered the country's mineral wealth, often through rebel proxies such as the Rwandan-created *Rassemblement Congolais pour la Démocratie* (RCD), which attacked Goma, Bukavu, and Uvira, the largest towns in the Kivus, in August 1998. In July 1999, Kabila secured a ceasefire signed in Lusaka, Zambia, by Congo; Kabila's three regional allies who had joined the war in August 1998 (Angola, Namibia, and Zimbabwe); and Burundi, Rwanda, and Uganda. The RCD refused to sign the agreement.

The ceasefire altered the political and military landscape in eastern DRC but did not stop the violence. In January 2001, Laurent Kabila was assassinated by one of his bodyguards. Kabila's twenty-nine-year-old son Joseph succeeded him as president and began to establish closer ties with Western donors and improve prospects for political transition in the DRC. In December 2002, an agreement signed in Sun City, South Africa, created a Congolese transitional government, comprising Kabila as president and four vice presidents, including two from rebel groups operating in eastern Congo. The agreement provided for a two-year transition, during which the government would disarm and integrate all warring parties and prepare for national elections.

Elections and Recent Violence

After Sun City, the prospect of elections fuelled mass violence across eastern DRC. Postponed six times in two years, presidential and National Assembly elections eventually took place in July 2006. The volatility of the pre-election period in Congo was highlighted in early February 2006 when I travelled to Rutshuru, sixty kilometres north of Goma. Rutshuru was filled with troops from the *Forces Armées de la République Démocratique du Congo* (FARDC), the government forces comprising former rebels who, under the terms of the Sun City agreement, have been integrated from groups that have spent years fighting each other, including former vice president Jean-Pierre Bemba's *Mouvement pour la Libération du Congo* (MLC) and the RCD. Since late 2004, FARDC factions have fought each other throughout eastern DRC. In the process, they have committed atrocities against civilians, including mass murder and rape.

On 18 January 2006, dissident RCD troops led by General Laurent Nkunda, a Tutsi from North Kivu, attacked government forces and captured six towns around Rutshuru. Hundreds of civilians were killed, and around 70,000 people, mainly from the Hunde and

Nande groups, were displaced to other parts of North Kivu and across the border into Uganda. Because the Tutsi minority constitutes a tiny voting bloc across Congo, a major concern for Nkunda was the impact the elections would have on Tutsi representation in the national and regional governments and therefore Tutsi influence in the DRC generally. Much of the recent violence in North and South Kivu has constituted an attempt by Nkunda and the Rwandan-sponsored RCD to shore up military and political power which it could not gain through the ballot box. The violence also served Kabila's purposes, as anti-Tutsi sentiment fomented by Nkunda's attacks has increased his support among non-Banyarwanda.

Rwanda has two primary motivations for its continued presence in the country: ethnicity and greed. Large numbers of ex-*interahamwe* and other Hutu rebels—many of whom combined to form the *Forces Démocratiques de la Libération du Rwanda* (FDLR) toward the end of the second continental war in 2000—greatly concern the RPF, the Tutsi-dominated ruling party in Rwanda, and Tutsi civilians. With approximately 5000 fighters operating in North Kivu and around 2000 in South Kivu (around 10,000 have already been repatriated to Rwanda), the FDLR is too small and disorganised to pose a serious regional threat. Nonetheless, the FDLR continues to attack Tutsi civilians in eastern DRC and western Rwanda. In the territory of Walungu of South Kivu alone, it is estimated that twelve thousand women, mostly Banyarwanda, have been raped since 2002. The Rwandan and Congolese governments continue to disagree over how best to disarm and repatriate the remaining FDLR fighters – the DRC favouring an approach whereby the forces would remain on Congolese soil, while Rwanda wants them returned to their home country.

Rwanda also supports RCD as a means to control the mineral-rich eastern provinces. Rwanda is not alone in profiting hugely from this natural wealth. In 2002, a UN Expert Panel published a report detailing the pillage of resources by armed groups operating throughout eastern Congo. The report implicated several high-ranking Rwandan and Ugandan political and military officials in the illicit trade of minerals. A follow-up report by the same panel in 2003 alleged that up to eighty-five multinational companies, including De Beers and Anglo-American, were involved in the systematic looting of Congo's resources. Nothing has been done to hold perpetrators of these economic crimes accountable and to stop the trade of Congolese minerals on Western markets.

Analysing Peace and Democracy Efforts

The international community's desire to bring peace and democracy to the DRC does not directly confront the problems of ethnicity and avarice. As Congolese went to the ballot boxes, ethnic antagonisms festered and the plunder of national resources, from which the Congolese population sees little benefit, continued. The elections and the shifting power dynamics they generate often exacerbate existing tensions. This was clear when on 9 February 2006 Michel, a merchant in Rutshuru, described how several hours earlier Nkunda's troops came out of their camps in the hills and attacked the town:

> It was about 4 o'clock [in the afternoon], when it was still light. They started shooting at a hotel in the main street, because there

> was a rumor that a meeting of [non-Banyarwanda] community leaders was going on there . . . . They were firing at anyone . . . .People were running with their belongings on their heads . . . . Some people were hurt. A few were killed. Women and children ran into the bush. The people running were those who had stayed behind after the attacks in January. It will be a long time before they come back now. Maybe they will never come back.

Planning for the DRC's elections was a huge undertaking, involving registering 26 million voters in a country the size of Western Europe, with only 500 kilometres of paved roads and almost no electricity. The international community, led by the UN and the European Union (EU), provided nearly $500m. for the logistics, making the elections the most expensive in the UN's history. The EU sent troops to reinforce MONUC and increase security in the lead-up to the vote.

Voter participation across the country for the presidential and National Assembly elections in July was high—around 75 percent—and international observers reported only isolated cases of voting irregularities and violence near polling stations. The UN and EU proclaimed the elections a remarkable success. On the day of the elections, a North Kivu farmer told me on the phone from Goma, "The people are very excited to be voting for the first time. We queued for hours after walking since before dawn. There was no trouble. People were very calm. The [military and political] officials didn't interfere with us. We've waited years and endured so much to get to this point. It's a great day for Congo"

With the optimism, however, came anxiety, especially in the east, where distrust of politicians is rife after decades of corruption. Most eastern Congolese feel neglected by their leaders in Kinshasa, many of whom, given the region's seemingly perpetual violence, would like to forget it altogether. Focusing Kinshasa's attention, though, is the fact that eastern Congo possesses some of the most abundant natural resources on earth, including gold, diamonds, copper, cobalt, tin, and 80% of the world's coltan (the primary mineral used in the manufacture of mobile phones). The conflict-ridden east therefore drives the national economy.

Fuelling distrust and fear, many of the electoral candidates were leaders of rebel groups still busy fighting each other. Furthermore, one of the leading opposition candidates, Etienne Tshisekedi, a longtime critic of Mobutu and both Kabilas, boycotted the elections, accusing the government of deliberate delays in the buildup. Many observers expected Tshisekedi's supporters to disrupt the polls.

Although the July vote eventually occurred peacefully, the greater concern was always its aftermath. Joseph Kabila won the presidential election from a field of 33 candidates but without an outright majority, requiring a runoff in October between Kabila and his nearest rival, Bemba, one of the rebel leaders. Two days after the first round of election results was announced, Kabila's and Bemba's forces battled each other in the streets of Kinshasa, until MONUC and EU troops drove them apart. On 15 November 2006, Kabila was declared the winner of the presidential election, with 58% of the vote, a result Bemba

later contested unsuccessfully in the Supreme Court.

Uncertainty initially surrounded the makeup of the Congolese Parliament after Kabila's *Partie du Peuple pour la Reconstruction et la Démocratie* (PPRD) failed to win an absolute majority in the National Assembly. The PPRD was forced to form alliances with minor parties, including the *Union des Démocrates Mobutistes* (UDEMO), led by one of Mobutu's sons, François. The protracted voting period meant the DRC was without an effective government until the middle of 2007. Violence escalated in North Kivu after August 2007, especially as the FDLR and Nkunda's newly formed *Conseil National pour la Défense du Peuple* (CNDP) attacked each other and civilians, displacing nearly 400,000 civilians. Local human rights organisations reported a severe increase in the use of child soldiers and mass rape. Despite a peace conference in Goma in early 2008 – which largely constituted a platform for the ethnic configurations that necessitated the conference in the first place – conflict in North Kivu continues. As the international community is learning much too late in Iraq, organising elections is not a panacea to the ills of societies wracked by mass violence and corrupt political institutions. In fact, bringing democracy to such countries is invariably destabilising.

Justice for Congo?

The DRC has not only recently experienced massive political upheaval and violence; renewed efforts are also underway to bring perpetrators of mass crimes to justice. Since July 2003, the EU has spent more than forty million US dollars reforming the Congolese judiciary. The EU has funded the purchase of new judicial offices and equipment and provided training and salaries for investigators and magistrates. Bolstering hopes for justice, the International Criminal Court (ICC) in June 2004 launched investigations into crimes against humanity, war crimes, and genocide in the DRC.

Both the EU reforms and the ICC have so far focused on one province, Ituri. Some of the most brutal violence in the DRC has occurred in Ituri since 2003, when Hema and Lendu militias, seeking greater control over land and minerals, attacked each other's communities, killing thousands of civilians and displacing more than five hundred thousand people into Uganda and across eastern DRC. Combatants committed rape, mutilation, and cannibalism, instilling fear throughout the civilian population

In mid-February 2006, I flew from Goma to Bunia, the largest town in Ituri. Bunia is now stable for the first time in many years, due mainly to the presence of thousands of MONUC troops in the town. MONUC's reputation among the population in eastern DRC has improved in the last eighteen months, as it has often successfully separated belligerents and restored order, if only for short periods. During the first five years of MONUC's operation, beginning in 1999, its troops were implicated in crimes against civilians, including the rape of Congolese women and children. Recently, the replacement of many South African, Moroccan, and Uruguayan MONUC soldiers—those most regularly accused of committing crimes—with Bangladeshi, Pakistani, Nepalese, and Guatemalan peacekeepers has helped improve MONUC's image. However, many Congolese remain fearful of the foreign troops sent to protect them.

In Bunia since 2003, one of MONUC's key functions has been to assist the EU's judicial reforms by providing around-the-clock protection to all judges. This move has helped increase the effectiveness of the Bunia judiciary. Chris Aberi, the state prosecutor in Bunia, told me, "We have a different working spirit [in the judicial sector] in Ituri now because of the EU's involvement here. MONUC's protection has helped greatly as well. Judges now feel they can do their job without fear of intimidation. We have a different philosophy and energy for justice."

It is unclear, however, how effectively the Bunia judiciary can deal with serious human rights violations, such as the crimes committed by government troops and Ituri rebels. The weakness of the entire Congolese judicial system led President Kabila in 2004 to refer the most serious crimes in the country to the ICC. After two years of investigations, in March 2006 the ICC transferred to The Hague its first-ever suspect, Thomas Lubanga, leader of the Hema-dominated *Union des Patriotes Congolais* (UPC), a rebel group accused of committing mass atrocities in Ituri. The ICC has charged Lubanga with three counts of war crimes: enlisting children under the age of fifteen years, conscripting them to the armed forces of the UPC, and using them to participate actively in hostilities. The ICC has since transferred to The Hague two other Ituri militia leaders – Germain Katanga, commander of the *Force de Résistance Patriotique en Ituri* (FRPI) and Mathieu Ngudjolo, former leader of the *Front des Nationalistes et des Intégrationnistes* (FNI) – along with Jean-Pierre Bemba, indicted for crimes committed in the Central African Republic (although charges against him may eventually be broadened to include crimes committed by Bemba and the MLC in Ituri and elsewhere in eastern DRC).

Although the arrest of Lubanga highlights the plight of the thousands of child soldiers in the DRC, many Congolese are angry that the ICC has not charged Lubanga with more serious crimes, including the mass murder, rape, mutilation, and torture for which the UPC is notorious. They claim the ICC is focusing on Lubanga's lesser crimes to ensure a quick trial and conviction, thus giving the newly created ICC an early judicial "success." A further issue for both the ICC and the EU is that neither has so far extended its legal work beyond Ituri. Victims of mass violence in other provinces, especially North and South Kivu and Katanga, wonder if justice will ever arrive.

Despite the claims of donor countries and legal officials, such judicial reforms have had little effect on the overall conflict situation in eastern DRC. Human rights groups often argue that holding perpetrators accountable for their crimes helps deter future criminals and thus contributes to general peace and stability. In eastern DRC, there is little evidence to support this claim. Violence in Ituri and elsewhere in the east has escalated. Government forces and rebel groups continue to kill and maim civilians, while Nkunda's troops commit daily atrocities in North Kivu.

In January 2006, eight Guatemalan MONUC peacekeepers were murdered in Garamba National Park, 350 kilometres north of Bunia, it is suspected by the Lord's Resistance Army, the rebel group that has terrorised northern Uganda for twenty years and, since late 2005, operated from bases in northeastern Congo. The attack highlighted the regional dimension of violence in Congo, with fighting flowing across national borders. Regional solutions that address the role of foreign governments and rebels, especially from Uganda and Rwanda, in Congolese conflict are crucial to achieving peace and stability.

The international emphasis on peace, democracy and justice in the DRC has so far failed to address these central causes of conflict. Furthermore, the international community continues to actively support the violence. In October 2006, the Control Arms Campaign published findings that small arms and bullets manufactured in the United States, Russia, China, Greece, Serbia, and South Africa are being diverted through third countries into the hands of rebels in Ituri, in violation of a 2003 UN embargo on the export of small arms to the DRC. Military analysts in Nairobi told me in July that in the previous eighteen months a new "cattle corridor" of small arms has opened from north and northeast Africa—particularly Libya, Eritrea, and Somalia—flowing through central countries such as Sudan and Congo and westward into Nigeria and Côte d'Ivoire. As long as the West ignores this arms trade, conflict in the DRC and across Africa will rage on.

In Bukavu, provincial capital of South Kivu and Goma's sister town at the southern end of Lake Kivu, ethnic tensions mirror those in North Kivu. South Kivu suffers from antagonisms between "indigenous" Congolese and those whom they consider "foreign," particularly the minority Banyamulenge, who live mainly in the high plateaus of the province. The Banyamulenge are a trapped, persecuted people, originally from Rwanda and Burundi, from which many of them fled generations ago, before the colonial era, for political and economic reasons. A local human rights worker, whom I expected to support rights for minorities, instead voiced common prejudices against them:

> The Banyamulenge are a big problem here. They arrive on the hills with cattle and money from Rwanda. They take jobs and land and they get posts in the government . . . .There are many minorities here in South Kivu, so I don't know why we must always talk about protecting the Banyamulenge . . . .Are the Banyamulenge really even a minority? They have never wanted to integrate in South Kivu . . . .The focus on the Banyamulenge is a form of discrimination, pure and simple.

Conflicts over citizenship and land—especially land owned by Banyamulenge "foreigners"—still dominate South Kivu. That the Banyamulenge—like the Tutsi minority in North Kivu—were guaranteed to lose much of their local and national political influence after the elections caused them great concern. Many Banyamulenge also do not trust Nkunda or the RCD to protect their interests by military or political means.

Kabila made two lengthy visits to Bukavu in December 2005 and February 2006, to tell the population of South Kivu that a vote for the PPRD was a vote for peace and stability. An elderly man on a farm beside Lake Kivu, several miles from Bukavu, summed up the response of many South Kivutiens, and Congolese generally:

> Kabila tells us that he can bring us peace. After so many years of war, we are desperate for peace here. We want to be able to work on our farms. We want food, clean water and clothing for our families and to send our children to school. Can Kabila give us all this? I don't know. We have heard this all before, these promises

> of peace. Can we believe anyone when it's the same voices telling us peace will come?

Conclusion

The current situation in the DRC shows that bringing peace, democracy and justice to war-torn countries is often more meaningful for the givers than for the recipients. Holding elections and prosecuting perpetrators of mass crimes are laudable goals. However, more fundamental change—addressing problems of citizenship, ethnicity, land ownership, the theft of natural resources, and the weapons trade—is required before peace is possible and political and judicial institutions can operate effectively.

Furthermore, the objectives of peace, democracy and justice are not inherently compatible. As the DRC case highlights, democracy – especially when understood simply as holding elections – entails political contestation that can easily exacerbate conflict, undermining efforts to achieve peace. Similarly, the pursuit of justice threatens individuals who are often responsible for mass violence, potentially inciting them to lash out and produce further conflict. Necessary objectives such as peace, democracy and justice do not easily go together and if they do they must be sequenced carefully, always with an attentiveness to the particular vagaries of the fragile political and conflict situations concerned.