



## **A Vanquished Peace? The Success and Failure of Conflict Mediation in the Democratic Republic of the Congo<sup>1</sup>**

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### **Abstract**

The Democratic Republic of the Congo (DRC) has endured a long, difficult and brutal chapter in its 52-year history of independence, including one of the most brutal wars Africa has witnessed to date. The aim of this article is to consider the various challenges that continued to severely undermine the DRC's successful transition to peace, which has been constantly threatened with a possible return to full-scale war. In fact the country potentially faces the unsettling prospect of becoming a society that is neither at war, but also neither at genuine peace. The first section of the article briefly probes this potentially troubling new dynamic of no war, no peace and its potential to severely challenge efforts at successful conflict mediation in Africa. The rest of the contribution will explore the extent to which the DRC has oscillated between war and painstaking attempts at securing peace and the factors that have contributed to this troubling dynamic and situation.

### **Introduction**

The Democratic Republic of the Congo (DRC) has endured a long, difficult and brutal chapter in its 52-year history of independence, characterized by chaos, turmoil, instability, violence, conflict and one of the most brutal wars Africa has witnessed to date. It is regrettably a chapter that has defied a satisfactory and peaceful conclusion. As the country prepared to celebrate its 50th anniversary of independence on 30 June 2010 from erstwhile colonial power Belgium, there was a real danger that the 'politics of forgetting' could once again set in – forgetting that this vast country is nowhere near being 'at peace' with itself and the rest of the Great Lakes Region. The country had accumulated a history of protracted violence, with little or no shared experience of genuine peace to offset these negative interactions. Throughout its various incarnations, as the Congo Free State (1885-1908), the Belgian Congo (1908-1960), the Congo Republic (1960-

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1971), Zaire (1971-1997) and finally the Democratic Republic of the Congo (since 1997), a consistent feature of the country's political landscape has been conflict and violent confrontation.

**'The Congo War is with us and it could last for two, four or even ten years'<sup>2</sup>**

Africa, according to Frantz Fanon's now infamous dictum, is in the shape of a pistol, and Congo is the trigger. This has proven all-too alarmingly true, given the grave turmoil and instability the Congo has both produced and experienced since independence. At the turn of the twenty-first century, Congo had become the veritable epicentre of conflict in Africa, with the involvement of six neighbouring armies and four internal ones (Young 2002). The signing of the Lusaka Accords, on 10 July 1999, provided a brief respite from conflict and war, yet did not translate into a sustainable solution for peace. Few combatants actually wanted peace to thrive, as they had too much invested in the perpetuation of the conflict. Despite resuscitating the peace process following the assassination of Laurent Kabila in 2001, Joseph Kabila was faced with two factions – those who supported a revival of the peace and those who were opposed to it (and determined to ultimately see it thwarted). Dunn correctly observes that Laurent Kabila is not solely to blame for the disastrous effects of the war, as the failure to achieve a peaceful, productive post-Mobutu order is not only a failure of an individual (or a result of the foreign occupation of the country) but also the failure of an undigested political past (Dunn 2002: 71).

It is sometimes also easy to forget that this tragedy – dubbed 'Africa's World War' in the newly proclaimed Democratic Republic of the Congo led to the deaths of a staggering 3.8 million people from the very short period of 1998 to 2004 (Turner 2008: 2). It was further suggested during this period that more than 31,000 civilians continued to die every month as a result of the conflict. In 2002, Refugees International had warned of a 'slow-motion holocaust' unfolding in eastern Congo. By 2003, the International Rescue Committee asserted that more people had been killed in Congo than in any war since the Second World War. Turner in his seminal work also refers to 'half a holocaust' in an attempt to describe the events that had unfolded in the country during this devastating period, while other observers likened events to 'two tsunamis in Congo every year' (Turner 2008).

The DRC continues to face many challenges that could still undo the achievements of the fragile transition. The aim of this brief article is to consider the various challenges that continued to severely undermine the DRC's successful transition to peace, which has been constantly threatened with a possible return to full-scale war. In fact the country potentially faces the unsettling prospect of becoming a society that is neither at war, but also neither at genuine peace either. The first section of the article briefly probes this potentially troubling new dynamic of no war, no peace and its potential to severely challenge efforts at successful conflict mediation in

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<sup>2</sup> Statement by Modeste Rutabahirwa, Chargé d'Affaire, Rwandan Embassy in Paris quoted in *La Croix*, September 18, 1998, in response to assessments that the war would end pretty soon.

Africa, if not seriously considered by both scholars and practitioners charged with peacemaking efforts on the continent.

### **No War, No Peace: African Conflict Mediation's New Achilles' Heel?**

Autesserre (2011: 56-65) poses two intricate questions: Why do so many conflicts that end in negotiated peace agreements lapse back into war within a few years? And why do third-party interventions often fail to secure a sustainable peace? A potentially useful conduit through which answers to these questions could be identified, is to be found in the 'no war, no peace' framework.

'No War, No Peace' societies, as conceptualized in the frameworks of Roger MacGinty (2008) and Dennis Dijkzeul (2008), continuously reproduce institutions, such as structures, formal organizations, informal groupings, as well as norms and values that generate conflict potential both within the society and among neighbouring states. 'No war, no peace' societies could also be viewed as societies that have experienced a prolonged and intense period of conflict, followed by extensive and intensive mediation efforts, culminating in the signing of a widely-endorsed peace agreement, which has not necessarily yielded the advent of genuine, sustainable peace, due to unresolved issues in conflict or the deliberate continuation of conflict amongst a segment of society which does not view peace as beneficial. A number of post-peace accord societies have slipped into situations of a grudging acceptance of the need for a co-existence with traditional enemies, but little enthusiasm for a truly transformative peace. In numerous ways the DRC represents an incomplete peace and an unresolved conflict.

### **An Incomplete Peace, and an Unfinished War**

The peace process in the DRC has been left wholly incomplete, particularly in the country's volatile east. The eastern DRC has continuously found itself embroiled in a never-ending spiral of conflict, turmoil and instability and each new incident of violence, in violation of numerous peace agreements, has created new conditions of conflict potential, while simultaneously exacerbating existing conflicts that had never been adequately addressed from the very outset. A major 'spoiler' of the peace process, General Laurent Nkunda, played a particularly destructive role in the perpetuation of violence, in reaction to the continuing and threatening presence of the Hutu rebel movement the *Forces Démocratiques de Libération du Rwanda* (FDLR). The DRC's democratic transition has been gravely undermined and repeatedly endangered by the failure to consolidate peace in the entire country. The failure of yet another peace deal in this critical region could place the country on the unenviable path of entrenching the existence of a 'no war, no peace' society.

Research undertaken over the period 1945 to 1993 suggests that about half of all peace agreements fail in the first five years after they have been signed (Licklider 1995: 681-690). While the end of war can inaugurate a durable peace, the termination of one conflict often introduces a short interregnum until the outbreak of the next violent encounter. This is a situation that has characterized numerous African conflicts. The brief interruption of conflict *does not*

necessarily imply that the parties to a conflict have satisfactorily resolved the issues in dispute either. The post-conflict phase is considered to be the phase in the life cycle of conflict when hostilities have ceased. In practice however tensions may flare up again and a fragile peace process may relapse into conflict (De Zeeuw 2001). Military stalemates could therefore increase the risks of recurrent conflict. Another problem relates to the viability of peace enforcement. While both parties may agree that a particular settlement is preferred to the continuation of war, one or more belligerents may anticipate gains by failing to observe its terms or implement its conditions. A ceasefire therefore does not necessarily imply that a conflict has reached its end. Furthermore a peace agreement may not be the end of conflict either.

Great skepticism and discontent persist about the future of the DRC and the viability of the peace initiatives that were conceived to restore stability to the vast country that continues to be decimated by conflict and brutal violence.

The critical three-year transition period, which commenced with the signing of the Sun City peace agreement in South Africa in 2003, significantly improved the security situation in most parts of the country, creating conditions for peaceful elections in July and October 2006. Tensions in the east however remained alarmingly high. While some progress was reported in Ituri district, and relative stability prevailed in South Kivu province, Kabila's victory was followed in North Kivu by violence on a scale and intensity not seen since the height of the war in 2000 (ICG 2007). The transition's biggest failure has been to effectively address the conflict in North Kivu.

North Kivu has been the epicentre of Congo's violence since the conflict erupted more than fifteen years ago. While the dawn of (a fragile) peace had been heralded in the rest of the country, the omnipresence of war clouds in the east has continued to cast a dark shadow over the critical gains and achievements made towards securing sustainable peace and has provided compelling evidence to hold forth the argument that the DRC was facing the emergence of a situation of 'no war, no peace', particularly in its volatile east. This reproduction of conflict potential undermines democratic transitions, conflict transformation, and economic development. In this context the Eastern DRC provides a potentially important African case study in support of the 'no war, no peace' thesis. The purpose of this article is to focus particular attention on the eastern DRC as the epicentre of the possible emergence of an archetypal 'no war, no peace' society.

Many contemporary peace accords have failed to deliver durable, high-quality peace. Frequently peace accords falter (often rapidly so) and often a return to conflict and renewed violence becomes inevitable. The failure of peace accords have regrettably become a regular feature of many of Africa's contemporary peace processes.

As MacGinty (2008) observes, "rather than peace, many post-peace accord societies experience a '*no war, no peace*' situation: a grudging hiatus in violent conflict crowned with an internationally supported peace accord that finds little approval at home after initial enthusiasm has worn off." The concept of 'no war, no peace' holds tremendous analytical value for both understanding and addressing conflicts on the African continent, most notably the conflict

situation that had transpired in the eastern Congo – a conflict that had remained excruciatingly difficult to resolve.

### **An Uneasy East and the Presence of the FDLR**

As Autesserre notes from 2003 onward, UN staff and diplomats defined the Congolese context as a ‘post-conflict’ environment in which various bouts of large-scale fighting became mere ‘crises’ rather than evidence that the war was continuing (Autesserre 2011: 56-65).

The ink on the ominously titled Final Act of April 2003 sealing peace in the embattled DRC had hardly dried when reports appeared of renewed ethnic violence. An unavoidable course of events had conspired to spark off yet another crisis in the DRC with the eruption of violence in Bunia in the Ituri region. Many parts of the Congo had remained gripped in fear and violence and appeared almost immune to the advent of peace. The troublesome transition was already in danger of collapsing. What was meant to signify the end of a brutal war had degenerated into an almost never-ending saga of delayed implementation and continued distrust between the key antagonists, who (at times deliberately) viewed one another as enduring enemies as opposed to genuine partners for peace.

Both wars that devastated the DRC began when Rwandan troops crossed the border into the country’s unstable eastern region, the Kivus. The political transition that began in July 2003 had been repeatedly undermined by Rwanda’s continued efforts to protect its sphere of influence in the Kivus (Swart 2005). Congolese citizens in the densely populated provinces of North and South Kivu in eastern DRC on the border with Rwanda were deeply affected by the two consecutive wars from 1996 to 1997 and again from 1998 to 2003.

Amidst the frenzied technocratic and neo-institutional peace accord implementation that often accompanies a peace process, it may be difficult to notice that the peace is not working or that the main parties to the conflict have not actually addressed the *core grievances* that have caused, maintained and often exacerbated and escalated the conflict in the first instance (MacGinty 2008).

MacGinty (2008: 2-3) further observes that:

many contemporary peace accords therefore minister to conflict manifestations rather than causes, reinforce rather than challenge inter-group division, attend to armed groups but neglect less vocal but more vulnerable constituencies and fail to deliver appreciable quality-of-life changes to many inhabitants. In short they deliver poor quality peace.

The presence of the FDLR has been at the heart of the problem between Rwanda and the DRC for the last 14 years. Efforts to achieve a negotiated settlement between the FDLR and the Rwandan government had been repeatedly thwarted, and intransigence by the Rwandan government had repeatedly ruled out FDLR demands for national political dialogue. The continued presence of FDLR rebels in the eastern DRC provided Rwanda with a continued pretext to militarily intervene in the region. A key bargain that remained unfulfilled was the

definitive Rwandan withdrawal in exchange for disarming of the FDLR, the insurgent force with strong links to the *génocidaires* of 1994, and provided the strongest justification to Kigali for renewed conflict. Consequently Rwanda focused its attention on the Hutu insurgent threat as the primary rationale for possible further military action in the DRC. The movement's presence has been a source of persistent political tension between the countries of the Great Lakes region and has entrenched a continuing condition of insecurity in the lives of local people in the Kivu provinces.

In Rwanda, growing restrictions on political space have promoted views among some Hutu, including those in the FDLR, that they have little or no say in Rwandan political life and that the Hutu population are being collectively punished for the genocide (Human Rights Watch 2009). Congolese civil society groups claim that the failure to open political space in Rwanda is one of the underlying reasons for the continued suffering in eastern Congo. Many international observers also believe that the FDLR problem will not be solved if there is no political space for the Hutu in Rwanda. Levine furthermore observed that, while the FDLR remains in control of significant terrain in the eastern DRC, it makes sense to say that the war there is not over (Levine 2011: 95-113).

The ripple-effects of Rwanda's brutal genocide irreversibly washed over the eastern DRC, fuelling a conflict leading to four times as many deaths as in the Rwandan genocide itself (Prendergast 2005). The prospect of a historic election also failed to turn the tide against violence, despite the 84.3 percent voter turnout to approve the country's constitution in December 2005 (UK Border Agency 2009: 20).

### **The Bullet Trumps the Ballot: The Failure of the Elections to Consolidate Peace**

The eastern DRC has oscillated between a return to a state of near all-out war and a negative, fragile and troubled peace. As Dijkzeul contends, it is often assumed that a peace-building process ends with the establishment of an election mechanism along with the introduction of some economic recovery package (Dijkzeul 2008, 4). In the DRC this was definitely not the case, and a number of incidents would soon vividly illustrate this point.

Nearly eighteen million Congolese participated in the elections of 30 July 2006 (ICG 2006: 2). The vote was deemed relatively peaceful, and its turnout a sign that a large majority of the country's citizenry were desperate for peaceful change through the ballot. On 6 December 2006, Joseph Kabila was sworn in as the first democratically elected president since Congolese independence. At this critical juncture the peace process was, however, still not deemed complete, notably in the east of the country. Laurent Nkunda's ominous ascendancy in the east, coupled with the continued impunity of the FDLR was soon to engulf the region in a rip current of renewed chaos and anarchy.

### **A Spoiler in the Peace Process: Laurent Nkunda**

Laurent Nkunda, portraying himself as the defender of the Tutsi minority, unveiled his own movement, the National Congress for the Defence of the People (CNDP). Nkunda presented himself as spokesman for, and protector of, Congolese Tutsi. One of the purported main aims of the CNDP has been the eradication of the FDLR rebels, whom it accuses of fomenting the perpetration of yet another potentially devastating genocide. Nkunda in particular reinforced the perception of the imminence of genocide, fuelling paranoia amongst the Tutsi. Nkunda's actions, however, had led to an upsurge in anti-Tutsi sentiment. Following his attacks on Bukavu and Goma in May 2004 and November 2006 respectively, most Tutsis fled, fearing popular anger and reprisal attacks, and consequently had fomented even greater inter-ethnic enmity and rivalry that had endangered the Tutsi minority's security in North Kivu (Human Rights Watch 2009: 31).

Nkunda's CNDP posed a significant problem for Kabila's new government. Kabila's election success had largely come from eastern DRC, where the population voted overwhelmingly for him on the basis that he promised to secure peace. The sense of distrust and enmity that prevailed proved too strong and the peace too fragile to last. Nkunda firmly believed that he was engaged in an unresolved conflict to protect thousands of Tutsis still being targeted. From this particular vantage point it would have been difficult to argue against the notion that a 'no war, no peace' situation was slowly but surely being entrenched in the east. This was characterized by a number of peace agreements, which were in some cases instantaneously and repeatedly violated.

### **A Plethora of Peace Agreements, a Dearth of Peaceful Coexistence**

The result of the failure to devise a sustainable peace strategy in the eastern DRC had ultimately led to a plethora of painstakingly negotiated peace agreements and intensive mediations, each violated with an almost immediate return to the battlefield. Ethnic animosity and deeply-entrenched enmity has contributed to an intractable and complex conflict situation, where the strife-torn region has most vividly witnessed the rapid emergence and evolution of a 'no war, no peace' society.

Alarmingly aware of the grave humanitarian crisis the conflict had inflicted in North Kivu, representatives of the Rwandan and DRC governments met in Nairobi in November 2007, aiming to resolve the debilitating threat of armed groups in the east. The Kinshasa government pledged to prepare a detailed plan to disarm and address the threat posed by Hutu rebels, while the Kigali government agreed not to support any armed groups in eastern DRC and to prevent them crossing its border in either direction. The DRC had frequently accused Rwanda of backing Nkunda, which had been repeatedly denied (IRIN 2007).

The Nairobi Communiqué of 9 November 2007 was considered to be the most advanced declaration of intent that Rwanda and the DRC had ever achieved regarding a common approach to FDLR disarmament and the normalization of relations between the two respective countries. The Nairobi Communiqué critically laid the foundation for the peace conference in North Kivu's capital, Goma, which also prompted Laurent Nkunda to declare a unilateral ceasefire. Yet it would soon become apparent that the Goma agreement of 2008 too would not lead to peace, and

instead represented yet another critical stage in entrenching a ‘no war, no peace’ mindset indefinitely in the DRC.

There is always a danger that a ceasefire becomes a substitute for more fully developed peace processes and peace accords. In other words, there is a danger, as MacGinty warns, that the ceasefire ossifies into a protracted ‘no war, no peace’ situation in which essential conflict causation and maintenance factors remain unaddressed.

### **Peace in Pieces: The Goma Agreement’s False Sense of Security**

A peace agreement signed between the government and the various armed groups active in eastern DRC, including the faction led by Nkunda, was supposed to mark an important step towards restoration of peace and stability in the region. The agreement, signed on 23 January 2008 in the North Kivu capital, Goma, included an immediate cessation of hostilities, disengagement of troops and the creation of a buffer zone (IRIN 2008). The agreement, however, lulled all parties into a false sense of confidence that hostilities were to cease. At the centre of the immediate violation of the agreement was the continued threat posed by the presence of the FDLR. The Nairobi Communiqué of 2007 made provision for the forceful repatriation of the FDLR, *whereas* the Goma agreement focused on a ceasefire and voluntary demobilization and integration process. Forceful operations against the FDLR were destined to reignite violence in the east. The key to ensuring sustainable peace in the east critically rested on the difficult, yet necessary task of bringing the FDLR to the negotiation table (Boshoff 2008). The Goma agreement however failed dismally.

The crisis that erupted in North Kivu between August and November 2008 was deemed a direct result of the collapse of both the Nairobi and Goma peace processes. The Nairobi Communiqué and the Goma peace conference had only secured a temporary lapse in the fighting between the Congolese army and Nkunda’s insurgency, as well as a new (albeit fragile) framework for stabilising relations between Congo and Rwanda (ICG 2009a).

An important attempt to salvage the peace process during this time came with the appointment of former Nigerian president, Olusegun Obasanjo, as the UN Secretary-General’s Special Envoy for the Great Lakes Region, and the appointment by the AU of former Tanzanian president Benjamin Mkapa. This was immediately followed by the critical summit meeting in Nairobi attended by Kabila, Kagame, Ban Ki-moon, the Chairperson of the AU Commission, and the presidents of Burundi, Kenya, South Africa, Tanzania and Uganda. This critical summit mandated Obasanjo to focus on addressing the challenges to peace and security posed by the continued presence and activities of illegal armed groups in the eastern part of the DRC and on building confidence between the DRC and its neighbours (ICG 2009b). The summit also announced that Obasanjo and Great Lakes Special Envoy, former Tanzanian president Benjamin Mkapa would play a leading role in mediating a political solution according to the stipulations of the Nairobi Communiqué and the Goma agreement. Obasanjo attempted to maintain the renewed diplomatic momentum, touring the region and seeking a permanent cessation of hostilities. He met with Kabila in Kinshasa, Kagame in Kigali, and Nkunda in his home base of Jomba. Nkunda

formally recognised Obasanjo as the official mediator, and they agreed on the implementation of an immediate ceasefire. Obasanjo also announced that the Congo now accepted negotiations with Nkunda.

On 4 December 2008 the representatives of the DRC and Rwanda signed the so-called ‘Four on Four Agreement’ that made provision for the FARDC, supported by the Rwandan Defence Force (RDF), to forcefully disarm the FDLR. The idea of forcefully disarming the FDLR had come a long way and even formed the basis of the Nairobi Agreement signed in 2007 (Boshoff 2009: 64-9). The latest military operation, primarily targeting the FDLR, now consisted of a previously unthinkable alliance – former arch enemies Rwanda and the DRC.

### **The Enemy of My Enemy: The DRC and Rwanda’s Joint Military Operations against the FDLR**

Ultimately, three successive anti-FDLR operations have been carried out: ‘Umoja Wetu’, ‘Kimia II’ and ‘Amani Leo’. On 20 January 2009, at least 4,000 Rwandan troops, and possibly more, crossed the border into eastern DRC to fight the FDLR in a joint Rwandan-Congolese offensive dubbed Operation Umoja Wetu (‘Our Unity’ in Swahili). The joint operation only succeeded in driving the forces of the FDLR to the west and north of North Kivu province. The one-month anti-FDLR operation had a mixed outcome. The operation had been limited to North Kivu, despite an important FDLR presence in South Kivu. According to General Numbi, the coalition’s mission had not been the destruction of the FDLR, but a reduction in its operational capacity in order to secure its surrender and the repatriation of its fighters to Rwanda (ICG 2009b: 9).

Government representatives from both Rwanda and Congo emphasized that the mission was not complete and pressed the UN Organization Mission in the Democratic Republic of the Congo (MONUC) to join forces with the Congolese army to further disrupt and destabilize the FDLR in North and South Kivu. On 2 March 2009, the Congolese army, together with MONUC peacekeepers, launched the second phase of military operations against the FDLR, known as operation Kimia II (‘quiet’ in Swahili).

The respective operations failed, however, to end the threat posed by the FDLR. Renewed attacks by Rwandan Hutu rebels in North Kivu had forced more than 30,000 people to flee their homes throughout March 2009. An additional 100,000 civilians were uprooted in North Kivu in March and April and dozens of villages were pillaged and set ablaze in FDLR-dominated areas of South Kivu.

The joint operation Umoja Wetu unsurprisingly stirred tensions and caused internal ruptures and divisions within and amongst the various sectors of Congolese society as a whole, who did not unanimously approve of their government’s decision. The surge of Rwandan troops into eastern DRC as part of the joint operation to oust the Hutu militia had stirred Congolese memories of past atrocities blamed on Rwandan forces. While inhabitants of North Kivu did not react in an openly hostile manner to the arrival of RDF troops in their province, on the streets of the capital, Kinshasa in particular, locals expressed anger and apprehension over the offensive that was carried out (Bosongo 2009). Rwandan forces twice invaded in the 1990s in pursuit of

the FDLR and many concerned Congolese observers have raised the specter of the ‘Balkanization of the DRC’.

As Levine observes, MONUC’s involvement in Kimia II was severely criticized. Critics have argued that MONUC ought to have either used its leverage to force the FARDC to refrain from abusing civilians, or refused to support it, and that MONUC did not adequately defend civilians from predictable FDLR reprisals – while endorsing the goal of eliminating the FDLR (Levine 2011: 95-113). Another particularly vexing problem remained the conundrum posed by General Nkunda.

### **Reigning in a Renegade**

Major spoilers have persistently derailed prevented the dawn of peace in the eastern DRC. The most notorious figure in entrenching animosity had been General Laurent Nkunda. He was instrumental in kick-starting the FDLR back into life and according to Prunier (2009) “reopened all the sores of the east”. The peace process would not and could not move forward if renegade Tutsi General Nkunda was not removed from the leadership of the CNDP.

This also represented a major shift in Rwanda’s policy as Nkunda had long been viewed as Rwanda’s ally in eastern DRC. Nkunda in particular did not back the new alliance between Rwanda and the DRC, which led to him becoming a major impediment to Rwanda’s plans in the region. As the International Crisis Group observes: “Rwanda had increasingly grown restive with Nkunda’s behaviour, while Joseph Kabila had a long history of personal antagonism towards him” (ICG 2009b: 7). Nkunda – defiant as ever – attempted to resist his removal, but on 16 January 2009, his era as leader of the CNDP ended, which was followed by his arrest in Rwanda.

After intense negotiations through February and the negotiation of a preliminary agreement, the Government of the DRC and Tutsi rebels in the east of the country signed a landmark peace deal on 23 March 2009 under which the CNDP rebel movement transformed into a political party (SAPA-AFP 2009). The signing of a peace agreement between the DRC Government and Tutsi rebels in eastern DRC was seen as a significant step towards achieving the consolidation of the peace process that was concluded in 2002 and 2003. Failure to secure sustainable peace in eastern DRC has left the peace process incomplete and repeatedly in danger of collapsing. The signing of the peace agreement in Goma, capital of Nord-Kivu, was of even greater significance, as this city was the scene of fierce clashes between the army and the rebels of the CNDP in 2008.

Despite some signs of rapprochement, the authority of the Congolese state and the genuine security of the population have still not been re-established in North and South Kivu provinces and regional cooperation has hardly progressed. The heralded 23 March 2009 Peace Agreement has also suffered setbacks and delays. The UN Organization Stabilization Mission in the Congo (MONUSCO) (discussed in greater depth below) is likely to face numerous tests in stabilizing the volatile east. Similarly, President Kabila’s Congolese Programme for Stabilization and Reconstruction in Conflict-Affected Areas (STAREC) and the International Security and Stabilization Support Strategy for Congo (ISSSS) encountered several obstacles in 2010.

## **A Defeated Peace, a Defiant War**

International aid agencies remained largely skeptical of the actual progress that has been made in the eastern DRC. The humanitarian crisis in the DRC has been described by Oxfam in its press release of 7 April 2009 as being “as severe as it was in late 2008”, and announced that it was significantly scaling up its emergency response to reach an additional 150,000 people displaced across large swathes of North Kivu and South Kivu (Oxfam International 2009).

Despite the presence of the UN and claims of success in protecting civilians, the ability to protect *all* innocent civilians has failed dismally. Innocent civilians have repeatedly been caught in the crossfire and in many instances have deliberately been targeted by both government and rebel forces. In many instances the FDLR were said to be “deliberately killing and raping Congolese civilians as apparent punishment for the military operations against them” (SAPA-AFP 2009). Rape in particular has become a lethal, brutal and abhorrent weapon of war and incidents of sexual violence alarmingly proliferated throughout 2009 and continued throughout 2010 as well as 2011.

Congolese civilians who desperately sought protection from the brutal FDLR attacks were also let down. The Congolese army, the FARDC, in its joint operations with the Rwanda Defence Forces (RDF), in operation Umoja Wetu, and later with the support of MONUC peacekeepers in operation Kimia II, also targeted and committed horrific abuses against civilians. During offensive operations, the coalition forces repeatedly accused civilians of collaborating or sympathizing with the FDLR, with extremely negative consequences.

Congolese government officials clearly failed to take adequate or effective steps to protect civilians in eastern Congo. During military operations in Umoja Wetu and Kimia II, the Congolese armed forces made little if any planning for civilian protection, integrated highly abusive militias into its forces, and failed to seriously address the deeply entrenched problem of impunity (Dagne 2011: 126).

MONUC, however, launched important steps in 2009 to improve the protection of civilians. It increased the number of field bases, placing peacekeepers throughout North and South Kivu in locations where they were better able to provide civilian protection. In a further effort to overcome some of the challenges and bridge the divide between MONUC peacekeepers and the civilian population, MONUC also established Joint Protection Teams in early 2009. Operation Amani Leo commenced on 1 January 2010, and was based on a policy of stricter conditions for the provision of support by MONUC. In summer 2010, 60,000 FARDC and ten peacekeeping battalions from MONUC were deployed in North and South Kivu.

On 30 September 2010, the Office for the Coordination of Humanitarian Aid (OCHA) released figures of 590,000 displaced in North Kivu and 676,000 in South Kivu, indicating that the total number of IDPs had risen across the Kivus. The military approach (not surprisingly) had fuelled greater insecurity, instead of restoring security.

In a considerable development in early October 2010, French authorities arrested the Executive Secretary of the FDLR, Callixte Mbarushimana. Mr. Mbarushimana had been wanted by the International Criminal Court (ICC) for five counts of crimes against humanity and six

counts of war crimes committed in the DRC in 2009 (Dagne 2011). In March 2009, the United States had imposed a travel ban and an asset freeze on Mr. Mbarushimana. On 1 December 2010, the United Nations Sanctions Committee for DRC added three FDLR members and one other individual to its sanction list. The Hutu rebels have, however, remained defiant, and in early January 2012 the FDLR continued its attacks in eastern DRC (specifically in South Kivu province), in which 26 people were killed and 13 wounded.

### **MONUSCO: Consolidating (a Non-Existent) Peace**

MONUC's role is likely to be highly scrutinized in any future operations following the Kimia II controversy. The UN Special Rapporteur on Extrajudicial Executions, Philip Alston, was the most severe in his analysis of operation Kimia II. Following a 10-day mission to Congo in October 2009, he was the first UN official to publicly acknowledge that MONUC's mandate and role in operation Kimia II had transformed the peacekeeping mission into "a party to the conflict in the Kivus" (Human Rights Watch 2009: 148-149).

Overall the immediate appraisal of MONUC's legacy is arguably laced with a sense that the mission failed to achieve its most salient objective. Throughout its deployment the mission displayed low levels of consistency, effectiveness and efficiency. The mission repeatedly failed to operationalize UN Security Council Resolution 1856 of 22 December 2008 that mandated it to "ensure the protection of civilians, including humanitarian personnel, under imminent threat of physical violence, in particular violence emanating from any of the parties engaged in the conflict" (Koko 2011: 29-41). Furthermore, Vircoulon observed that "despite Congolese soldiers' actions that could qualify as war crimes in areas monitored by MONUC, UN troops...never used force to prevent FARDC rogue elements from committing crimes" (Vircoulon 2010).

The transformation of MONUC into MONUSCO had turned out to be a compromise between the DRC government's request that MONUC withdraw and the UN eagerness to pursue its peace consolidation work in the country. According to UN Security Council Resolution 1925 of 28 May 2010, MONUSCO has a two-fold task: The first is the protection of civilians and the second is the stabilization and consolidation of peace. To this effect MONUSCO shall "ensure the effective protection of civilians, including humanitarian personnel and human rights defenders, under imminent threat of physical violence, in particular violence emanating from any parties engaged in the conflict" (UN 2010).

As Koko observes, as far as stabilisation and peace consolidation are concerned, MONUSCO is expected to work with the government of the DRC in strengthening its security sector as a way of re-affirming state authority; implementing the national stabilisation and reconstruction plan; curbing the illegal exploitation and trade of natural resources; and providing technical and logistical support for the organisation of national and local elections (Koko 2011). Notwithstanding these extensive tasks allocated to MONUSCO by the Security Council, Resolution 1925 is unequivocal on the primacy of the government of the DRC in 'leading' the process for the restoration of peace, security and stability in the country. The resolution thus:

Emphasizes that the Government of the Democratic Republic of the Congo bears primary responsibility for security, peacebuilding and development in the country, and encourages the Government ... to remain fully committed to protecting the population through the establishment of professional and sustainable security forces, to promote non-military solutions as an integral part of the overall solution for reducing the threat posed by Congolese and foreign armed groups and to restore full State authority in the areas freed from armed groups.

Apart from the envisioned short-term mandate of MONUSCO (extended until June 2012), the most problematic aspect of the mission is the futility of its peace consolidation focus. This is two-fold. Firstly, any attempt to consolidate peace, while conflict, violence and instability persist in the east of the country is likely to swiftly contribute towards the failure of MONUSCO's mandate. Secondly, (and perhaps most worryingly of all) attempts at consolidating (what is plain to behold as) an incomplete peace process that has repeatedly been riddled with major deficiencies, structural weaknesses, major oversights and provided ample opportunity for the continuation of war, will undoubtedly secure the peace process in the DRC the infamous epithet of a failed peace, a vanquished peace, providing fertile conditions for the emergence of the next major conflict.

### **The 2011 Elections: Consolidating Future Conflict Potential?**

The run-up to the country's highly anticipated 2011 elections were characterized by a great deal of trepidation and a sense of rising malcontent. Even though these polls appeared less politically relevant for the international community, as the second elections in Congo's post-war transition, they were regarded as potentially being more dangerous than those held in 2006 (Vircoulon 2011).

As had been feared, the poll was quickly marred by allegations of fraud and violence. In early December 2011, clashes erupted between protestors and security forces ahead of the country's full election results. The polls also suffered a number of delays as voting was stretched over three days. The UN mission in the DRC led a delegation of diplomats that met with incumbent President Joseph Kabila and his main rival, Etienne Tshisekedi, in attempts to ease tensions that emerged amidst allegations that the 28 November poll was mismanaged and fraudulent (Lewis and Hogg 2011). Initial results placed Kabila in a sizeable lead over Tshisekedi.

The endorsement of the election by the Southern African Development Community (SADC) election observer mission appeared contradictory to the events that transpired on the ground. Protestors from the DRC, based in South Africa, in particular lashed out at President Jacob Zuma's response to the electoral contest-accusing him of being complicit in what they believe to be electoral fraud (*Mail & Guardian* 2011a); Zuma, in his capacity as Chairperson of the Organ on Politics, Defence and Security Cooperation, welcomed the outcome of the poll.

A rising anti-Kabila wave in particular swept across expatriate Congolese citizens worldwide during the elections. Accusations amongst the Congolese community in South Africa for instance

abound that Kabila is not truly a Congolese citizen – but of Rwandan decent; that his government is involved in wide-spread corrupt practices and that he is selling off the Congo’s vast mineral wealth for nothing (Wolters 2011).

The election standoff intensified following the announcement of Kabila’s victory – which was deemed in various authoritative circles (such as the Carter Centre and National Episcopal Conference of the Congo) as being so flawed it lacked credibility. Election officials announced that Kabila had defeated Tshisekedi 49 percent to 32 percent in the polls. The re-elected president quickly rejected notions that the elections lacked credibility. Etienne Tshisekedi promptly rejected the result and declared himself president (Peuchot 2011a). Shortly after the announcement violent protests and looting erupted in Kinshasa. The campaign was further marred by bloodshed that according to Human Rights Watch figures left at least 24 civilians dead. Security forces appear to have tried to hide the killings by quickly removing corpses, according to a Human Rights Watch report, while sections of the military, including the presidential guard, are accused of detaining people in military camps in the capital Kinshasa (Hogg 2011).

On 20 December 2011 Joseph Kabila was formally sworn in for another term as president – one that is likely to be severely strained with upheaval and lack of trust amongst sections of the Congolese population who firmly believe that the president had stolen the election. The incumbent was confirmed the winner by a Supreme Court that the opposition claims was packed with loyalists prior to the country’s election (Peuchot 2011b). Kabila’s inauguration was largely snubbed and was attended by only one other head of state – Zimbabwean President Robert Mugabe.

Etienne Tshisekedi, who proclaimed himself the people’s president urged the country’s armed forces to defect and recognize him as the legitimately elected president. In eerily-similar circumstances to events in Côte D’Ivoire, Tshisekedi attempted to hold a parallel inauguration ceremony towards the end of December 2011. Police swiftly dispersed opposition supporters who had gathered near Tshisekedi’s residence in Kinshasa’s Liemete district and made several arrests. Armoured vehicles of the Republican Guard and a large number of police had also taken up positions around the capital’s main Martyrs Stadium where Tshisekedi had called upon his supporters to attend his ‘swearing-in’ ceremony (*Mail & Guardian* 2011b). He was subsequently ‘sworn-in’ by aides in his backyard. International observers rightly fear the emergence of a potentially debilitating institutional crisis that could also be accompanied by a flare-up in civil unrest.

The Independent National Electoral Commission (CENI) halted the vote count for parliamentary elections in late December 2011 until the arrival of experts expected from the United States and Britain. The CENI suspended the compilation of results, faced with many claims of vote-rigging and expressed its wish to secure transparency and credibility of the process (*Mail & Guardian* 2011c). A staggering 19,000 candidates were contesting 500 seats in the country’s National Assembly.

In early January 2012 foreign experts arrived in the country to consider a possible broader review of the November 2011 elections. The team from the US-based National Democratic

Institute (NDI) and International Foundation for Electoral Systems met with key political parties as well as national and international electoral observers during their mission. Joseph Kabila's party and its allies secured a parliamentary majority as results were finally released. The ruling People's Party for Reconstruction and Democracy (PPRD) and its allies captured an absolute majority of about 260 seats in the 500-seat National Assembly while the main opposition party won about 110 seats, according to figures released by the electoral commission. The rest of the seats are held by a number of very small parties which are not in official alliance with either camp. About 100 parties will be represented in the new Parliament, many with just one or two seats. Kabila's party obtained 62 seats, the biggest number – down from 111 in the 2006 elections. Opposition leader Etienne Tshisekedi's Union for Democracy and Social Progress (UDPS), which had boycotted the 2006 polls and now also the outcome of the 2011 polls, followed with 41 seats. The results did not include seventeen seats in seven of the country's 169 voting districts, where the electoral commission had annulled the vote due to election violence. It would therefore appear as if the country's second major electoral contest has once again pointed out the deep fissure that remains within the DRC – amongst its leadership and populace alike. Divisions are unlikely to heal unless a more concerted effort is undertaken to unite the country behind a comprehensive peace, reconciliation and genuine nation-building project that will deal with all remaining tensions that had repeatedly contributed to conflict. The prospects for sustainable peace and democratic consolidation appear now even further out of reach than initially was thought. The renewed violence that erupted in the east in April 2012 has likely set these prospects back even further – and much closer to renewed war.

### **A (Renewed) Mutiny against Peace?**

Events that unfolded since April 2012 have confirmed the sobering realization that the crisis in the east is ossifying into renewed conflict, violence, instability and insecurity that could provide renewed momentum for all-out war and could place any and all attempts at maintaining (that which was already a highly fragile and precarious) peace in an indefinite state of debilitating paralysis.

The UN's envoy to the DRC has warned that a new rebellion led by an ex-warlord indicted for war crimes threatens to uproot millions of civilians. Roger Meece told the UN Security Council it was important to quickly put an end to the mutiny by General Jean Bosco Ntaganda<sup>3</sup>, who has been sought by the ICC since 2006, and another rebel leader, Sultani Makenga. He said

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<sup>3</sup> Ntaganda, also ominously known as Bosco 'The Terminator' Ntaganda who is a Tutsi, was a feared warlord and former chief of staff of the CNDP until he joined the Congolese army in 2009 as a general following a peace deal that paved the way for him and his men to be integrated into the military. He was allowed to live freely in the provincial capital of Goma, despite the ICC arrest warrant, but in late April the peace deal fell apart and Ntaganda and his troops defected from the army.

their rebellion had led to an increase in attacks by a number of other armed groups, which has deepened instability especially in North and South Kivu, and could destabilise the Democratic Republic of Congo's (DRC) surrounding region (Lederer 2012).

Heavy fighting broke out on April 29 between the army and renegade troops led by General Bosco Ntaganda. Long wanted by the ICC, he is also now wanted by the Congolese government, which holds him responsible for the outbreak of fighting between troops and mutineers in the east. The governor of North Kivu accused Ntaganda of being behind the fighting, a charge which he denied. His CNDP forces joined the regular army under a peace deal in 2009, but mutineers broke the pact, citing unpaid salaries among other grievances. The mutineers also said they wanted the full implementation of a peace pact signed in 2009, when they were incorporated into the national army (AFP 2012).

Following his defection, Ntaganda did not receive as broad support for this mutiny as he anticipated, and the response of the Congolese government has been effective. The Congolese government appears to have managed to keep a large number of troops once loyal to Ntaganda in the army and has successfully persuaded many other deserting troops to resume their posts without punishment. This has substantially reduced the numbers available to Ntaganda's mutiny, as well as to the parallel movement-MN23 started by Makenga shortly afterward (Lederer 2012).

Mutineers questioned by media outlets said they belonged to the March 23 Movement (M23), a new military group formed by ex-members of the CNDP and led by Colonel Sultani Makenga, who deserted on 4 May with several dozen men and are holed up in the Rutshuru territory near the border. The relationship between the rebel leaders is unclear, noting that the M23 movement strongly denies any association with Ntaganda, possibly because he is wanted by the ICC (Lederer 2012).

Official representatives of the DRC government expressed renewed fears of possible Rwandan involvement in the mutiny (which still remains under investigation at the time of writing) – which could possibly imply that the crisis was evolving dangerously towards a potential rupture of the peace between the two neighbours (SAPA-AFP 2012). The UN, specifically its Group of Experts, recently came out with allegations of Rwandan meddling in the current M23 mutiny against the Congolese government.<sup>4</sup> Research by Human Rights Watch also

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4 The UN report by a group of experts appointed by the Security Council said it had “found substantial evidence attesting to support from Rwandan officials to armed groups operating in the eastern DRC”, including shipping weapons and money to M23 in breach of a UN arms embargo and other sanctions. “Since the earliest stages of its inception, the group documented a systematic pattern of military and political support provided to the M23 rebellion by Rwandan authorities”, it said. The report said the Rwandan government gave “direct assistance in the creation of the M23 through the transport of weapons and soldiers through Rwandan territory”, and recruited Rwandan youths, demobilised ex-combatants and Congolese refugees as M23 fighters. It also offers evidence of “direct Rwandan Defence Forces (RDF) interventions into Congolese territory to

found that the Rwandan military provided hundreds of fighters and weapons across the border. Rwanda vehemently denies the claims.

Congo and Rwanda therefore appear, in the words of Smith (2012), “to remain locked in a deadly embrace” that could reignite conflict across the region beyond the recent conflagration.

Tensions could further be compounded following calls for the investigation of Rwanda’s leadership for alleged participation in war crimes associated with the recent mutiny. The head of the US war crimes office has warned Rwanda’s leaders they could face prosecution for arming groups responsible for atrocities in the DRC. Stephen Rapp, who leads the US Office of Global Criminal Justice, stated that the Rwandan leadership – including President Paul Kagame – may be open to charges of “aiding and abetting” crimes against humanity in a neighbouring country – actions similar to those for which the former Liberian president Charles Taylor was jailed for 50 years by an international court in May. Rapp’s warning follows the recent damning UN report on recent Rwandan military support for M23, which has driven hundreds of thousands of people from their homes since April as it seized territory in the eastern DRC (McGreal 2012). Rapp said the evidence by the UN group of experts of Rwandan government support for M23 and other armed groups, including sending weapons and troops into the DRC, exposed Kagame and other senior officials to investigation for war crimes (McGreal 2012).

In early July, M23 rebel fighters in the DRC seized control of three towns in the country’s east, consolidating gains over state forces: The towns of Rutshuru, Ntamugenga and Rubare in North Kivu province, less than 10km by road from the provincial capital Goma – which could also fall. The rebels seemingly faced no opposition from the FARDC (Kambale 2012). Regional security is once again under severe threat and Congolese security forces appear ill-prepared and considerably weak (weaker than initially thought) in suppressing the onslaught that the mutineers have initiated.

The call for a complete UN withdrawal may leave a dangerous security vacuum, especially in the volatile east, where rebellions and clashes have plagued the transition, making the ‘advent’ of peace there more a millstone than an actual milestone to be grateful for. The eastern DRC remains the last stronghold against the peaceful conclusion and normalization of state-society relations in the Great Lakes. The need to bring this region into the fold of sustainable peace, stability and prosperity is therefore crucial and may require a renewed peace process to bring all antagonists to the negotiating table.

### **From No War to No Peace... Indefinitely**

The numerous destabilizing events following the country’s much-vaunted peace process and accompanying peace agreements have confirmed to a great extent that the DRC is heading

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reinforce M23” and “support to several other armed groups”. “RDF operational units are periodically reinforcing the M23 on the battlefield against the Congolese army”, it said.

towards becoming a society that is neither at war, yet also neither at genuine peace. One could perhaps surmise that the country has been mired in this unenviable state far longer than the outbreak of war in 1998. This prognosis should perhaps be extended (and in many instances already has been) to the rest of the region given the regional character of the conflict, as well as the continued instability in many of the DRC's neighbouring countries, which continues to severely complicate the search for a sustainable and peaceful solution to the continuing crisis. In many respects the seeds have already been sown for future conflict and warfare and many of these permissive conditions for allowing a return to violence are already 'germinating' at a rapid pace.

All the attacks and killings perpetrated in 2009, primarily in the east (and the seemingly powerlessness of the UN agencies to prevent them) also rather unnervingly conjure up anew horrific memories of the Rwandan genocide of 1994 and the possibility that a systematic extermination of innocent civilians was once again underway. The region's civilians are caught up yet again in a conflict situation that appears not to have been addressed effectively from the very onset of hostilities. The parties also did not decisively deal with the underlying tensions and root causes of this protracted struggle when the Lusaka process (or in Prunier's words the Lusaka 'peace' charade) was initiated. Consequently in defiance of every peace treaty negotiated and weakly executed, the region remained engulfed and decimated by repeated conflict – which could translate into a relapse into full-scale war. The present conditions have provided fertile ground in which a 'no war, no peace' society could flourish.

Gerard Prunier's inclusion of a headline taken from an *Economist* article published in July 1999, in his seminal work *Africa's World War* perhaps captures the current dilemma facing the DRC most accurately – "The War is Dead, Long Live the War". While many countries herald the transition from war to peace, the Congo's future is increasingly at risk of being severely hampered by the indefinite presence of no war, no peace. The eastern DRC therefore remains engulfed in a brutal and bitter struggle that it has yet to conquer. Prunier's succinct observation further alludes to, and to an extent supports, this paper's main thesis that the Congo's transition was and could yet still remain indefinitely mired in a constant stasis of no war, no peace:

So the transition lived on, with its troubled former battlefield areas that it was never able to fully pacify. There were two Congos: the former government territory, which grumbled and complained but lived roughly in peace, and the former war zone, which wondered at times if the war had really ended (Prunier 2009: 309).

The eastern DRC has certainly most closely resembled this status quo of no war, no peace. The recurring and apparently intractable character of the eastern violence was considerably more problematic than initially may have been thought, as it preexisted the war, had been made worse by the war, and would not stop even if the war stopped (Prunier 2009: 320). As Prunier furthermore warns, the difficult and incomplete process of demobilization and disarmament, as well as the continued challenges of constructing a unified national army, could still contribute

significantly to a return of major hostilities. Although the possibility of renewed major hostilities at first seemed low, the danger of continued violence en route to renewed war now more than ever appears alarmingly high. Seen in this context, the east therefore did not heal. The real danger is that this festering wound could infect the whole of the country anew, spread rapidly by infecting the entire region once more and could prove more difficult (even immune) to the remedy of peace the second time around.

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