

**‘PEACE ON PAPER?’: ASSESSING THE IMPACT OF PEACE  
AGREEMENTS ON ARMED CONFLICT: THE CASE OF THE  
DEMOCRATIC REPUBLIC OF CONGO (DRC) – 1999- to 2012**

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**NOVEMBER, 2013**

## **DECLARATION**

This is my original work that to the best of my knowledge has not been presented for a degree in any other University.

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**DATE**

## **DEDICATION**

This work is dedicated to my loving parents, Mr. Vincent Nderitu and Mrs. Edith Mweru Nderitu and my son Mark Nderitu.

## **ACKNOWLEDGEMENTS**

I express my thanks to the Almighty God who has made it possible for me to keep working on this project despite many hurdles.

I would like to thank the various people who have made this work possible, many of whom it will not be possible to name here but who nevertheless are deeply appreciated. I single out my supervisors, Dr. George Gona and Dr. Mary Mwiandi for their patience with a long process, their positive criticism as I worked on this study. They have read and commented on several drafts of this work and I will be grateful to them always for sharpening not just my analytical but my writing skills as well. I also thank Professor Vincent Simiyu for his advice, especially as regarding the historical setting of this work.

I must thank the senior staff of Rwanda's Military Academy, especially then Commandant Frank Rusegera, Richard Kananga of Rwanda's Reconciliation Commission, Congolese officers of the Commission Nationale De Desarmement, Demobilisation et Reinsertion who prefer not to be named, and all the people I interviewed at Kenya's Ministry of Foreign Affairs.

While I am grateful to all who gave me moral and intellectual support, any shortcomings are my responsibility.

## **ABSTRACT**

This study was about the failure of peace agreements to solve the conflicts in the Democratic Republic of Congo. The experience of peace agreements from many countries emerging from conflict, the DRC included has been that peace agreements either hold or collapse. However, there is no systematic study on the DRC peace processes that help to link “peace on paper” to actual sustainable peace on the ground. Despite the many peace agreements signed to end war, there has been continuous resurgence of conflict. The failure in the DRC to transfer the “peace on the paper agreements” to cessation of hostilities among the warring parties and a sustained peace is yet to be understood.

This research is based on the theory of the conflict layer model propagated by Fisher et al.2000:27. Fisher posits that the notion of needs, positions and interests taken while attempting to end conflict by negotiators at the peace table is crucial in understanding why the agreements fail. The study aimed to study four hypotheses namely; that failed peace agreements are responsible for escalating the conflicts in the DRC, that the natural resources are prime movers of the conflict, the international community has contributed to the conflict in the DRC and that political will is critical to the implementation of peace agreements. Based on primary and secondary sources, this study argues that the peace agreements have neither had an effect on the ending of the conflict nor changed the perceptions of actors about the conflict.

The study established that at the centre of the conflict is the vast mineral wealth that the DRC has, whose exploitation by rebel groups, neighboring countries and the international community is not addressed in any of the peace agreements. These groups constitute the many beneficiaries to the state of the constant conflict that the DRC finds itself as instability provides a useful cover to plunder the country’s resources.

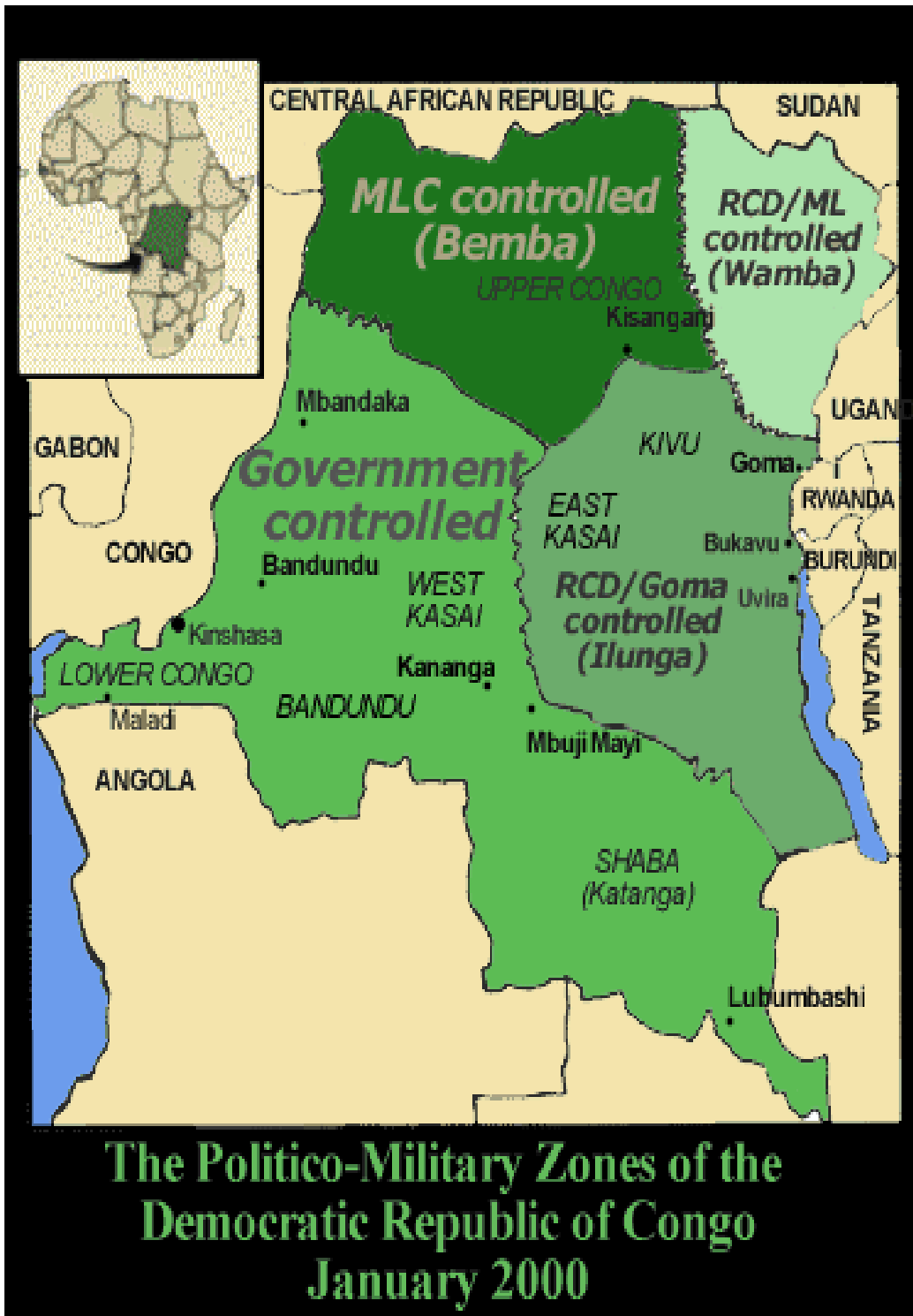
The study further argues that the more than 20 peace agreements arrived at since 1999 have failed, as they are weak on implementation. They include the much touted Lusaka peace agreement of 1999 prior to which there had been 23 failed Southern African Development Community (SADC) and Organization of African Unity (OAU) sponsored meetings at the Ministerial or Presidential level aimed at brokering an end to the war in addition to efforts of many individual leaders in the region.

Today, the war in Eastern Congo, despite the peace agreements is escalating and could soon escalate into a regional crisis once again. A new round of fighting between the Congolese army and the M23 group in 2013 threatened to derail current ongoing peace processes. No amount of peace agreements and international involvement – will end the war until the militarization of conflicts based on mineral resources is sorted out.

## Map of the Study Area



Source: Map from the Bureau of African Affairs. Department of State [www.Stategovmaps/drc](http://www.Stategovmaps/drc) accessed on 17<sup>th</sup> July 2011



Source: Map from the Bureau of African Affairs, Department of State [www.Stategovmaps/drc](http://www.Stategovmaps/drc) accessed on 17<sup>th</sup> July 2011



## **LIST OF ACRONYMS AND ABBREVIATIONS**

AFDL	-	Alliance de Forces Democratiques pour la Liberation du Congo
ALIR	-	Armee de Liberation du Rwanda
ANC	-	Armée National Congolaise
ANZ	-	National Zairian Army
CAR	-	Central Africa Republic
CIA	-	Central Intelligence Agency of the United States of Africa
CNDP	-	National Congress for the Defense of People
CNS	-	Conférence Nationale Souveraine—National Sovereign Conference
DRC	-	Democratic Republic of the Congo
DSP	-	Division spéciale Présidentielle
FAC	-	Forces Armées Congolaises
FARDC	-	Forces Armees de la Republic Democratique du Congo. ( The DRC government Army after 2003)
FAR	-	Forces Armées Rwandaises (former Rwandan government army)
FAZ	-	Forces Armées Zaïroises (former Zairean govemment army)
FDLR	-	The Forces Democratiques de Liberation du Rwanda
FONUS	-	Forces Novatrices Pour l'union et la Solidarité
IDP	-	Internally Displaced Persons
ML	-	Mouvement de Liberation
MLC	-	Mouvement pour la Liberation du Congo
MPLA	-	Movimento Popular de Libertação de Angola
OAU	-	Organization of AfricanUnity
ONUC	-	Organisation des Nations Unies au Congo
RCD	-	Rassemblement congolais pour la democatle
RCD/ML	-	Mouvement de Liberation
RDR	-	Rassemblement Pour le Retour les Refugies
RPA	-	Rwanda Patriotic Army, the RPF Army
RPF	-	Rwandese Patriotic Front, the political arm of RPA
SADC	-	Southern Africa Development Conference
UDPS	-	Union pour la Democratie et le Progres Social
UNHCR	-	United Nations High Commissioner for Refugees
UNITA	-	União Nacional para a Independencia Total de Angola
USA	-	United States of America

## **DEFINITION OF OPERATIONAL TERMS**

### **Alliance**

An alliance in this study is a coalition of individuals, groups or nation states based on formal or informal agreement, open or secret, formed to assist one another to secure identified objectives according to specified and mutually accepted criteria, varying in form, including in duration, numbers, commitment and relative strength of members.<sup>1</sup>

### **Alternative Dispute Resolution (ADR)**

Alternative dispute resolution describes a wide range of procedures and approaches other than litigation that aim to identify resolutions to conflicts that will be mutually accepted by the constituent parties.<sup>2</sup> Other methods such as traditional based approaches in peace making, transitional justice and reconciliation include arbitration, conciliation, mediation, negotiation and peer review. This has been used in this study to suggest ways that could enhance peace agreements.

### **Cease-fire**

The definition of a cease-fire has been used in the study of various peace agreements where the word appears to mean a bilateral or multilateral halt in all or select offensive military actions among parties engaged in official war, guerilla warfare or violent exchanges with another<sup>3</sup>.

### **Conciliation**

The voluntary referral of a conflict to a neutral external party that either suggests a non – binding settlement or conducts exploration to facilitate more structured technique’s of conflict resolution has been defined as conciliation.<sup>4</sup> This study has however addressed the reasons behind the un sustainability of peace agreements in the DRC within the wider definition of conciliation as a process that contributes to maintaining agreements and preventing future conflicts over issues.

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<sup>1</sup> [University for Peace, a glossary of terms and concepts in peace and conflict studies, Second edition 2005](#)

<sup>2</sup> [Catherine Bell and David Cahane, Intercultural Dispute Resolution in Aboriginal Contexts \(Vancouver, UBC Press, 2004\)](#)

<sup>3</sup> [University for Peace, a glossary of terms and concepts in peace and conflict studies, Second edition 2005](#)

## **Containment**

Containment refers to a general policy that aims to prevent or at least limit the expansion of an adversary's geographic or ideological influence. The means of containment may involve a range of efforts and initiatives, overt or covert, including diplomatic pressures, sanctions or military actions or presence. This study has made reference to the containment strategies in the peace agreements in the DRC.

## **Disarmament, Demobilization and Reintegration (DDR)**

The acronym DDR suggests that disarmament comes first, then demobilization and eventually reintegration. However disarmament can take place before, during and after demobilization. Demobilization must however include a disarmament phase. In this study, many of the armed militia have benefited from DDR processes but have subsequently gone back to war. The militias in the DRC are mercenaries for hire, available to the highest bidder.

**Demobilization:** Demobilization is the opposite of recruitment (mobilizing) an armed group.<sup>5</sup> In the military demobilization means disbanding an armed unit or represents an interim stage before reassembling regular or irregular armed forces.

**Disarmament:** Disarmament is an integral part of demobilization aimed at reducing combatants or disbanding an armed unit. Weapons are handed over to the disarming authority for storage, redistribution or destruction.

**Reintegration:** Reintegration in the DDR sense means the process by which ex combatants acquire civilian status and gain access to civilian forms of work and income – a social economic process that takes place in communities.

## **Declaration**

Document stating agreed upon standards or principles, but which is not legally binding. This study examines several declarations.

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<sup>5</sup> [Disarmament, Demobilisation and Reintegration, a practical field and classroom guide GTZ, NODEFIC.PPC, SNDC, 2004](#)

**Covenant/Convention/Treaty**

These three words are used interchangeably in law and in the DRC peace agreements to mean the same thing. It means a legally binding agreement between states.

**Ratification**

This refers to, in the study, to the formal process by which the legislative body of a state confirms a government's action in signing a treaty.

**Reservation**

The exceptions that states parties make to a treaty (e.g., provisions within the treaty that the member does not accept)

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## **CHAPTER ONE:**

### **INTRODUCTION**

#### **1.1 Introduction**

The Democratic Republic of Congo (DRC) has an overall population of more than 75 million people. The DRC borders the Atlantic Ocean and nine countries, the Republic of Congo, the Central African Republic, the Sudan, Uganda, Rwanda, Burundi, Tanzania, Zambia and Angola. The conflict in DRC continues to affect all the neighboring countries particularly in regards to refugees and proliferation of illegal small arms. Some of the countries bordering the DRC have also directly contributed to the conflict as their armies engage on the DRC soil<sup>6</sup>. For example, rebel groups who claim support from neighboring countries, hold large parts of the east and north of the country.<sup>7</sup>

Between 1997 and 2013 alone, twenty-three peace agreements have been signed in the DRC with no sign of visible peace. Most of these attempts have achieved several partially respected ceasefire agreements. They have failed to end the violence or to re-establish central government authority throughout the DRC. Rebel armies and militia still retain a firm grip on the Kivu Provinces in the Eastern DRC and have defied many peace agreements that include the *Amani* program of January 2008, bilateral accords between Rwanda and the DRC and the engagement of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) that have tried to stabilize the region. Conflicts in the DRC continue because of the lack of implementation of the peace agreements that have tried to end these wars.<sup>8</sup>

#### **1.2 Historical Background**

The condition of war in the DRC is not a new occurrence. Protracted proliferations of intrastate and interstate conflicts have characterized the Democratic Republic of Congo (DRC) since 1960. Since independence in 1960, the DRC has been engulfed in violent inter and intra state conflicts despite efforts of local and international actors to solve the conflicts. This has resulted in the current ranking of Central Africa and the Great Lakes region as

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<sup>6</sup> Hochschild Adam, *King Leopold's Ghost*. New York, Houghton- Mifflin, 1998.

<sup>7</sup> Young Crawford, 1965, *Politics in the Congo, Decolonization and Independence*, Princeton: Princeton University Press, 1965.

<sup>8</sup> Bureau of African Affairs, U.S. Department of State, *Background Note: Democratic Republic of the Congo*, Retrieved from <http://www.state.gov/r/pa/ei/bgn/2823.htm> on 17<sup>th</sup> July 2011.

among the United Nations populations of concern, with the DRC contributing over 1.2 million refugees and almost 27,000 asylum seekers, 108,000 returnees and hundreds of thousands of internally displaced persons (IDPs).<sup>9</sup>

Peace building analysts have found that ‘surprisingly little theoretical or empirical work has explored the important question of why, despite several attempts to end the violent conflicts peace in the DRC does not hold’<sup>10</sup>. Analysts, such as Fortna paints a detailed picture of the conflict in DRC among other countries between 1946 and 1997 by asserting that the DRC conflicts stem from fissures of ethnicity, regionalism, social marginalization, absence of democracy and good governance. The greed and grievance conflict over the DRC minerals also contribute to the state of unrest in the DRC, as the country is one of the richest countries in the world mineral wise.<sup>11</sup>

Conflicts in the region have also contributed to the never-ending conflicts in DRC. One of the most consistent rebel movements, the Forces Democratiques de Liberation du Rwanda (FDLR) spawned by the 1994 Rwandan genocide and consisting of Hutu rebels living in the DRC and other militia has been particularly vicious against women and girls and have deepened the humanitarian crisis in the region.<sup>12</sup> So long as the entire region is not peaceful, the DRC conflict situation remains unresolved.

Conflicts have impacted on the people of DRC. This impact includes deaths and displacement of the Congolese both within and without the country, running into millions of people<sup>13</sup>. Food shortages resulting in malnutrition and starvation coupled with direct conflict ensure that humanitarian crises abound. The DRC has vast mineral wealth that ideally should be good for its economy. However, this mineral wealth has continued to attract foreign armies’ intent on benefiting from the wealth created by the minerals. As this happens, the DRC economy and people suffer as the foreign armies, many of them conscripting locals as

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<sup>9</sup> UNHCR, Global Report 2004, 14 (2004)

<sup>10</sup> Fortna, Page, Virginia, *Scraps of Paper ? Agreements and the Durability of Peace*. New York, MIT Press, 2003.

<sup>11</sup> Forgotten war rumbles on in the Congo’ Reuters, September 14, 2005.

<sup>12</sup> The Fund for Peace, *Failed States Index 2011* (Washington, DC: The Fund for Peace, 2011).

<http://www.foreignpolicy.com/failedstates>

<sup>13</sup> According to the International Rescue Committee, the aid agency responsible for these estimates, 10% of the victims died violently while the rest died from starvation and disease because of the various armed groups’ activities. DRC Conflict Deadliest since World War II – Aid Agency, IRIN- DRC, 8 April 2003.



fronts engage in conflict.<sup>14</sup>

Various attempts at settlements, frameworks or agreed pacts with the intent and purpose to end violent conflicts or at least transform conflicts so that they can be engaged constructively in the DRC” have been made.<sup>15</sup> These attempts have been extraordinary in regard to their sheer numbers as well as the number of individuals, States and individuals involved in resolving what has been referred to as Africa’s largest violent conflict.

These attempts have achieved several agreements whose partial implementation if any, Has failed to end the violence or to establish State presence throughout the DRC. Fortna, classifying peace agreements as “scraps of paper,” argues that ‘cease-fire agreements and the measures within them are at best epiphenomenal’ reflecting other factors that affect durability rendering them idealistic and therefore unfit in the realist traditions of the DRC. Peace agreements, therefore, could merely be ‘scraps of paper’ that are not binding in an anarchical system. They have no independent effect on international behavior, least of all on decisions about war and peace.<sup>16</sup>

In fact, the conflict in the DRC continues despite the presence of the largest peacekeeping UN Mission in the world known as the UN Mission in the Democratic Republic of Congo (MONUC) set up in August 1999 to oversee the implementation of one of the most touted of the DRC’s peace deals, the Lusaka Ceasefire Agreement that ended the second Congo war. The war had brought in six countries as combatants.<sup>17</sup>

The DRC is well endowed with rich mineral resources Access to land in Eastern DRC remains contested and the control of revenues from natural resources remains in the hands of foreigners, armed militia and the Government of DRC. There is little if anything that remains in the hands of the local populace. The State and its institutions are weak and exhibit lack of control in the region. Where State institutions and State officers exist, they are poorly

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<sup>14</sup>Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo is a report (in PDF format) from the United Nations Security Council, detailing the illegal exploitation by countries and corporations. (Accessed 12 April, 2008).

<sup>15</sup> Gounden, Vasu, “Peace Agreements in Africa”, Conflict Trends Issue 3, 2007

<sup>16</sup> Ibid pp. 337-372.

<sup>17</sup> Clement, C. (2009a) ‘ The EU mission to provide advice and assistance to security sector reform in the Democratic Republic of the Congo (EUSEC RD Congo) in G. Grevi, D. Helly and D.Keohane (eds) *European Security and Defence Policy: The First Ten Years (1999 – 2009)* Paris: Institute of Security Studies.

resourced. Armed groups, largely in control of the natural resources, continue to operate with impunity in the Eastern DRC fuelling insecurity in the region.<sup>18</sup>

Despite the tensions between DRC and the countries bordering her, especially Rwanda, some progress has been achieved. For example, elections were held as part of a completion of a peace agreement process started in December 2002 during the Inter – Congolese Dialogue at Sun City. Sadly, little progress has been made on the disarmament, demobilization and reintegration of Rwandan backed rebel groups or Mai Mai militias.<sup>19</sup> Efforts to dismantle the mainly Hutu Democratic Liberation Forces of Rwanda (FDLR) have not been very successful largely because they enjoy support from the majority Hutu population in Rwanda. The FDLR are also well resourced as beneficiaries of the mineral resources in the DRC.

A researcher on the DRC, Smith, says that in South Kivu “upon being attacked, the FDLR retreat into the forest, and then return to their zones where they continue to exploit gold and cassiterite mines, acting in collusion with some Congolese officials, such as local territory administrators, who also profit from this business.”<sup>20</sup>

### **1.3 Background to the conflicts**

The DRC had been engulfed in armed conflict for a long time. The complexity of these wars is grounded in many factors that include the legacies of colonial rule, the divisions of post-colonial leaders’ dictatorship and autocratic rule. Wars in neighboring countries such as that resulted in the genocide in Rwanda have had huge impact in DRC raging from the influx of refugees to constant military excursions into the DRC by Rwanda. Further complexities included wars against DRC with Uganda, Rwanda, Angola, Zimbabwe and Burundi. DRC has several rebel groups, many of them ‘protectors’ of mines and conduits of western powers.<sup>21</sup>

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<sup>18</sup> Autesserre, S. (2010) *The trouble with the Congo: Local violence and the failure of international peace building*, New York: Cambridge University Press.

<sup>19</sup> The Mai Mai (Mayi Mayi) are Congolese civilian ‘self defence’ militias in the Kivus who mobilise to fight foreign occupation. They have no common leadership or coordination and avail their services as mercenaries for hire.

<sup>20</sup> Joshua G. Smith in the Security Studies program of Edmund Walsh School of Foreign Service quoting journalist Ghislaine Dupont. “(Radio France International, August 12, 2005)

<sup>21</sup> Autessere Severine (2006), *Local Violence, International Indifference? Post Conflict 'Settlement' in the Eastern D.R. Congo (2003 – 2005)* Phd. Diss., New York University (Chapters 1 and 2)

The DRC was colonized by Belgium as a free state. The Belgians put in governing systems that promoted exclusion and pitted ethnic groups against each other. DRC became Africa's third largest country, gaining its independence in 1960 from the Belgians with Patrice Lumumba as Prime Minister.<sup>22</sup> A few months later, Patrice Lumumba was dead, overthrown by Colonel Joseph Desire Mobutu Sese Seko, who enjoyed the United States and European support. The Americans and Europeans were interested in the rich mineral resources that Mobutu would help them access and that Patrice Lumumba would not. On 11<sup>th</sup> July 1960, for example with the support of the Belgians, the province of Katanga declared independence under the leadership of Moise Tshombe. Katanga was mineral rich with copper a mineral at that time in great demand as the telecommunications industry, that used copper wires, had taken off. To date, the mineral resources are largely used to benefit the West rather than the Congolese people.<sup>23</sup> Colonel Joseph Desire Mobutu Sese Seko ruled from 1965 to 1996 and presided over the worst looting of resources in the country.

Mobutu Sese Seko took the governing systems put in place by the Belgians that promoted exclusion exploiting the Congo as if it were his personal property. The west supported Mobutu unconditionally regardless of his human rights violations because of Cold War politics. Mobutu's rule ended when the Soviet Union collapsed and he had outlived his strategic usefulness to the West. Laurent Desire captured power with the help of Ugandan and Rwandese armies from Mobutu in the wake of the broader turmoil occasioned by the Rwandan genocide of 1994.

Between 800,000 and 1 million Tutsi's were massacred in Rwanda in 1994. An estimated 1.2 million refugees from Rwanda many of them the *interhamwe* genocidiaries from Rwanda and Burundi. In late 1996, the members of the Tutsi community, the Banyamulenge, indigenous to South Kivu supported by Rwanda started a rebellion. This resulted in the creation of the Alliance des Forces Democratiques pour la Liberation du Congo.<sup>24</sup> Onyango tell us that between 800,000 and I Million Tutsi's and moderate Hutu's were massacred in Rwanda in 1994. An estimated 1.2 million refugees from Rwanda many of them Hutu's from Rwanda and Burundi fled into the DRC. In late 1996, the members of the Tutsi community,

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<sup>22</sup> Institute for Security Studies (2004), Growing Instability in the Kivus: Testing the DRC Transition to the Limits [www.iss.org](http://www.iss.org) Accessed on 20<sup>th</sup> January 2010.

<sup>23</sup> Derek Ingram, *40 years on—Lumumba still haunts the West*, Gemini News Service, September 2000 [www.gemininewsservice.com](http://www.gemininewsservice.com) Accessed on 20<sup>th</sup> July 2012.

<sup>24</sup> Didier Goyvaerts, Conflict and Ethnicity in Central Africa, 59-109. Tokyo: Institute for the Study of Languages and Culture of Asia and East Africa.

the Banyamulenge, indigenous to South Kivu supported by Rwanda started a rebellion in DRC. This resulted in the creation of the Alliance Des Forces Democratiques Pour la Liberation du Congo, a movement that became a factor of the DRC conflict<sup>25</sup>

The period of intense conflict between August 1996 and May 1997 is referred to as the DRC's "first war" which resulted in the toppling of the Mobutu Regime by the Rwanda, Uganda, Burundi and Angola backed *Alliance des Forces Democratiques pour la Liberation du Congo* or Alliance of Democratic Forces for the Liberation of Congo (AFDL) led by Laurent Kabila. The AFDL troops crossed the vast Zaire from the East to the West in seven months. Turner talks of the march to Kinshasa in which Kabila, along the way they collected a huge group of disgruntled Congolese who joined the allied army.

After intense conflict in 1996 and early 1997, Laurent Kabila threw out Mobutu in May 1997 and proclaimed himself the new head of the (newly named) Democratic Republic of Congo. Hundreds of thousands of Hutu refugees were forced to go back to Rwanda for refuge as the Rwandan Tutsi led army also took the advantage of routing out the Hutu who had fled to hide in the DRC after the genocide.<sup>26</sup> In 1997, Laurent Kabila led the DRC in beginning what has now become a culture of signing peace agreement after peace agreement without peace, the culture of peace on paper.

In August 1998, the DRC entered its "second war" when Kabila made the decision to separate from his Ugandan and Rwandan allies who had assisted him topple the Mobutu regime. The allies, especially Rwanda, had become uncomfortable with Kabila's inability to control rebel opposition groups, especially the Hutu Genocidaires who had escaped to DRC after the genocide operating against them from the DRC.

The Hutu Genocidaires who had fled into DRC were clearly organized politically with the aim of attacking Rwanda, which was now under control of the Tutsi's. The DRC seemed to take this threat very lightly and the Rwandan and Ugandan allies were disturbed by the casualness that the DRC handled the issue yet the refugees had fled Rwanda in a way that clearly pointed at an organization, possibly military strategy that was 'clearly seemed to have

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<sup>25</sup> Ondigi Justus Onyango "The Militarization of Rwandese Hutu Refugees in the Kivu Provinces of Democratic Republic of Congo", M.A project paper in Armed Conflict and Peace Studies, University of Nairobi, 2010. p. 38

<sup>26</sup> William D. Hartung and Bridget Moix, *Deadly Legacy: U.S. Arms to Africa and the Congo War*, Arms Trade Resource Center, World Policy Institute, January 2000

been an organized system grounded on mass mobilization for political aims'.<sup>27</sup> Internally too, Kabila was in trouble with the political opposition whose activities he had suspended and usurped as he came to power. There was rising discontent about the presence of his Rwandan allies in the North and South Kivu provinces.

Laurent Kabila was assassinated in January 2001 in a palace coup. Before he died, he began the practice of attempting to solve the DRC problems through peace agreements. He signed off the Lusaka Ceasefire Accord. Despite, later being supported by other accords the Lusaka Accord did not fully stem the war in the DRC.<sup>28</sup> He was succeeded by his son Joseph Kabila became President. Joseph faced a lot of challenges as he led the war torn country.<sup>29</sup>

It was only in 2003 for example there was withdrawal of almost all foreign troops and a transition government was put in place and a lull in the violence. A unified army that included militia who willingly gave themselves up to MONUC was drawn up by the Kabila government. Although Kabila attempted to establish some form of democracy and attainment of relative peace that saw that included unarmed opposition groups taking shape, the attainment of relative peace was not to last for long as the country lapsed into chaos again. Soon, there was full blown unravelling of the DRC into a state of armed conflict.<sup>30</sup>

Twenty three peace agreements have since been signed but the country remains at a standstill, mired in violence that it seems nobody can solve.

#### **1.4 Statement of the Problem**

The experience of peace agreements from many countries in Africa, the DRC included, has been that peace agreements either hold or collapse. However, there is no systematic study on the DRC peace processes that help to link “peace on paper” to peace building on the ground.

Despite the many peace agreements signed to end war, there has been continuous resurgence of conflict particularly in the Ituri, Katanga and the two Kivu Provinces.

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<sup>27</sup> Gerald Prunier, *From Genocide to Continental War: The “Congolese” Conflict and the Crisis of Contemporary Africa*, London: Hurst Publishers, 2009, p. 24

<sup>28</sup> Following the assassination of President Laurent Kabila, his son Joseph Kabila took over and by 2006 had signed four other cease-fire agreements.

<sup>29</sup> William D. Hartung and Bridget Moix, *Deadly Legacy: U.S. Arms to Africa and the Congo War*, Arms Trade Resource Center, World Policy Institute, January 2000

<sup>30</sup> Clement, C. (2009a) ‘*The EU mission to provide advice and assistance to security sector reform in the Democratic Republic of Congo (EUSEC RD Congo)*’ in G. Grevi, D.Helly and D. Keohane (eds), (2009b) pp. 29-34

Available literature on the DRC peace processes partly offers an explanation of the elusive nature of peace as being as a result of non-implementation. However, the finger pointing does not end the conflict that has claimed thousands of lives. A study of the DRC peace agreements can shed light on the ways in which the search for implementation of peace through peace agreements can be enhanced.

The failure in the DRC to transfer the “peace on the paper agreements” to cessation of hostilities among the warring parties and a sustained peace is yet to be understood. The Peace Agreements of the DRC seem to be geared towards short-term gains such as reducing or ending conflict as opposed to long-term gains such as sustainable peace building. The Peace Agreements are meant to start the peace building processes, yet each Peace Agreement in DRC has been to begin yet another conflict.

While Peace building is a process that ‘encompasses, generates and sustains the full array of processes, there are approaches and stages that should be present to transform conflict toward more sustainable, peaceful relationships: All this forms part of the Peace Agreements signed to solve the DRC conflicts. Yet conflict rages on. The failure to translate Peace Agreements to end the conflict in DRC in general and in the Provinces in particular raises the question whether the Peace Agreements are tailored for peace building and what actually causes the failure to implement the agreements. After the numerous peace agreements conflict in the Congo continues unabated. Are Peace Agreements in the DRC doomed to fail?

### **1.5 Objectives of the Study**

1. To examine some of the peace agreements signed in the DRC.
2. To investigate the reasons for the failed peace agreements.
3. To examine the role of international actors in the DRC peace agreements.

### **1.6 Justification of the Study**

This study is important as little scholarly attention has been paid to establishing the extent to which peace agreements failed and particularly what lacked in regard to the enforcement mechanisms. The importance of the impact of a successfully implemented peace agreement in the DRC on the entire great lakes region cannot be understated.

This study is particularly relevant today, as DRC emerged from a fresh bout of conflict over the Presidential elections that were held in January 2012 that has not ended to date. It is also significant that recent events in Rwanda and the Eastern DRC point to a complete breakdown of relations between the two countries of Rwanda and DRC. Rwanda was accused in 2012 by a group of UN experts of helping to create, arm and support the (M23) rebel movement in the Congo. ‘This assistance by Rwanda in the creation of the (M23) rebel movement is a violation of UN sanctions, the UN experts said,’ Rwanda rebutted in a dismissal of the allegations through the Foreign Affairs Minister, Louise Mushikwabo who said that the decisions by the UN experts to blame Rwanda were done hastily based on flimsy evidence by the donors’.<sup>31</sup>

The UN had based part of its evidence on surrendered rebels who told UN officials that they were Rwandans who had been recruited and trained in the Congo. The UN report also said that some Rwanda soldiers were fighting alongside the rebels against Congo’s army.<sup>32</sup>

### **1.7 Scope and Limitations of the Study.**

This study is on peace agreements in the Democratic Republic of Congo. It seeks to examine the manner in which the peace agreements have either assisted to contribute to peace or conflict. The interest in this study is occasioned by the fact that previous studies on the DRC have focused on the process detailing the belligerents’ positions and their reservations but not their interests in the implementation process. Little academic attention has been paid to critical evaluation of the local actors in the peace agreements towards actual resolution of the conflict in DRC. Why this is so is a subject that this study needs to explore.

This study is limited to the DRC in the period 1999 to 2013 as the DRC is yet to implement its Peace Agreements. It is impossible to go to the actual site of the Ituri, and the Kivu Provinces areas in study as it is currently engulfed in violent conflict. There are a number of limitations that have potentially affected the research in these areas. First is the scarcity of financial resources required to cover the area. Second is the current insecurity making it difficult to access DRC. However, this limitation did not affect the quality of the data and information, as the peace negotiators in the Peace Agreements, living and working outside

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<sup>31</sup> The East African, Reporter, and August 4 – 10, cited: Governments alleged support for ongoing rebellion in the DRC. Writing on the Wall for Kagame as key donors cut aid, huge government projects face delay. Pp 8 – 9.

<sup>32</sup> Ibid Pp - 9

the DRC, have provided the crucial information. In addition, the research has worked with information from NGOs working in the area on issues of peace in the DRC.

### **1.8 Literature Review**

DRC has over time generated a lot of interest from scholars; probably due to its never-ending conflict. In their book, the Stanford University team of Stedman, Rothchild and Cousens analyse the implementation of peace agreements focusing on three primary issues that included evaluations of, international actors and their strategies of peace implementation, various tasks of peace implementation (for example demobilization, disarmament, refugee repatriation, human rights and reconciliation) and their relationship to overall success. They also focus on a search for low cost, possible payoff opportunities for linking short-term implementation success to longer-term peace building.<sup>33</sup> Despite the fact that the DRC meets all the criteria above with the highest number of peace agreements in the world, the Stanford University team identified nine ‘most important’ case studies across the world, none of which was the DRC, one of the world’s most intractable conflicts.

Fortna, in her book asserts that scholars have not yet begun to delve substantially into the connection between sound ceasefire agreements and lasting peace or peace building practice. Scholars, Fortna asserts ‘are beginning to learn why peace is harder to maintain in some cases than others, although there is not yet a good understanding of what can make peace more likely to last. Fortna bases this argument on the premise that ‘existing works have only tangentially addressed whether deliberate mechanisms to try to maintain peace have been effective.’ No systematic studies, Fortna argues’ have explored whether and how the content of ceasefire agreements matters in the construction of lasting peace’.<sup>34</sup>

Autesserre in turn argues that focusing purely on the motivations behind the DRC conflict have not given much space to the articulation of the importance of the implementation of the agreements and the linkages to paper peace and peace on the ground. This has meant that the role of the local actor in the peace process has received scant attention.<sup>35</sup>

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<sup>33</sup> Stephen John Stedman, Donald Rothchild, Elizabeth M. Cousens, *Ending Civil Wars, The implementation of Peace Agreements*, A project of the International Peace Academy & the Center for International Security and Cooperation, Boulder, Colorado and London, Lynne Rienner Publishers, 2002.

<sup>34</sup> Virginia Page Fortna, Does Peacekeeping Keep Peace? International Intervention and the Duration of Peace after Civil War, *International Studies Quarterly*, Vol. 48, No. 2 (Jun., 2004), pp. 269-292

<sup>35</sup> Séverine Autesserre, *D. R. Congo: Explaining Peace Building Failures, 2003-2006 Review of African Political Economy*, Vol. 34, No.113, Imperial, Neo-Liberal Africa? (Sep 2007), pp. 423-441



Ballentine, Karen and Sherman in their book argue that there are several reasons behind the continuity of the DRC conflict despite the peace agreements. This reasons, they say point at what contributes to failure of implementation. This includes the often-unresolved conflicts over mineral resources such as exist in the DRC in abundance. These resources are a cause of civil war that is closely and causally linked to the failure of Peace Agreements by virtue of being unaddressed. The three scholars assert that the conflict in the DRC is not so much about the actors as about the availability of resources to sustain the war. They quote several studies that indicate a direct relation between a state's reliance on the export of resources and civil war and or the determination of the length of a civil war as directly linked to resources – especially when resources are used as loot.<sup>36</sup> However, the authors do not give direct solutions on how to deal with the resources in peacetime and who the actors are who would manage them.

Daley, in her article has identified some of the key reasons for the failure of peace agreements in the DRC. They include a general approach to all conflicts that include a one size fits all model approach to seeking peaceful solutions by peace practitioners who tend to assume that all conflicts can be solved in the same way. Daley<sup>37</sup> describes this model as 'a standard formula of peace negotiations, with a trajectory of ceasefire agreements, transitional governments, demilitarization, constitutional reforms and ending it with democratic elections'. She argues further that 'making peace is now pursued by a veritable industry of international, regional, state and non-state actors'. Daley says that the interests of these 'peace agreement stakeholders' are defined by the conflict. The bigger the conflict the more lucrative it is for them. The implications of such an attitude on the implementation of a peace agreement are enormous. The proposed study has examined in detail the interests that define the existence of these 'stakeholders' hanging around the peace agreement drafting and signing process and moving on to another drafting in another region and directing no efforts towards implementation and strengthening of local actors in implementation. Daley does not however discuss the implementation stages of Peace Agreements.

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<sup>36</sup> Ballentine, Karen and Jake Sherman (2005) *The Political Economy of Armed Conflict: Beyond Greed and Grievance*, New Delhi, Viva Books Private Ltd

<sup>37</sup> Patricia Daley (2004) *Challenges to Peace: Conflict resolution in the Great Lakes region of Africa.*( add publisher)

The failure of peace agreements that have clearly been legal processes and therefore designed by their very legal approach to fail have been discussed by Christine Bell<sup>38</sup> in her article. Bell argues that there is no doubting the legality of the peace agreements signed in the DRC despite some of the signatories being mainly groups in armed conflict. She emphasizes that armed opposition groups sign peace agreements as main protagonists of internal conflicts. She explains that, therefore 'grounds can be found to assert that the parties intended for the agreements can be binding on the grounds that on international the legal plane non-state signatories were 'subjects of international law. She further argues that the groups that do not sign can be specifically recognized through humanitarian law'.

She further argues that the legal process of the DRC peace agreements is enhanced by the categorization of non-state actors as 'minorities rather than armed opposition groups. This is complicated in regard to actual implementation of the Peace Agreement as national liberation movements or even states should be taken into account as a transition measure with the legal status changing to a more firm process as the 'groups move from armed opposition to inclusion in Government as the level of conflict recedes. This means, that anyone bearing arms in DRC can challenge any Peace Agreement on the grounds on non-inclusion complicating the implementation even further.

She, however, does not speak to the process of supervision of an implementation process that consists of enemies sitting at the same table with a clear defining agenda of continued enmity. Who supervises the implementation of the legal process to ensure the rule of law among the different actors including armed militia with an amorphous leadership, several splinter groups seated at the peace table brought together as part of a negotiation?

Ginifer, in his article expounds at length on the presence and multiplicity of armed groups in the DRC, including their 'differing agendas and connections and linkages with bordering states, making it difficult to bring the fighting to an end'. Despite the proliferation of unimplemented peace agreements in the DRC, Ginifer argues that a clear way forward is to have more peace agreements that bring armed groups to the table as signatories. He cites an example of why some peace agreements in the DRC failed was because the Mai Mai, the militia group that claims to be the 'true defenders of the Congolese,' were not included as signatories to the Lusaka Ceasefire Agreement of 1999. If they were, he argues, they would

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<sup>38</sup> Christine Bell. Peace agreements, their nature and legal status. *The American Journal of International Law* (Vol.100.373)

have been more stringent in their mostly violent demands to get legal recognition and space and therefore contributed to peace.<sup>39</sup> The author does not explain why other, more intensive Peace Agreements failed to end the conflict in the DRC.

Lack of enforcement mechanisms has been cited would have dealt with what Severine Autesserre<sup>40</sup> describes in her article as the neglect of specific approaches in dealing with local violence as a support mechanism towards national peace as an aspect of failed peace process in DRC. The author further describes all the peace agreements in the DRC as ‘incomplete and unsustainable peace settlements’. She writes, although in passing, on the importance of addressing local problems rather than have a sweeping national peace agreement that addresses national problems. In general, the author points to a crisis of lack of nationalism to the entity called the DRC that is played out at many levels, the individual, and family the community. This crisis points crucially to recognizable pitfalls in implementation of peace agreements as solutions to the DRC that need to be addressed through farther research.

Smith posits in his article that there is fear that unequal application in the rule of law could stand in the way of a peace process because it could lead to justice to some and not for others.<sup>41</sup> The rule of law is not a guarantee for successful implementation of a peace process he argues. Smith expounds on an argument propounded by other scholars<sup>42</sup> that the methods a country chooses to deal with human rights violations after conflict can constitute one of the most important determinants in regard to whether a peace agreement is implemented and whether the country slides back into anarchy.

Smith says that studies on the DRC have highlighted the differences in approaches to post conflict reconstruction between peace and human rights practitioners. Human rights thinking mainly points to full prosecution while peace practitioners sometimes engages former violators as peace agents. Smith points out that these two approaches have been discussed in relation to the DRC as mostly within the human rights agenda of ‘no peace without justice’. He however does not speak to the fear of the militias that disarmament and demobilization

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<sup>39</sup> Ginifer Jeremy (2002) - Eyewitness, Peace building in the Congo: Mission impossible? Norwegian Institute of International Affairs (NUPI) International Peacekeeping, Vol.9, No.3.

<sup>40</sup> Autesserre Severine, (2003-2006) Local Violence, National Peace? Post war “Settlement” in the Eastern D.R. Congo.

<sup>42</sup> Smith Joshua G - *Post- conflict justice and the prospects for peace: Assessing the arguments for human rights prosecutions in the aftermath of civil war* – Security Studies program, Edmund Walsh School of Foreign Service, Georgetown University.

will leave them exposed to retaliatory attacks. This study has addressed the differences between the post peace agreement approaches between the human rights and peace activists that have not been spoken to in regard to their effect on implementation of the peace agreements and on the role of the actors beyond the peace table.

To Ginifer the DRC has Africa's most valuable base of natural resources including coltan, diamonds, copper, gold and timber. He further asserts that many of the militia groups previously not motivated by financial gain were now wholly submerged in illegal trade. The militias are determined to safeguard their status as 'owners' of natural resources at all costs. The land conflict is fuelled by massive displacements and returns. The movement of people and their relation to land is not addressed in peace agreements.

Studies that have analyzed the Western approach to peace agreements in the DRC as being that of the 'missionary or savior' coming in to assist the savage sort out his messes may point to some of the reasons behind the failure to entrust the implementation of the DRC peace agreements to local actors. Dunn in his article <sup>43</sup> argues that 'imaginings' of the Western world on the Congo are still firmly rooted in colonially scripted images of African backwardness, primitivism, and irrationally derived from Enlightenment and Social Darwinist racist theories of the eighteenth and nineteenth centuries. He however stops short on explaining the role of the DRC people in the peace process, not as passive recipients of the missionary products.

He argues that in many cases the international community brings in donor funding towards the peace agreement as an event and not a process that translates to next to zero in regard to the peace building process. The peace agreements are structured in language that seeks to impress the international community, speaking to situations that make relevance to the Western world with no implication of how they would be implemented. <sup>44</sup>

Martens in his work analyses the celebrated Lusaka agreement is disturbed by the information that it was drafted by South Africa, with Ugandan assistance and on U.S instructions.<sup>45</sup> Martens' study explains part of the reason the DRC regards the Lusaka agreement with such derision. He however does not tell us what the DRC has done about the

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<sup>43</sup> Kevin Dunn *Imagining the Congo African Studies Review*, Vol. 48, No. 1 (Apr., 2005), pp. 127-137

<sup>44</sup> OXFAM, *A Forgotten War—A Forgotten Emergency: The Democratic Republic of Congo*, a Policy Paper, December 2000.

<sup>45</sup> Ludo Martens. *Kabila et la Revolution Congolaise: Panafricanisme ou neocolonialisme*. Antwerp: Editions EPO, TOME 1, 2002.

situation of the role of external actors as meddlers in the DRC peace agreement drafting with local actors as mere recipients.

The study has examined the drafting process of the Lusaka and other agreements as speaking to the whole process of peace agreements in DRC as designed to fail, not to be implemented. The study has also examined the implications of the absence of the DRC in drafting the peace agreement and what then that means to the implementation after the drafters leave, richer, to their countries.

Tshiyembe<sup>46</sup> a DRC national emotionally invokes the spirit of the anger of the DRC citizen at the foreign drafted Lusaka agreements in an essay. He describes the essay as ‘situating itself within a post- war perspective’. He argues that scenarios for durable peace demand of the Inter - Congolese Dialogue (ICD) the realization of a new political order in the DRC. His arguments points to but do not explain the contradictions to reactions towards the implementation of foreign drafted peace agreements that the proposed study must speak to. Tshiyembe states categorically that the ‘DRC is neither a state, nor a republic or democracy, but on the contrary, an empty shell, molded into a shell by colonial relic’. The study has examined the role of the DRC citizens in the drafting and signing of peace agreements and very crucially, in the implementation of the peace agreements.

Kisangani another scholar from the DRC on his part lays the blame of foreign drafted peace agreements squarely on the feet of African leaders. Kisangani argues that it is the leaders fault that the Western world comes in to draft peace agreements for the DRC. After 30 or so years of self-rule, ‘African leaders emerge as the single most important cause of the current crisis of governance, having been more barbarous in the last 30 years than European colonialists’. They have, he says, ‘shown no remorse for their numerous human rights abuse, no sense of ‘national pride and no understanding of African communities of which they are an integral part’.

According to both Kisangani and Ginifer<sup>47</sup> the international community has busied itself supporting national processes at the expense of supporting local actors as the DRC government clearly continues to exhibits a clear lack of control over its territory that is a crisis of governance that the Peace Agreements have not addressed. They argue that

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<sup>46</sup> Mwayila Tshiyembe – ‘A new political order in the DRC: The challenge of ‘Multinationalism’ Vol 29, No 93/94 :Taylor & Francis. 2002

<sup>47</sup> Kisangani N.F.Emizet. “Rebels vs. Democrats in Power: How to establish regional security co-operation in Central Africa” – Department of Political Science, Kansas State University, 2002.

although a governance crisis could partially explain the failure to implement the Peace Agreement, they however, do not discuss the reasons why.

The countries surrounding the DRC have leaders whose actions have lent truth to the above statement and are themselves a security risk with Uganda, Rwanda, Angola and Congo-Brazzaville deeply interested in the resources that the DRC houses. The Western world however chips in with its share, Kisangani argues, and that it is as much to blame for the state in the DRC with its ‘support for the regions strongmen... and lack of a new foreign policy that does not speak to the mentality of the Cold War period.’ Kisangani does however point to a way forward on what needs to be done.

Werner in turn argues that the presence of a peace agreement in itself is a precursor towards violence as a pair of states can “fight again only if they had agreed previously to stop fighting and that a decision to resume conflicts is also a decision to reverse prior decision”. Her argument is that those who sign Peace Agreements set themselves up in case the context changes and the Peace Agreement becomes the reason due to its rigidity of conflict which does not give any guidance on the way forward.<sup>48</sup>

Ntalaja<sup>49</sup> in his work argues that no region illustrates better the plight of the African continent than the DRC and that its failed peace agreements speak to a malady that must be carefully and consistently sought from within not from without. He does not suggest where we could begin doing this. This study has spoken to the solutions from within.

The study seeks to demonstrate that the implications of peace agreement failures on current ongoing conflict in the DRC are through lack of implementation. The lack of a critical study on the implementation process provides an opportunity to scrutinize the DRC “peace on paper agreements” in order to draw lessons on pursuing peace initiatives with “an eye and ear on the ground”.

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<sup>48</sup> Werner Suzanne, *The Precarious Nature of Peace: Resolving the Issues, Enforcing the Settlement, and Renegotiating the Terms*, American Journal of Political Science, Vol. 43, No.3, Midwest Political Science Association, July 1999.

<sup>49</sup> Georges Nzongola – Ntalaja – *The Congo from Leopold to Kabila* Zed books, 2002.

## 1.9 Theoretical framework

This research is based on the theory of the conflict layer model propagated by Fisher<sup>50</sup>. Fisher posits that the notion of needs, positions and interests taken while attempting to end conflict by negotiators at the peace table is crucial in understanding why the agreements fail. This approach is derived from the structural conflict theory that employs the conflict layer model, which examines the positioning of the various parties in the conflict through the dynamics of the conflict onion to bring out real interests that reflect events on the ground and that if addressed would lead to a sustainable and comprehensive peace.

Fisher describes the conflict layer model (or ‘conflict onion’) that consists of concentric circles showing the needs, interests and objectives or positions of the individual parties to the conflict, from the inside to the outside (hence the reference to an “onion”, indicative of the various layers). The use of this approach is based on the experience that in peaceful situations in which there is a high degree of mutual trust, people tend to act on the basis of their actual needs. In an unstable situation with diminishing trust, people tend more to place abstract, collective interests at the forefront of their minds. If the conflict escalates even more, people then withdraw yet further to certain positions or demands that have their roots in the dynamics of the conflict and have little to do with their actual needs.

The conflict layer model enables the parties involved in the conflict to examine their own positions and gain an understanding of the interests and needs of the other side. It usually becomes apparent in this that the original needs are in fact perfectly compatible with each other. This can then be the first step towards a negotiated solution. Within the framework of peace agreements the conflict layer model is a useful instrument for working out the conflict issues (at the level of the various positions and interests) and the conflict causes (at the level of the interests and needs) from the standpoints of the individual stakeholders. It is relevant for this study to understand the lack of implementation in regard to the position needs and interests taken in the actual planning for and drafting of the peace agreement.

This analysis helps for example to examine whether there is need for the dismal relationship between the United States and the United Nations, the key institutions sponsoring peace

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<sup>50</sup> Conflict Analysis for project Planning and Management, A Practical Guideline, Fisher et al. The conflict layer model (or “conflict onion”) , 2000.

agreements in the DRC to be improved for the good of the Congolese people<sup>51</sup> Through the conflict onion analysis it is possible for instance to analyze on the need to take ethnic balancing in regard to power sharing in the DRC like has been done in neighboring Burundi<sup>52</sup>.

The conflict analysis theory is relevant to the research because the DRC peace agreement process is centered on failure to get to the needs, with positions and interests frequently taking centre stage and thus preventing short-term political goals from undermining long – term development objectives in peace agreements in the DRC<sup>53</sup>

### **1.10 Research hypothesis**

1. Natural resources are the prime mover of the DRC conflict
2. The international community has contributed to continued conflict in the DRC.
3. Political will is key to Peace Agreement implementation.

### **1.11 Methodology**

The methodology adopted for this study consists mainly of historical research. The research has used both primary and secondary data. A review of literature as a secondary source has been crucial for comparative purposes. This has included an in-depth analysis of the relevant secondary data sources such as official documents, reports, journals, newspapers, articles and published books. Online journals and Internet resources have been used as well.

Primary information has been gathered from the DRC peace agreements, parliamentary debates of the South African Parliament as well as oral interviews of people identified. Based on oral interviews and the analysis of the information, this study has examined peace agreements in a bid to understand disconnect between peace on paper and peace on the ground. In conducting research In addition, snowball-sampling method has been used. This was done in identifying more respondents through the initial contacts identified in the secondary material such as books. Snowballing meant that I identified initial informants who led me to other interviewees.

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<sup>51</sup>Mwakikagile, Godfrey, *Africa and America in The Sixties: A Decade That Changed The Nation and The Destiny of A Continent*, First Edition, New Africa Press, ISBN 978-0980253429, 2006.

<sup>52</sup> Lemarchand, Reni and Hamilton, Lee; *Burundi: Ethnic Conflict and Genocide*. Woodrow Wilson Center Press, 1994.

<sup>53</sup> "Zaire: Post-Independence Political Development", Library of Congress, 2007



My informants were initially Rwandan Military officers who in turn led me to the FDLR ex militia who had been repatriated by MONUC into the Mutobo rehabilitation camp (solidarity camp) where I was involved on work on an integration project. I was involved in focused group discussions held separately with the military officers and the ex-militia. I also used my earlier contacts from among the people I worked with the integration project sponsored by GTZ in 2009

The research extensively used the raw data on the Arusha peace agreement and other Peace Agreements held at the Ministry of Foreign Affairs, Nairobi, of which the ministry keeps copies. These documents were invaluable to the research. For primary sources, the research relied on the archival holdings of Ministry of Foreign Affairs documents as well the notes of my earlier work at the Motobo rehabilitation camp. The research also relied oral interviews coordinated through unstructured questionnaires. The research also relied on focused group discussions while I worked at the Mutobo rehabilitation camp. My role had given me rare and privileged access to the ex – combatants whom I engaged in focus group discussions.

In the oral interview, the research used unstructured questionnaires and focused on group discussions. My background as a Kenyan contributed to the informants being able to freely talk to the researcher and volunteer information. The data was qualitatively analysed.

## **CHAPTER TWO:**

### **HISTORICAL BACKGROUND TO THE CONFLICT IN THE DRC 1997 - 2012**

#### **2.1 Introduction**

The Democratic Republic of Congo is a country with a lot of economic potential that has been marred by conflicts. In the 1980s, Zaire was the world's largest producer of cobalt and a leading producer of industrial diamonds and copper. It has petroleum deposits, good farmland, and great hydroelectric potential. The Country had major conflict upheavals in 1996-1997, and again in 1998-1999. In addition to these conflicts, rebel groups hold large parts of the east and north of the country. Armed militias also roam the east, where civilian populations are suffering from prolonged instability and civil strife.

The DRC's difficulties today result in part from changes it has gone through in history that include fights over resources and ethnicity in addition to external influence and the presence of foreign troops from neighboring countries. President Paul Kagame of Rwanda has for instance refused to pull out his troops before armed groups in eastern DRC, many of them the Hutu militia responsible for the genocide is brought under control. He told a visiting U.N. Security Council delegation in May 2001, that Rwanda would not withdraw while Interahamwe and ex-FAR remained active in the DRC and a threat to Rwanda itself. This is the position that has resulted in the current violence that is going in the DRC over a group referring to itself as the M23 group which the UN has accused Kagame of sponsoring. External influence has led to the treaties and declarations on the DRC conflicts with Rwanda especially, having problems rooted in history with the DRC.<sup>54</sup>

Between 1937 and the mid-1950s, the Belgian colonial administration resettled thousands of Rwandans in today's DRC to provide a ready workforce for large colonial agricultural and mining concerns in North-Kivu. This resettlement was relatively easy as the area then known as Ruanda- Urundi and now known as Rwanda and Burundi was by then under Belgian rule. Significant numbers of Rwandan migrants also came to Congo to seek land in the then relatively sparsely populated east of the country. In 1959, it was alleged that the Tutsi had plotted to kill Hutu leader Gregoire Kayibanda. Rumors that Hutu politician Dominique Mbonyumtwa had died at the hands of the Tutsi's set off the Hutu's against the Tutsi in violence that they called "the wind of destruction". Even as Belgians arrived to quell the

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<sup>54</sup> Roger Louis and Stengers Jean: *E.D. Morel's History of the Congo Reform Movement*, 2000, pp. 240-242

violence and support the Hutu, according to the Tutsi, the UN set up a special Commission to investigate which reported in the Tutsi's favour. Several Tutsi's were exiled to neighbouring countries. The Tutsi who fled to the Congo became known as the Banyamulenge. The Banyamulenge to date play a significant role in the issues that guide peace and war in the DRC.

On 25<sup>th</sup> September 1961, the first Rwandese Republic was declared with Kayibanda as Prime Minister and Mbonyumutwa the first President of the transitional government. Between 1959 and 1963 several thousand Rwandese families, mainly Tutsi settled in Congo fleeing pre- and post-independence insecurity and seeking refuge from persecution by the Hutu-dominated government and its supporters in Rwanda.<sup>55</sup> All these dynamics served to work towards an agitation for independence.

## **2.2 Towards Independence**

The Belgian Government treated the Congolese like lesser people with no intellect. They were denied access to western education especially at higher levels. For instance, Hochschild<sup>56</sup> reports that by independence unlike other colonies, not even one Congolese citizen had received a university degree. Congo remained a colony until agitation for independence forced Brussels to grant freedom on June 30, 1960.

Two people were visible as leaders for the agitation for independence. Joseph Kasavubu was in charge of an organization called Abako (Alliance des Bakongo) of his people, the Bakongo from the lower Congo River. Patrice Lumumba was President of the Congolese National Movement with the upsurge in nationalist sentiment and growing demands for independence, the Belgians caved in.<sup>57</sup>

In elections held in 1960, Patrice Lumumba of the leftist Mouvement National Congolais became Prime minister and Joseph Kasavubu of the ABAKO Party became head of state. Congo's initial upheaval broke out in July 1960, just after independence disrupted by political and military strife. Regional secessionist movements sprung up as the central

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<sup>55</sup> Mwakikagile, Godfrey, *Nyerere and Africa: End of an Era*, Third Edition, New Africa Press, "Chapter Six: Congo in The Sixties: The Bleeding Heart of Africa," 2006, pp. 147 - 205.

<sup>56</sup> Ibid pp112.

<sup>57</sup> Nugent, Paul. , *The Journal of Modern African Studies* / Volume 4 / Issue 01 May 1966, University of Edinburgh, UK, pp 111-115, Copyright © Cambridge University Press 1966. Published online: 11 November. 2008, Accessed on 30<sup>th</sup> July 2011.

government became paralyzed by conflict between Kasavubu, seen to be more conservative and his Prime Minister Patrice Lumumba, seen as more nationalistic.<sup>58</sup>

Belgian officers attempted to retain control of the Congolese army after independence, leading to a mutiny and attacks on Europeans. Within weeks of independence, the Katanga Province, led by Moise Tshombe, seceded from the new republic, and another mining province, South Kasai, followed suit. Belgium sent paratroopers to quell the civil war, and with Kasavubu and Lumumba of the national government in conflict, the United Nations flew in a peacekeeping force.<sup>59</sup>

Congo was clearly in a crisis. The young State was plunged into chaos months after independence. Kasavubu staged an army coup d'etat in 1960 and handed Lumumba over IN November to the Katangan forces led by Tshombe who killed him in January 1961.<sup>60</sup> Congo became a major Cold War theatre after Lumumba's death. Lumumba had enjoyed the backing of the Soviet Union therefore after his death; they halted their contributions to U.N. peacekeeping, leading to a financial crisis that crippled the United Nations for years.<sup>61</sup>

Efforts to restore order in Congo bore no fruits. Tshombe rejected a national reconciliation plan submitted by the UN in 1962. Tshombe's troops fought with the UN force in December 1962, but were defeated Jan. 14, 1963. An uneasy peace followed. The U.N. force withdrew in 1964, leaving the country united, but politically unsettled and facing continued secessionist threats in the key regions of Katanga (led by Moise Tshombe), South Kasai and Kivu. Kasavubu named Tshombe premier in order to fight a spreading rebellion. Tshombe used foreign mercenaries, and Belgian paratroops airlifted by U.S. planes, to defeat the most serious opposition to Kasavubu. Kasavubu abruptly dismissed Tshombe in 1965 but was then himself ousted by Colonel Joseph-Desiré Mobutu, army chief of staff.<sup>62</sup>

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<sup>58</sup> Vanthemsche, Guy, *Belgium and the Congo, 1885–1980*, London, Cambridge University Press pp. 120

<sup>59</sup> Wrong, Michaela, *In the Footsteps of Mr. Kurtz, London Fourth Estate, Division of Harper Collins Publishers 2000, pp 42.*

<sup>60</sup> A UN investigating commission found that a Belgian mercenary in the presence of Tshombe, who was then the president of Katanga, had killed Lumumba. In a possibly related development, Dag Hammarskjöld, UN secretary-general, died in a plane crash en route to a peace conference with Tshombe on Sept. 17, 1961.

<sup>61</sup> *Ibid*

<sup>62</sup> Crawford Young, 1965 *Politics in the Congo, Decolonization and Independence* (Princeton: Princeton University Press), 1965, p. 280-281.

### 2.3 Mobutu Sese Seko rule 1960- 1997

Mobutu had in the mid – 1950'S aligned himself with the nationalist movement that ultimately ousted Belgium. Mobutu would in his entire Presidency however be associated with the murder of the popular nationalist government leader Patrice Lumumba.

Mobutu elevated himself to President in 1965. Mobutu led a campaign on 'national authenticity' in which he changed the country's name to Zaire and his own to Mobutu Sese Seko kuku Ngbendu wa za Banga – the all-powerful warrior who, because of his endurance and inflexible will to win, will go from conquest to conquest leaving fire in his wake'.<sup>63</sup>

Mobutu's rule opened up avenues to corruption. Mobutu was involved in siphoning resources and acquiring massive personal wealth. Under his rule, his country went through a plunge in copper prices, and mounting debt that led to enormous economic downturns.<sup>64</sup> Since then, internal conflicts fuelled by weapons from Western countries have continued unabated. Hochschild tells of Mobutu's 'national kleptocracy', how Mobutu 'became rich by dipping into state- owned enterprises and sharing with family, friends, generals and others he needed to keep in line – Mobutu and his entourage helped themselves to state revenue so freely that the Congolese government ceased to function. Extreme disparities resulted between Mobutu, his cronies and the Congolese communities. Mobutu, his Generals and business people close to him participated directly in the disenfranchisement of a growing underclass. By some estimates, Mobutu was worth some \$ 4 billion. Mobutu ruled with an iron fist, murdering opponents and ruthlessly stifling dissent.

For decades, the United States propped up Mobutu, who was obviously an autocratic dictator, allowing him to get away with gross human rights violations and corruption, so long as he served the interests of the United States as a bulwark against Soviet Communism during the Cold War. Mobutu amassed a fortune while his people got poorer and poorer in their diamond and mineral rich nation, as the United States looked on.<sup>65</sup>

At the end of the Cold War, a growing arms trade had enveloped the DRC conflict zones in which rebel groups were vying for regional power. Throughout the 1980's and 90's these

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<sup>63</sup> Hochschild, Adam. *King Leopold's Ghost*, Boston, Mariner books, 1999, pp 303

<sup>64</sup> Arnold, G. *Africa, A modern history*, London: Atlantic Books, 2005.

<sup>65</sup> Gault – Hunter Charlayne, *New News out of Africa*, New York, Oxford University Press, 2006.

conflicts attracted little international support despite obvious connections to global trade circuits.<sup>66</sup>

In an effort to find solutions to the Congo problem, meetings and conferences were held under the leadership of various people in the DRC. In 1993, the National Sovereign Conference was organized by people opposed to Mobutu, encompassing over two thousand representatives from various political parties, seeking to find a solution to Congo's increasing problems. The conference gave itself a legislative mandate and elected Archbishop Laurent Monsengwo as chairman, along with the Union for Democracy and Social Progress (UDPS) leader Etienne Tshisekedi as prime minister.<sup>67</sup>

One of the problems that arose because of the conference was that Mobutu created a rival process to compete against Etienne Tshisekedi's group. He assigned this process to Kengowa Dodo. The ensuing stalemate resulted in the compromise merger of the two governments into the High Council of Republic – Parliament of Transition in 1994, with Mobutu as head of state and Kengowa Dodo as prime minister. This resulted in presidential and legislative elections being scheduled repeatedly over the next two years without taking place and a considerable buildup of tension ensued. This tension was to contribute to the forces that joined hands to oust Mobutu. Mobutu's political fortunes declined with his health, which failed as time went on. The United States had no use for him after the Cold War ended and used his corruption and human rights abuses as a reason for cutting off aid. Mobutu would later develop prostate cancer dying eventually in Morocco in 1997 a few months after being overthrown by Laurent Kabila.<sup>68</sup>

The other problem facing the DRC involved the population from Rwanda who had come to the Congo over the years, the Banyamulenge after the 1959 wars between the Hutu and Tutsi. The question of the nationality of the Banyarwanda population in Congo has been a divisive issue in post-independence Congo. Several laws were enacted to either accommodate or dis accommodate them depending on who was in power and who they were perceived to support. The indigenous Congolese were afraid of the Banyarwanda taking over power. To most Congolese, the Banyarwanda were foreigners with no rights to land. Subsequently, there were several laws made for the Banyarwanda in regard to their

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<sup>66</sup> William, Sarah. Congo in Crisis <http://www.state.gov/p/af/rls/rm/2009/117326.htm> accessed February 27, 2011.

<sup>67</sup> Ibid Trefon pp 24

<sup>68</sup> Ibid Hochschild pp 104

citizenship. This affected the rights of members of these groups to hold land and political office, or to vote. In 40 years, Congolese nationality laws have been amended four times, with the Banyarwanda as the key victims.<sup>69</sup>

In 1964, Congolese nationality was accorded to all persons whose ancestors were established in the territory of Congo before 1908. In 1972, Mobutu, in a bid to seek support from the Tutsi ethnic community, granted nationality to persons originally from Ruanda-Urundi who had settled in the province of Kivu before January 1950. Following this granting of nationality, there was civil war between 1963 and 1965 over land pitting the Hunde, Nande and Nyanga against the Banyarwanda mainly due to the shift in land use from crop agriculture to more extensive cattle-farming, concentrating large areas of pasture in the hands of a small number of mainly Tutsi.<sup>70</sup>

A new land law was passed in 1973, which abolished traditional customary control of land and severely undermined the authority of mainly Hunde and Nyanga ethnic leaders. Traditionally, communities owned land and chiefs had power to give out or demand rent from it. The resettlement of Rwandans to Kivu introduced the element of land purchase from the Hunde chiefs. With the abolition of the Rwandan chiefdom the Banyarwanda were placed under Hunde tribal authority, which was complicating the land issues even further.

Ethnic tensions in North-Kivu became worse when Mobutu launched a transition to multiparty democracy - in April 1990. Political office had previously been in the hands of the 'indigenous' people – the Hunde and Nande who ganged up against the Banyarwanda labeling them foreigners. The Hutu Banyarwanda reacted by initiating a campaign of resistance to Hunde and Nande political control. Ethnic-based militias took shape and in March 1993 conflict erupted when Hunde and Nyanga militias massacred the Hutu and Tutsi who fought back.<sup>71</sup>

This situation would be exacerbated by the Rwandan genocide and the influx of refugees in DRC in 1994<sup>72</sup>. The laws were changed again, in an effort to keep out the now millions of

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<sup>69</sup> Weiss, H, *War and peace in the Democratic Republic of the Congo* pp 80

<sup>70</sup> Callaghy, Thomas M. *State-Society Struggle: Zaire in Comparative Perspective*. Columbia University Press. ISBN 0-231-05720-2 pp 34

<sup>71</sup> Collins, Carole J.L. (July 1, 1997). "Zaire/Democratic Republic of the Congo". Institute for Policy Studies. Retrieved 5 July 2012.

<sup>72</sup> Melvern Linda (2004) *Conspiracy to Murder: The Rwandan Genocide and the International Community*. Verso.

Rwandese coming in as a result of the genocide. In the new 1994 laws, Zairean nationality was bestowed to those who could trace their ancestry within the country to 1885, the date of the establishment of the Congo Free State. This became a major cause of the civil war as people fought to establish their roots in the Congo. This background of identity-based differences that has continued to fuel the conflicts in the DRC (including the present battle between the Government and the M23 who mainly consist of Congolese Tutsi rebels) has not been addressed in the peace agreements.

#### **2.4 Conflict in neighboring countries and the ouster of Mobutu**

Due to the conflict in the neighboring countries mainly arising out of the aftermath of the 1994 genocide in Rwanda and the victory of the Tutsi-led RPF over the Hutu Rwandan government, an estimated one million Rwandan Hutu refugees from Rwanda crossed into Eastern Zaire out of fear of retribution for the genocide in which around one million Tutsi's and moderate Hutu's were killed.<sup>73</sup> The genocide of 1994 saw close to one million Tutsis murdered by the Hutu dominated Rwandan government. The genocide only stopped when a Tutsi militia invaded from Uganda. This resulted in the Hutu moving to Zaire, which is today known as the DRC.<sup>74</sup> The Hutu, safely in Zaire, began invasions into Rwanda. This among other reasons expounded below prompted Rwanda, Uganda, Burundi, Zimbabwe, Angola and Namibia to wage war against Zaire.<sup>75</sup>

The Hutu displaced the Hunde and forced the DRC Tutsi population to flee to Rwanda. Until 1995, fighting over land and economic and political power in the Democratic Republic of Congo (formerly Zaire) was mostly between the resident Hutu ethnic group and local Nyanga, Nande and Hunde groups in the eastern provinces of North and South Kivu.

In 1996, the deputy governor of South Kivu province issued an ultimatum to the Banyamulenge to leave the region. The Banyamulenge were, due to the many laws passed against them, opposed to President Mobutu Sese Seko to leave the region. In response, the Banyamulenge began an active rebellion against the Hutu militias and Zairian forces in the

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<sup>73</sup> Weiss, H. 'War and peace in the Democratic Republic of the Congo' available at [www.unc.edu/depts/diplomat/AD/issues/amdi1](http://www.unc.edu/depts/diplomat/AD/issues/amdi1) accessed on 22nd November 2009

<sup>74</sup> **Rwanda: Tutsi**, 15% of population; Hutu, 84%. Tutsi dominate government and army. Hutu dominated until 1994, when a Tutsi armed force seized power in reaction to an anti-Tutsi genocide. *Source*: website [www.CIAWorldFactbook](http://www.CIAWorldFactbook),

<sup>75</sup> Ibid Ntalaja.



Kivu area, which grew into a larger insurrection as several rebel groups joined to overthrow the Mobutu regime.

## **2.5 Conclusion**

This situation of the rebel groups and neighbouring countries ganging up against Mobutu laid the foundation for the violence that would become known as the Congo wars. The resulting coalition group of rebels, the ADFL (Alliance of Democratic Forces for the Liberation of Congo) was led by a former Zairean rebel commander, Laurent Kabila supported by the Tutsi-led Rwandese Patriotic Front (RPF). Mobutu in turn sought for help from his external partners France and the United States of America that had propped up his dictatorship for years. These two countries had used Zaire as a base for covert operations against neighbouring countries that were communist and therefore their enemies in the Cold War period such as Angola. Both the United States and France ignored Mobutu's plea for help.<sup>76</sup> Their refusal to help made Mobutu very vulnerable. Mobutu fled in the face of the invading armies and militias and a new chapter in the life of the Congo conflicts was born.

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<sup>76</sup> Turner.T with B. Ngoy (2007) *The Congo Wars: Conflict, Myth and Reality*, London, New York, Zed books.

## CHAPTER THREE

### THE CONGO WARS, 1996 - 2012

#### 3.1 Introduction

The Congo Wars were fought both locally as a civil war but also involved attacks from neighboring States on Rwanda. The destabilization in the region caused by the aftermath of the Rwandan genocide resulted in the wars that would remove Mobutu and usher in Laurent Kabila. The aftermath of the first war ushered in the second war with Rwanda and Uganda as aggressors.

#### 3.2 The First Congo War - 1996- 1997

In August 1996, reports flooded the media on an uprising by the ‘Banyamulenge’ in the Eastern DRC.<sup>77</sup> The fact that they were referred to as ‘Kinyarwanda’ speakers had great significance in relation to the history of the DRC as the reason advanced for their taking up arms was to claim their ‘confiscated’ Congolese citizenship. The Banyamulenge name came from their having settled on the South Kivu Mulenge mountains during the colonial period. Two months later, this group started identifying themselves as the *Alliance des Forces Democratiques pour la Liberation du Congo* or Alliance of Democratic Forces for the Liberation of Congo (AFDL). The spokesman of this group was Laurent Desiree Kabila.

Prior to his being overthrown, Mobutu issued an order in November 1996 forcing Tutsi’s to leave Zaire on the penalty of death. Therefore as Laurent Kabila prepared to overthrow Mobutu, the Tutsi’s also known as the Banyamulenge were eager to support him. The first Congo war therefore began in September 1996 as an invasion by a coalition of neighboring states of the country then called Zaire. President Yoweri Museveni of Uganda and the Rwandan Minister for Defense Paul Kagame launched an offensive to overthrow Mobutu, joining forces with locals opposed to him as they marched west towards Kinshasa. Due to the many actors involved, the conflict ended up involving all the African States around it and a number of proxy movements with varying degrees of local mobilization and support and became known as the First war.

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<sup>77</sup> Daily Nation and The Standard newspapers August 1996.

The First war, so named by the mere fact of the number of actors involved, 6 African countries as well as local rebel groups and the devastation that it left in its wake, sweeping across the DRC. Rwanda had become increasingly concerned that members of the Rassemblement Democratique pour le Rwanda militias, the Hutus who had escaped from Rwanda after the genocide were periodically carrying out cross-border raids from DRC then known as Zaire. It was increasingly obvious that they were planning a new war against Rwanda. The Tutsi dominated government began to give arms to the Tutsi Banyamulenge of Eastern Zaire.

The war referred to as the 'first war' officially that had begun in September 1996, led locally by Laurent Kabila Kabila was able to take advantage and mobilize the tensions against Mobutu into an armed movement against Mobutu.<sup>78</sup> The International response during the first war was very basic with the UN invoking declaratory resolutions demanding an end to the war but not doing anything practical to stop it. This was accompanied by what Wrong details as "intense international and regional diplomatic efforts to negotiate Mobutu's exit."<sup>79</sup>

The war attracted foreign actors in an effort to find a peaceful solution. Ambassador Mohamed Sahnoun of Algeria was appointed in January 1997 as joint UN-OAU Special Representative for the Great Lakes region, and South African President Nelson Mandela volunteered as the principal mediator in the first war. This meeting heralded a future of peace agreements, the first meeting between Mobutu's government and the rebels took place in Cape Town on 20 February 1997. The meeting had the support of the United States of America.<sup>80</sup>

However in what was to be a characteristic of future agreements, the talks collapsed and subsequent talks failed to reach agreement. On 17 May 1997, after a failed last-minute effort by Mandela and Sahnoun to produce agreement for another round of talks, Mobutu, facing certain military defeat, left the Congo never to come back.<sup>81</sup> Kabila and his supporters from mainly Rwanda, Uganda, and Angola, marched into Kinshasa unopposed. Kabila changed

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<sup>78</sup> Shah, Anup. "The Democratic Republic of Congo." *Global Issues*. 21 Aug. 2010.

<sup>79</sup> Ibid Wrong pp 28.

<sup>80</sup> High-level envoys from the US (Assistant Secretary of State for African Affairs, George E Moose and President Clinton's then special assistant on Africa, Susan Rice) and South Africa (Deputy Foreign Minister Aziz Pahad) were present. www. US state department reports. Accessed on 24<sup>th</sup> November 2012.

<sup>81</sup> Carayannis, Tatiana and Herbert F Weiss, 'The Democratic Republic of Congo, 1996–2002' in Jane Boulder (ed.), *Dealing with Conflict in Africa: The United Nations and Regional Organizations* Palgrave Macmillan: New York, 2003, pp.253–303.

the country's name from Zaire to Congo.

Mandela was faulted for his mediation efforts because his main aim was to ensure a smooth transition by negotiating an exit for Mobutu. However, he failed to include the non-violent opposition, who were unarmed opposition as opposed to the rebels. This included, Congolese NGOs, churches, and long-time opposition leaders. The unarmed leaders had considerable support on the ground that was built on many years of opposing Mobutu. The inclusion in peace groups strengthened the voices of armed groups and marginalized political leaders without arms, who essentially were the new opposition. The unarmed political leaders had earned their stripes in providing leadership in the National Sovereign Conference of 1993 and wanted to be included in the Mandela led peace talks of 1997.

Ignoring the unarmed political leaders was therefore a huge mistake on Mandela's part. Kabila supported by his allies, Rwanda, Uganda and Angola, marched in and took over power. The mediation process also bestowed international legitimacy on Kabila and the Rwanda, Angola, Uganda allies, who were portrayed as saviors of the Congolese. This bestowing of status on Kabila would come back to haunt the world as Kabila once in power continued with Mobutu's corruption and ignored later calls by the United Nations and donors for multiparty politics. The surrender and disappearance of Mobutu and not a peace agreement ended the first war<sup>82</sup>.

The ouster by Mobutu through military force meant that a dangerous precedent of use of force had been set. Further, the exclusion of the so called non-violent opposition by Mandela meant that armed groups realized that they could fight their way to a peace table and negotiate for political power just because they had the power of the gun. The mediation efforts had marginalized peaceful political leaders who had gained much popularity and legitimacy over the years through peaceful methods that included leadership in the National Sovereign Conference of 1993.<sup>83</sup> Indeed the marginalization of peaceful actors and instead giving credence to armed actors and the subsequent glorification of Kabila and his allies' effortless take over of Mobutu's government would have severe consequences on future attempts at peace making through peace agreements in the DRC. DRC witnessed yet another war in 1998.

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<sup>82</sup> Gondola, Ch. Didier, *The History of Congo*, Greenwood Press, 2002.

<sup>83</sup> Securing Peace, Sustaining Process – Council on Foreign Relations Report, 1999

### 3.3 The Second Congo War August 1998 – July 2003

The second Congo war also known as the Great War of Africa began in August 1998 in the DRC officially ending in July 2003 when the Transitional Government of the Democratic Republic of the Congo took power.<sup>84</sup> The actors in the second Congo war were Angola, DRC, Namibia, Rwanda, Uganda and Zimbabwe and twenty-five armed groups. The war was the largest in modern African history. Uganda and Rwanda were against the DRC while Angola, Namibia and Zimbabwe were for the DRC.<sup>85</sup>

The support from the Ugandan and Rwandans had ended in May 1998 when Kabila openly broke ranks with them and organized new power networks based on his ethnic group the Baluba. The Ugandan and Rwandan troops were calling the shots in Kabila's government and army. The Chief of General staff of the DRC, James Kabarebe was Rwandan. Kabila was very uncomfortable with this arrangement as his initial thinking had been that after supporting him to take over they would go back to their countries. There was also huge public discontent within the DRC on the Rwandan influence on Kabila. The old debate on who really is a Congolese reared its head again and there was friction between 'authentic Congolese' and the 'Tutsi' (Rwandans and Banyamulenge).<sup>86</sup> When in July 1998, Kabila decided to send his Rwandan military allies back to Rwanda; they reorganized themselves as the *Rassemblement Congolais Pour la Democratie* – Congolese Rally for Democracy (RCD) in a rebellion supported by the national armies of Rwanda and Uganda.<sup>87</sup>

Kabila's options were now increasingly few as his allies had turned against him and he sought support from foreign neighbours to the South. The DRC had become a member of the Southern African Development Community (SADC) four months after Kabila took power. Kabila explained the situation to the SADC and when the Rwandan and Ugandan troops began a struggle for leadership within DRC the SADC responded by supporting Kabila. At

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<sup>84</sup> U.N. Office for the Coordination of Humanitarian Affairs. Humanitarian Crisis Watch: Democratic Republic of Congo. UNOCHA. September 2006. <http://vspot.vday.org/documents/2007/spotlight/HumanitarianImpactofElections.pdf> (Accessed Sept. 30, 2012).

<sup>85</sup> Wrong, Michela. *In The Footsteps of Mr Kurtz*, Fourth Estate, 2000.

<sup>86</sup> Juma M. *Compendium of key documents relating to peace and security in Africa*. Pretoria University Law Press, 2006.

<sup>87</sup> Melvern, Linda (2004) *Conspiracy to Murder: The Rwandan Genocide and the International Community*. Verso, 2004.

different times Zimbabwe, Angola and Namibia deployed troops to the DRC in support of Laurent Kabila and later his son Joseph Kabila, who took over from him when he was shot dead. Rwanda, Uganda and Burundi in turn deployed troops against the Kinshasa government.<sup>88</sup>

Meanwhile the RCD-Goma defended the interests of the Hutu Banyarwanda population. The other two major ethnic groups in North-Kivu, the Hunde and Nyanga had by now faded from the power struggles. The Banyarwanda Hutu and Tutsi struggles were further exacerbated by the taking over by a Tutsi led Government in Rwanda. This new Government supported the Tutsi in the DRC. The Tutsi leaders in DRC began to increasingly use the issues of ethnicity and land as a means of securing their power base and their control over economic resources. The war continued unabated until high-powered geared efforts brokered by the SADC began.<sup>89</sup>

The Ugandans and Rwandans decided to support local actors against Kabila instead of showing their hands as the aggressors. This Rassemblement Congolais pour la Democratique – Rally for Congolese Democracy (RCD) became the main rebel group fighting to overthrow Kabila and the AFDL. In 1998, Kabila's allies turned foes, Rwanda and Uganda attempts to oust him through clandestinely backing RCD were not very successful as Angola had switched sides and supported Kabila.

Two weeks into the second war, the UN and OAU representatives prepared a draft cease-fire document. This document struggled with one key issue that was to be the bane of future conflicts in the Congo, which was how to define the nature of the conflict as each party interpreted the conflict differently. Both sides could therefore not agree on who exactly the belligerents were. This is common in all the peace agreements in the Congo, the difference in definition of who started the conflict and why, with each insisting that they were not attacked but were protagonists<sup>90</sup>.

The ceasefire agreement, however, identified Angola, DRC, Namibia, Rwanda, Uganda and Zimbabwe as parties to the conflict. Rwanda and Uganda, who were now old hands in the

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<sup>88</sup> Arnold, G. Africa, A modern history, London: Atlantic Books, 2005.

<sup>89</sup> Ibid.

<sup>90</sup> U.N. Development Programme. Human Development Reports: Democratic Republic of Congo, 2004. [http://hdrstats.undp.org/countries/data\\_sheets/cty\\_ds\\_COD.html](http://hdrstats.undp.org/countries/data_sheets/cty_ds_COD.html) (Accessed Feb. 1, 2013).

DRC conflict slyly refused to admit and publicly declare their military presence in the Congo. Rwanda and Uganda went farther to protest the exclusion of any Congolese rebel groups from the list of signatories. This is another element that would feature in future peace agreements in the DRC. One of the key defining factors, carried over from the ill-fated Mandela attempts to broker the exit of Mobutu in which he only included armed groups is that the Congolese had learnt that a rebel group could be involved in war for purposes of being important enough to appear at a peace table and negotiate for their interests as well as share the spoils of war. The insistence by the Rwandans and Ugandans for the RCD inclusion was based on this argument. They knew that they could insist on the RCD involvement and gain through them.<sup>91</sup>

Kabila decided that the easiest way out was to ask for international support and portray the war as a case of aggression by Rwanda and Uganda. He therefore initially denied the existence of an internal rebellion. Rwanda and Uganda meanwhile were backing the RCD. Kabila refused to publicly recognize the RCD as a belligerent. The RCD meanwhile ratcheted up a campaign presenting their war as a revolution against Kabila's dictatorial regime. They said that there was fighting between only two groups, Kabila's army and the RCD.<sup>92</sup>

The Southern African Development Community (SADC) under whom Mandela had been acting in the earlier mediation stepped into the fray again. This time, at the 18<sup>th</sup> Summit Meeting in Mauritius on 13- 14 September 1998, Zambian President Frederick Chiluba was appointed to lead the peace effort. The European Union in turn appointed Aldo Ajello as Special Envoy to the Great Lakes Region as the United States dispatched Ambassador Thomas Pickering, then Undersecretary of State for Political Affairs and former US Senator Howard Wolpe as Special Envoys to the Great Lakes Region.

The war became even more complicated in early 1999 as more rebel groups joined the fray. By this time, Laurent Kabila had lost control of half of the country to the rebels. The RCD had split into two movements as a result of internal disagreements, the RCD- ML (Mouvement de Liberation) backed by Uganda, and the RCD – Goma, backed by Rwanda. The Mouvement pour la liberation du Congo (MLC) another anti – Kabila armed group, was

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<sup>91</sup> "Human Security Report 2009: The Shrinking Costs of War". Human Security Report Project at the School for International Studies, Simon Fraser University. 20 January 2010. p. 43. Accessed 21 January 2011.

<sup>92</sup> Reyntjens, Filip . *The Great African War: Congo and Regional Geopolitics, 1996–2006*. Cambridge University Press. August 2009 p. 62.

established with Ugandan support in Northern Equator Province some months after the founding of the RCD.

The second Congo war was to officially end on paper but not on the ground after the signing of the Lusaka Ceasefire Agreement in July 1999. The Lusaka agreement was arrived at as the result of a stalemate in the war, with none of the parties making any significant progress on winning the war. The agreement was also signed because of considerable external pressure.<sup>93</sup> The Lusaka Peace Agreement called for the immediate cessation of hostilities within twenty-four hours of its signing. It called for a number of other actions that included an end to hostile action that meant not only military attacks and reinforcement's but also all hostile propaganda as well. The agreement addressed the issue of hate speech and hostile propaganda, a useful attempt in a region where hate speech has incited violence in Rwanda and DRC with devastating consequences that included genocide. The agreement called for disarmament of foreign troops in the DRC, withdrawal of all foreign forces from the DRC and the exchange of hostages and prisoners of war between the six countries.<sup>94</sup>

The Agreement also called for the establishments of a Joint Military Commission (JMC) composed of representatives of the belligerents each with veto power. The JMC was to be headed by a neutral chair appointed by the OAU and charged with ensuring along with UN and OAU observers, compliance with the ceasefire until the deployment of a UN peacekeeping force mandated to ensure the implementation of the agreement.

The signatories of the agreement were the six countries involved in the war. They asked that the UN peacekeeping mission have both a peacekeeping role that is the active maintenance of a truce between nations or communities, especially by an international military force and a peace enforcement mandate. Peace enforcement is the practice of ensuring peace in an area or region. Peace enforcement is different from peacemaking where options that even include force are used to bring conflicting parties to negotiations. They explicitly asked the Security Council to authorize coercive force, if necessary; to achieve its objectives of disarming the various armed groups.

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<sup>93</sup> Spagat, Michael, Mack Andrew, Cooper Tara and Joakim Kreutz, "Estimating War Deaths: An Arena of Contestation," *Journal of Conflict Resolution*, (2009); 53; pp 934–950.

<sup>94</sup> Ibid.



### **3.4 The Third Congo War July 2003 – 2012**

The second Congo war evolved seamlessly into the third Congo war. Behind the ceasefire and the celebrations of the Lusaka agreement, the war on the ground went on unabated. This war, for minerals and control of spaces within DRC between competing armed proxy groups continued and that would progressively erupt on a huge and wide scale is known as the third Congo war.<sup>95</sup>

One of the most significant aspects of the Lusaka Peace Agreement was that it provided for an all-inclusive process, the 'Inter – Congolese Dialogue' to produce a new political order for the DRC. Sir Ketumile Masire, the former President of Botswana was appointed to facilitate that process in December 1999. A key provision was that all-domestic parties to the dispute, whether armed or not, were to participate in the dialogue as equals. The inclusion of the non- violent political opposition and of civil society groups was a positive element and in sharp contrast to the exclusion of these groups from earlier mediation efforts in the DRC such as that led by Nelson Mandela.<sup>96</sup>

As would happen for many other peace agreements in the DRC, the Lusaka Ceasefire Agreement was peace on paper accompanied not by a ceasefire, but by continuing violence behind the ceasefire lines. The Third Congo war has continued to date. It takes many shapes, is owned by many faces and peace agreement upon peace agreement has tried to deal with it. It continues, endlessly. The violence continued between competing armed proxy groups. This was despite the fact that the Lusaka agreement called for immediate cessation of hostilities and 'hostile action' within twenty four hours of its signing. Hostile action meant not only military attacks and reinforcements, but all hostile propaganda as well. This meant that radio hate messages as well as speeches were prohibited as they had wrought devastation not just in Rwanda during the genocide but in the DRC as well with devastating consequences.<sup>97</sup>

Violence continued unabated. This situation was to deteriorate with natural resources pillaged by militia groups and people in government. Inflation skyrocketed and the value of the Congolese Franc plummeted. The Lusaka agreement had envisioned a six weeklong

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<sup>95</sup> Carayannis, Tatiana, 'The Complex Wars of the Congo: Towards a New Analytic Approach', *Journal of Asian and African Studies*, Vol. 38, No. 2-3, 232-255, 2003.

<sup>96</sup> 'Forgotten war rumbles on in the Congo' Reuters, September 14, 2005

<sup>97</sup> *Ibid* Spagat, pp. 952

national dialogue with armed and unarmed Congolese groups. They were expected to discuss the establishment of the DRC's future institutions and an interim government as a process parallel to the disarming of armed groups and the departure of foreign armies.<sup>98</sup>

Laurent Kabila completely refused to cooperate not just with the United Nations, but also with the dialogues facilitator, President Masire. Kabila persistently refused to accept the actual implementation of the agreements provision that all parties including the Kinshasa authorities would enjoy the same status in the Inter- Congolese Dialogue. Kabila argued over everything and frustrated Masire, refusing to accept the start date of the negotiations and eventually physically shut down President Masire's office in Kinshasa. Kabila created scenes, complaining about use of language, insisting that President Masire was biased in favor of Uganda and Rwanda because the two countries were Anglophone. He insisted that another negotiator, a Francophone should be picked.<sup>99</sup>

With this kind of behavior from President Laurent Kabila the violence in the DRC did not end after the signing of the Lusaka peace agreement. Laurent Kabila was president from May 1997 until his assassination in January 2001. By the time of his death his regime was estimated to control less than 50 per cent of the national territory with the rest of the country controlled by various armed rebel groups. The violence continued. Joseph Kabila became the president after his fathers' assassination in 2001. He was designated president of the transitional government in 2003. Joseph Kabila was himself no green horn and was well versed in the art of how to wage war, having learnt at his fathers' feet. Trefon describes him as a 'once commander of the infamous army of child soldiers known as Kadogo's'.<sup>100</sup>

Joseph realized the power of the international community in boosting his image and approached donors seeking legitimacy, reaching out to Belgium; France the USA and Bretton Woods institutions for support to improve the country and importantly, begin peace processes again. Joseph Kabila took steps to revive the Lusaka process and on 4<sup>th</sup> May 2001,

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<sup>98</sup> Kabila, Joseph Allocution du Président de la République Démocratique du Congo au sommet des Chefs d'Etat de la SADC, Blantyre, Malawi, 14 Janvier 2002.

<sup>99</sup> International Crisis Group 'The agreement on a cease-fire in the Democratic Republic of Congo: An analysis of the agreement and prospects for peace' in ICG Democratic Republic of Congo Report, No. 5, 1999, p. 4.

<sup>100</sup> Ibid 7.

two weeks before the Security Council's visit to the region, the Lusaka agreement signatories met in Lusaka and signed a Declaration on the Fundamental Principles.<sup>101</sup>

Between 20- 24<sup>th</sup> August 2001 the Inter Congolese Dialogue got started off, finally. It started with a preparatory meeting in Gaborone, attended by representatives of all signatories to the Lusaka agreement and the Congolese non- violent political opposition and civil society. Observers from the UN, OAU, SADC, EU and the JMC were included. There were disagreements, as expected on who would participate and the venue, but finally it was agreed that the national dialogue would be held in Addis Ababa for a period of six weeks. They agreed on 330 participants.<sup>102</sup>

On 15<sup>th</sup> October 2001, the peace talks were opened as planned at the UN Economic Commission for Africa (ECA) conference hall in Addis Ababa with President Masire reducing the participants to 80 citing financial constraints. The younger Kabila now began his fathers stalling tactics. The DRC walked out of the meetings insisting that all 330 people had to be there as all parties had to be represented. Joseph Kabila's key representatives insisted on the representation of the Mai Mai rebel group. This proposal was strongly rejected by the other Congolese rebel groups who argued that only parties included in the Lusaka peace agreement should participate in the dialogue. Joseph Kabila wanted to promote the manipulation of rebel groups like the Mai Mai that it could easily manipulate.

As the talks went through four months of disagreements over participation of the Mai Mai, war raged in the DRC. The dialogue finally re-opened in Sun-City in South Africa on 25<sup>th</sup> February 2002 even as battle raged in DRC. The (Movement for the Liberation of the Congo) MLC was one of the principal rebel actors refused to participate complaining that Joseph Kabila had sent bogus civilian opposition parties. After all this shove and pull, all parties eventually participated in the talks and 52 days later, the dialogue conceded that it had failed to achieve even a general agreement between the key actors.<sup>103</sup>

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<sup>101</sup> Section on Joseph Kabila drawn from various reports: Clement, C. (2009a) 'The EU mission to provide advice and assistance to security sector reform in the Democratic Republic of Congo (EUSEC RD Congo) in G. Grevi, D.Helly and D. Keohane (eds), (2009b) '*Security sector reform in the DRC: forward to the past*', in H.Born and A. Schnabel, *Security Sector Reform in Challenging Environments*, Geneva Centre for the Democratic Control of Armed Forces.

<sup>102</sup> Ibid.

<sup>103</sup> Bouvier, Paule and Francesca Bomboko, *Le Dialogue Intercongolais*. Paris: L'Harmattan, 2004.

However an agreement to share power with Joseph Kabila as President and MLC leader Jean-Pierre Bemba prime minister was signed by Kabila and the MLC. The RCD – Goma, a rebel group backed by Rwanda and the political opposition who both felt sidelined by the deal rejected the agreement. President Masire would say of the peace deal that ‘it was not wholly successful’<sup>104</sup> but it established a temporary lull in the violence. The violence in Congo took a break on this one occasion, during the establishment of a government of national unity in 2003.

The talks produced many recommendations, including establishing institutions such as a Truth and Reconciliation Commission. If these institutions were put in place then the DRC would be in a position to have durable peace. This situation of determining citizenship and nationality changed in November 2004 when a new nationality law was passed in which Congolese nationality was conferred on all people – and their descendants - who were resident in the DRC on or before 30 June 1960, the date of independence.

All the parties to the Sun-City agreement were to blame, as warlords, for failing to stop the continuing violence in the DRC. MLC and the Joseph Kabila teams concentrated on negotiating for plum government positions for themselves at the expense of local peace. This violence, which to the present day has found its home in the Eastern DRC, continues to the present day was the third Congo war. The parties’ marginalization of the RCD meant that Rwanda’s underlying objectives were not addressed. This has haunted the peace process to the present day.<sup>105</sup>

Democratic elections held in the historic 2006 elections gave rise to hope for peace and stability. The peace however was not to last long. Deadly fighting began in the North Kivu region in 2006 between government forces and rebels loyal to General Laurent Nkunda a Congolese ethnic Tutsi. He led the National Congress for Peoples Defence (NCPD). The General threatened to expand his rebellion beyond the eastern region and overrun Kinshasa. He appeared to be on the path of making good this threat as he managed to conquer huge territories, inflicting serious defeats on the DRC army. The DRC army was largely

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<sup>104</sup> Integrated Regional Information Network report, 22 April 2002.

<sup>105</sup> Weiss, H. ‘War and peace in the Democratic Republic of the Congo’ available at <[www.unc.edu/depts/diplomat/AD\\_issues/amdipl\\_16/weiss/weiss\\_print1.html](http://www.unc.edu/depts/diplomat/AD_issues/amdipl_16/weiss/weiss_print1.html)>, accessed on 3<sup>rd</sup> January 2013

disorganized and clearly cut off from its base in Kinshasa. In addition to defeat by the General, the army suffered numerous desertions to the rebels' side.<sup>106</sup>

In an eerie repeat of the second war, his uprising once again brought in the six neighboring countries, including the usual suspects, Rwanda, Uganda, Angola and Zimbabwe. The General was subsequently 'arrested' by Rwanda, on January 22, 2009, inside Rwanda after he was routed out by a joint Rwanda - Congolese force to the region's relief. The general feeling was that his arrest was a solution to one of the impediments of restoring democracy to Eastern DRC.

The Rwandan government imprisoned the General in an undisclosed location without bringing any charges against him. The DRC government issued an international warrant for his arrest over allegations of war crimes, insurrection and crimes against humanity. Rwanda refused to hand him over fearing that the General might be tried and killed on the basis of his Tutsi ethnicity. It is however not lost on observers of this situation that Nkunda formed the NCPD to protect the ethnic Congolese Tutsi against the Hutu, many of whom having escaped to the DRC after the genocide of 1994 are still living large and terrorizing Banyamulenge Tutsis in DRC.<sup>107</sup>

The real reason for the intervention of the foreign countries became apparent when the conflict degenerated into a fight for resources and the countries to this day continue to exhibit reluctance for their agents to leave the DRC, even as their armies claim to have left.

The role of foreign countries continues to feature in the DRC conflict to date with an article in The East African newspaper reporting that 'a visibly angry' President Paul Kagame of Rwanda has threatened to release General Nkunda and that this should have regional leaders worried 'about the risk of an explosion of unrest in the Democratic Republic of Congo that could spill over into the whole region.' The Rwandan President said;

'If this nonsense continues, Rwanda will have no option but to withdraw from all efforts aimed at returning peace to Eastern Congo and if necessary release General Nkunda... We are coming to a point where if this nonsense continues – on one hand you want Rwanda to be helpful, on the other you are putting all the blame on our shoulders – we shall offload all these problems that have been put on our shoulders

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<sup>106</sup> International Crisis Group, 'The agreement on a cease-fire in the Democratic Republic of Congo: An analysis of the agreement and prospects for peace' in ICG Democratic Republic of Congo Report, 1999, No. 5, p. 4.

<sup>107</sup> H. Born and A. Schnabel, *Security Sector Reform in Challenging Environments*, Geneva Centre for the Democratic Control of Armed Forces, 2009.

and throw them back at them. One way of doing it, we will reach a point of saying, take this man (Nkunda) we are holding here or we tell him go wherever you want to go. A situation has been created where Congo's problems are Rwanda's problems and not only that, actually which they have been caused by Rwanda and when everything else has failed, Rwanda must be held accountable for Congo. But ultimately, we will be forced into a situation where we just draw a line and say, well you don't want us to be useful, if you do want us to participate in finding a solution and you are just creating false grounds to blackmail us, we don't respond to blackmail.<sup>108</sup>

The Rwandese threat has arisen from fresh accusations from the UN Stabilization Mission in the Democratic Republic of Congo and the DRC Government that Rwanda is backing Bosco Ntaganda, Nkunda's former chief of staff and successor. Ntaganda recently gave himself up to the International Criminal Court to answer charges of crimes against humanity. To date the conflict continues exacerbated by Ntaganda's break away from the DRC army in April 2012, into which he had integrated his army under a MONUC led disarmament, demobilization and reintegration program. Experts estimate that presently 1,000 people die every day in the DRC due to conflict related causes. Rwanda's objectives as seen in the 2012 M23 rebels in Eastern Congo, have been to establish a sphere of influence in the DRC through direct military occupation, proxy forces or both.<sup>109</sup>

It is estimated that by 2008, the first, second and third wars had killed more than 6 million people in battle itself and from disease and starvation. Many Congolese are refugees or are internally displaced. Despite a formal end to the war in July 2003 and an agreement to form a government of national unity, the violent conflict has continued to date driven by among others, trade in minerals.

The DRC has stumbled from crisis to crisis and has failed to become a nation of peoples. Mwayila Tshiyembe categorizes the DRC as constructed at present as:

“A social and political mirage, a legal fiction maintained only by international law. Those in the DRC who govern and are governed are confronted with a two-fold obstacle in their parallel paths. On the one hand, with dreams of constructing a nation state, those in government ignore the inherent history and culture of unification and homogenization implied by the Western state model and thus also the impossibility of reproducing the latter within the contexts of their own plurinational society. On the other hand, those who are governed, in search of a

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<sup>108</sup> Gaaki Kigambo, ‘Congo war risks as Kagame threatens to release Nkunda’ *The East African* June – 25<sup>th</sup> – July 1st 2012.

<sup>109</sup> Ibid, Bomboko.

sensible state model, cry our relentlessly for recognition. But this call is not so much for a unified and homogenous body corresponding to a European state but rather for one that encompasses a diversity of sociological nations or ethnicities, individuals or citizens, each claiming its right to a political and legal recognition. ---- The neglect of this social call by the Congolese authorities and intellectuals alike is one of the root causes for the crisis of legitimacy and representation which has brought the country to ruin'. <sup>110</sup>

Peace agreements in the DRC are drafted within the context of these unaddressed issues and different definitions in meaning and practice of the state. Despite two sets of elections that aimed to fulfill the peace processes of 2002 at the Inter Congolese Dialogue at Sun City, there is no peace. The elections did not solve the governance crisis that bedevils the DRC. The Government only maintains its hold through over the populace through the military which is as expected very strong handed. National institutions are weak and many nonexistent.

Disarmament, demobilization and reintegration of armed militia such as Rwandan backed rebel groups and the Mai Mai mercenaries as well as efforts to repatriate the Rwandan Hutu FDLR (Democratic Liberation Forces of Rwanda) militia have had very slow results. Tensions are simmering between the Hutu and Tutsi. This was established through conversations held with Rwandans, both Hutu and Tutsi at the Mutobo rehabilitation camp in Rwanda, which admits former FDLR militia willing to be reintegrated back into Rwanda.<sup>111</sup>

Tensions between DRC and Rwanda have emerged again over Rwanda's alleged continues support of rebel groups active in Eastern Congo. These groups include the M23, the Tutsi – led National Congress for the Defence of the People (CNDP). There continues to be bad blood between the DRC and Rwanda as Kinshasa pledged to disarm the FDLR (the Hutu rebel group) by signing the Nairobi agreement in November 2007. Rwanda's key issue with DRC has always been the reluctance to disarm the FDLR whom Rwanda has always asserted that they are genocidaires hiding in DRC.

The DRC meanwhile has not only been hesitant to disarm the FDLR, It has even continued its collaboration with the Hutu rebel group over lucrative mining interests even after signing

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<sup>110</sup> Mwayila Tshiyembe – A new political order in the DRC: The challenge of 'Multinationalism' Vol 29, No 93/94, published by Taylor & Francis pg 581.

<sup>111</sup> Conversations with Rwandans held at Mutobo rehabilitation camp in August 2010, Ruhengeri.

the agreement. In meetings held by the Life and Peace Institute in 2012, the FDLR expressed the need to stay ‘armed and therefore stay safe’.<sup>112</sup>

On January 23<sup>rd</sup> 2008, the Kinshasa government, CNDP General Laurent Nkunda and Mai Mai militia signed a peace agreement, the Goma agreement. The agreement called for a ceasefire, the withdrawal of troops from certain areas and the disarmament, demobilization and reintegration of combatants. Another peace process resulting in the Amani agreement followed. Implementation of the agreements is always a problem and as was expected both agreements failed.

Tshiyembe argues further that for any attempt at peace to hold, the solution must be founded upon a political order from within, of which both the individual and the ethnic group must form the main pillars of legitimization. He says that from King Leopold II to Laurent Kabila, the DRC has known rule by one man but never by a government. The three elected heads of state, Patrice Lumumba (1960), Moïse Tshombe (1965) and Etienne Tshisekedi (1992) never succeeded in taking up office due to the violent conflict that the DRC has been fraught with.<sup>113</sup>

Fortna asks the question, “What makes peace more or less likely to endure after war? She asserts that peace is thought to be harder to maintain when war ends in a stalemate or compromise settlement than if one side achieves a military victory.” Fortna’s analysis however errs on the side of DRC’s history when she asserts that ‘peace that is ushered in with a formal peace settlement may be more stable than an informal truce. Formal agreements entail a political commitment to peace that invokes audience costs, both internationally and domestically’.<sup>114</sup> This analysis has been proved wrong by recent accounts of war brewing in the DRC again as so aptly put by the quote below of an editorial of the authoritative East African newspaper that covers the Eastern Africa region.

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<sup>112</sup> The oral interviews with staff of the Life and Peace Institute based in Bukavu who have provided technical support to the peace processes in the DRC, November 2012.

<sup>113</sup> U.N Office for the Coordination of Humanitarian Affairs. 2003-06. Monitoring De La Situation Humanitaire En RDC. Kinshasa (D.R. Congo): UN Office for the Coordination of Humanitarian Aid. Accessed Feb 22, 2013.

<sup>114</sup> Ibid



The sound of war drums in eastern Democratic Republic of Congo is ominous, coming at a time when regional leaders are trying to resolve the crisis. According to the rebel group M23, President Joseph Kabila is amassing troops, ready to attack. The rebels themselves are also threatening war, saying they have what it takes to mount a battle against the government.<sup>115</sup>

### **3.5 Conclusion**

In conclusion, as has happened before, a war in eastern DRC would affect the entire Great Lakes region, apart from destroying the lives and livelihoods of thousands of people in that country. All indications are that such a war would suck in several neighboring countries, fighting on different sides. This is not a scenario the region wishes to see. In the interest of the innocent men, women and children of DRC, the two sides in the DRC conflict must continue with dialogue to resolve their differences. They must give peace a chance.<sup>116</sup>

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<sup>115</sup> Human Rights Watch, 2004. D.R. Congo: War crimes in the DRC. Washington, D.C: [www.humanrights.watch](http://www.humanrights.watch). Accessed on 10<sup>th</sup> June 2012

<sup>116</sup> The East African, editorial, Saturday, October 20 2012

## **CHAPTER FOUR:**

### **A CRITICAL ANALYSIS OF THE KEY PEACE AGREEMENTS 1999- 2012**

#### **4.1 Introduction**

The Chapter examines some of the major peace agreements signed between 1999 to the present. Since 1999 to the present, the DRC has seen more than 23 attempts by regional and international actors – individuals, states and institutions to broker peace. Each of these peace agreements has followed a major conflict. All these peace agreements failed to stop the war or even to stop another war from recurring. Many failed even as they were being signed as war has continued throughout the life of all the agreements.<sup>117</sup>

The Congolese famously say that peace can never overtake war.<sup>118</sup> In this chapter I will tabulate some of those agreements and discuss a few in detail as examples of the failures of the peace agreements. These agreements, such as the Lusaka agreement touted as the best ever agreement, have failed to end the violence. The Western world that funded the meetings that led to the signing of the celebrated Lusaka agreements claimed that the signing would end all wars in DRC. However, President Joseph Kabila dismissed the Lusaka agreements as ‘justifying the presence of foreign troops in DRC’<sup>119</sup> and has since signed four more peace agreements culminating in a peace conference in Goma in 2008 that was expected to open a new chapter of ‘real peace’ as opposed to ‘paper peace’. The violent conflict, meanwhile, continues unabated, to date. The peace agreements and the leadership in DRC have also failed to establish central government authority in the entire Democratic Republic of Congo.

The Congo wars are defined by the crisscrossing on intra and interstate conflict which means that at any given time that Congo has a intra conflict within its borders, a third party, an interstate, from without is involved. The violence continues to date at great enormous human cost; control over revenues from natural resources is in the hands of a few people, many of them notable foreigners. In the Eastern DRC conflict, sometimes over identity, land or other resources continues unabated, while armed groups are clearly in charge in the Eastern DRC.

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<sup>117</sup> Carayannis, T. and Weiss, H. (2003) *The Democratic Republic of Congo* – in Boulden, J. (ed) *Dealing with Conflict in Africa: The United Nations and Regional organizations*, Basingtoke:Palgrave Macmillan. 1996-2002, pp 253-303

<sup>118</sup> Oral interview, Francesca Bomboko, 3<sup>rd</sup> July 2011

<sup>119</sup>Vasu Gounden,Peace Agreements in Africa, *Conflict Trends* Issue 3, 2007

State institutions as exhibited by the recent events of the Army giving in to the M23 in Goma, remain weak.<sup>120</sup>

It has not been able to keep much peace. Since 1997, the second Congo war has been over, on paper. The peace keeping UN mission in the Democratic Republic of Congo (MONUC) has been in existence since 1998. It is still questionable whether the current conflict in the Kivus between the M23 rebels and the Government forces constitute a new chapter of the fourth Congo war or is a continuation of the third Congo war.

#### **4.2 Inter and Intra State Agreements: Cease Fire Agreement, January 18, 1999 at Windhoek.**

The agreement signed in Windhoek was signed by Rwanda, Uganda, Angola, Namibia, Zimbabwe and DRC. It was a cease-fire to the 1998- 1999 war created by the rebel offensive on Laurent Kabila by these countries and was a predecessor to the Lusaka agreement. The war between the Rwanda, Uganda, Angola, Namibia, Zimbabwe and DRC had been triggered by the creation of a rebel group that had reacted to Kabila dismissing his Rwandan Chief of Staff James Kabarebe on 14 July 1998 and ordering all Rwandan and Ugandan military forces to leave the country. This as yet to be organized rebel movement began to resist Laurent Kabila's government. The Banyamulenge in Goma erupted in mutiny with Rwanda and Uganda offering support through the Rally for Congolese Democracy (RCD). The RCD gave the rebels a home. The RCD took control of the towns of Bukavu and Uvira. President Laurent Kabila sought the help of the Hutus in the Eastern DRC who began an offensive against the Banyamulenge.<sup>121</sup>

President Kabila sought international help and got it from the SADC particularly the governments of Namibia, Zimbabwe and Angola who sent in their military to fight Uganda, Rwanda and the RCD. Chad, Libya and Sudan also sent in their militaries to join in support of Kabila. In November 1998, a rebel group backed by Uganda the Movement for the Liberation of Congo (MLC) began an offensive in the Northern part of Congo.

The agreement was good on paper but completely impractical and not implementable.

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<sup>120</sup> Reporter, Daily Nation, 18<sup>th</sup> November 2012

<sup>121</sup> Congo-Afrique, Discours programme du Président Joseph Kabila (26 January 2001), No. 352, Février 2001, p. 3

The first failure of the January 18, 1999 Ceasefire was that it was to prove difficult to implement by the sheer numbers of countries involved in the signing. The agreement was signed between the Rwanda, Uganda, Angola, Namibia and Zimbabwe governments at Windhoek, Namibia.<sup>122</sup>

The second failure was that it was too ambitious in regard to addressing other aspects of the war beyond that involving the various governments. In addition to the various countries that signed the agreement in Windhoek, it was also intended that the agreement would serve as a cease fire to the 1998- 1999 war created by the rebel offensive on Laurent Kabila that involved a war between the rebel movements of Rally for Congolese Democracy (RCD), Movement for the Liberation of Congo (MLC), the Banyamulenge. This was in addition to the wars created by the countries of Uganda, Rwanda against Namibia, Zimbabwe and Angola, Chad, Libya and Sudan.<sup>123</sup>

The third shortcoming to the ceasefire was the refusal to invite the RCD and MLC rebel groups because they were not governments. What the refusal to invite meant was that as the recognized countries sat in Windhoek to negotiate the cease-fire, the war went on unabated, as the rebels were not reigned in. It also meant that the countries, sitting in the relative safety of Windhoek, continued to fight their wars through proxy.

The fourth reason for the failure and a major shortcoming at that was that different countries signed the ceasefire for different reasons. Zimbabwe at least appeared to be a bit concerned about the DRC as a nation, with President Mugabe insisting on the sanctity and sovereignty of the Congolese Government, although he was also interested in mining activities in the DRC. Mugabe had supplied the Zimbabwean air force to the conflict on the side of the DRC, being the only country to do so.<sup>124</sup>

For the Angolan government, this foray was not to be the first one into the Congo having fought against Mobutu Sese Seko in the First Congo War. Angola had fought against Mobutu because he had supported UNITA in the Angolan civil war. UNITA rebels still remained in the Congo, working in the diamond mines from which they gained profits to buy

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<sup>122</sup> Ibid

<sup>123</sup> Mangu, A.M.B. (2003) 'The conflict in the Democratic Republic of Congo and the protection of rights under the African Charter' in African Human Rights Law Journal, (3) 1, p. 246.

<sup>124</sup> Ibid pp. 246

arms. Angola intervened in fear that should Kabila be deposed, the vacuum left would allow UNITA to thrive.

President Sam Nujoma of Namibia had mining interests in the DRC. The war was bitterly opposed at home because there was widespread opinion among the citizenry that the intervention was fuelled by the fact that Sam Nujoma's family had mining interests. The French were clearly behind Chad's intervention as they tried to use a reluctant Chadian army to create space for them to get a foothold in the country.<sup>125</sup>

Things were going out of hand. The agreement failed to stop the war. It necessitated another sitting as nobody could control the people on the ground. The continuation of the war pointed out to another of the agreements key problems. It was not clear who the supervisory party was although the agreement was brokered by the SADC.<sup>126</sup>

#### **4.3 Ceasefire Accord signed in Sirte, Libya in April 1999**

Uganda, DRC, Eritrea and Chad signed the ceasefire Accord. In the period before 18<sup>th</sup> April 1999 President Muammar Gaddafi of Libya had been shuttling between the DRC, Uganda and Rwanda, trying to broker a peace deal. The Libyan leader, Muammar Gaddafi began diplomatic contacts with the countries involved in the Great Lakes conflict in September 1998. By December of 1998, he had made considerable ground, having met, separately, with DRC President Laurent Desire Kabila, Ugandan President Yoweri Museveni and rebel leader Ernest Wamba dia Wamba. On 5<sup>th</sup> April 1999, Wamba dia Wamba had led a breakaway faction named *Forces for Renewal* following increased pressure in the RCD over Banyamulenge control.<sup>127</sup>

On 18<sup>th</sup> April 1999, Gaddafi brokered a peace agreement between Museveni and Kabila in the Libyan town of Sirte. The Presidents of Chad and Eritrea also signed the agreement. The agreement called for the withdrawal of foreign forces from the DRC. After the signing, Chad withdrew its troops from the DRC.<sup>128</sup> There was a shortcoming in that Rwanda pulled

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<sup>125</sup> 8 Mangu, A.M.B. (2003) as above, p. 246.

<sup>126</sup> Ibid

<sup>127</sup> 2005. The Congo's Transition is Failing: Crisis in the Kivus. Brussels: International Crisis Group. [www.icg.org](http://www.icg.org) Accessed on 10<sup>th</sup> July 2011

<sup>128</sup> Larémont, Ricardo René, ed. 2005. *Borders, nationalism and the African state* Boulder, Colorado and London: Lynne Rienner Publishers.

out at the last minute. Rwanda's key issue was that they needed the DRC to commit to helping them to get the Hutu militia functioning as FDRL out of the DRC. The Hutu genocidaires had stayed on in DRC and would occasionally launch attacks into Rwanda. Rwanda had severally asked the DRC to throw out the genocidiare militia. This was not something the DRC was committed to do.

The RCD also felt that they were getting short changed, as the agreement did not offer them anything in return for ending violence. President Museveni of Uganda and President Kabila signed the cease – fire accord following the mediation of Libyan President Muammar al-Gaddafi. The Presidents of Chad and Eritrea also signed the agreement as witnesses. Both the RCD and Rwanda refused to take part<sup>129</sup>. In regard to the Sirte Agreement, one of the key shortcomings to the process was that efforts towards the accord appeared to be largely about building Gaddafi's image as a mediator. Gaddafi was by then pushing his agenda of a United States of Africa and it helped his image that official Libyan communiqués began to refer to Gaddafi as the 'Coordinator of the peace process in the Great Lakes'. This was reinforced by the sending of 40 military personnel to Uganda ostensibly to 'prepare for the deployment of a proposed neutral African peacekeeping force under the Sirte Accord'. The other shortcoming was that Rwanda and the RCD refused to be party to the Sirte agreement despite having forces in the DRC.

Following up on the signing, Gaddafi would host on 15<sup>th</sup> May 2009, a mini summit of African leaders to discuss peace efforts and the implementation of the Sirte Accord. Not much happened in regard to the implementation of the agreement except the withdrawal of the Chad troops, who were being pushed in by France as it attempted to get a foothold in the DRC and were only too glad for the excuse provided by the Sirte agreement to leave<sup>130</sup>.

The agreement was, in light of all these problems a failure and the war in the DRC continued.

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<sup>129</sup> Clark, John F., *The African Stakes of the Congo War*, 2004 pp 224

<sup>130</sup> ^Reyntjens, Filip (August 24, 2009). *The Great African War: Congo and Regional Geopolitics, 1996-2006*. Cambridge University Press.

#### **4.4. Lusaka Ceasefire Agreement signed on July - August 1999**

On 10<sup>th</sup> July 1999, all State parties to the DRC conflict, namely the DRC, Namibia, Angola, Zimbabwe, Burundi, Rwanda and Uganda, signed the Lusaka ceasefire agreement<sup>131</sup>. Despite the signing of the Windhoek ceasefire in January 1999 and the Sirte Agreement in April 1999, war had continued unabated. This is the period referred to as the second Congo war. The war during peace negotiations is usually so bad that a common joke in DRC is that locals should take cover when anyone proposes peace talks. The reason for the increase in violence during a peace negotiation is linked to the people at the peace table trying through their fighters on the ground to prove themselves stronger so that they can get a bigger share of the spoils, as they will be taken more seriously. It is widely recognized that the more violence a group is associated with, the more mileage and clout the group gets at peace negotiations.<sup>132</sup>

Except for Chad, the countries that had signed the Windhoek and Sirte declarations never left the DRC. By 1999, the second Congo war was very complex. There were now three rebel groups operating in the DRC and they were in charge of half the country. The RCD had split into two movements, the RCD – ML Mouvement de Liberation backed by Uganda and the RCD – Goma backed by Rwanda. There was also another anti Laurent Kabila armed group that was supported by Uganda in Northern Equateur Province that had come into being three months after the founding of RCD.

The annual summit of the 14- member Southern African Development Community (SADC) met in Mauritius. In this meeting the DRC was discussed as a priority and President Frederick Chiluba was appointed to lead mediation efforts assisted by Tanzanian President Benjamin Mkapa and Mozambican President Joaquim Chissano in a fresh initiative.<sup>133</sup>

The six countries that signed the Lusaka ceasefire agreement the DRC, Congo, Angola, Namibia, Zimbabwe, Rwanda and Uganda did so in a bid to end the second Congo war. I have broken down the details of the Lusaka Peace Agreement comprehensively because it

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<sup>131</sup> Clark, John F. *The African Stakes in the Congo War* New York: Palgrave McMillan, 2002

<sup>132</sup> Oral interview, Sylvie Mbangga, Bukavu, 12 June 2012

<sup>133</sup> Swart, G. and Solomon, H. 'Conflict in the DRC: A critical assessment of the Lusaka Ceasefire Agreement' in SAIIA Report, No 40, Johannesburg: The South African Institute for International Affairs, 2004, p. 16.

has been hailed by many scholars as the best agreement ever, one of a kind and a significant breakthrough in the resolution of the DRC conflict.<sup>134</sup>

The government of Zambia, SADC, the OAU and the United Nations (UN) signed the agreement as witnesses. There was an immediate setback though as the two main rebel movements, the RCD and the *Mouvement de Liberation du Congo* (Movement for the Liberation of Congo) (MLC) refused to sign the agreement. Their refusal was not a surprise as they had indicated that they would not sign. There were several ministerial meetings held however, crucially a heads of summit meeting in the lead up to the signing was postponed severally with one of the key issues concerning the postponement being disagreement over the participation of the Congolese rebels in the negotiations. The Congolese rebels were only persuaded to sign on 1<sup>st</sup> and 31<sup>st</sup> August respectively.<sup>135</sup> Even as the government of the DRC and the rebel movements of MLC and RCD signed the Lusaka Accord in 1999 regular reports of ongoing violence filtered into the peace negotiations<sup>136</sup>.

The Lusaka Accord tried to create solutions for the key issues bedeviling the DRC. The key stipulations of the agreement were a ceasefire, an end to the movement of military forces and hostile propaganda and redeployment of defensive positions. Foreign troops were to be withdrawn from the DRC in nine months. A joint military commission comprised of the warring parties and United Nations and Organization of African Unity (OAU) observer groups. They were tasked to ensure compliance with the ceasefire and disarm identified militia groups. The Lusaka agreement called for the creation of a national army, made up of government and rebel forces plus an-inter Congolese dialogue, followed by general elections. The agreement provided for amnesty for a rebel groups apart from those implicated in acts of genocide<sup>137</sup>.

The agreement consists of a preamble, and three articles dealing with the ceasefire, security concerns, and the principles of the agreement. The agreement also has three annexures, focusing on the modalities for the implementation of the agreement, its framework and its

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<sup>134</sup> Edgerton, Robert G. (2002) *The Troubled Heart of Africa: A History of the Congo* St. Martin's Press, 2002.

<sup>135</sup> International Crisis Group (1999) 'The agreement on a cease-fire in the Democratic Republic of Congo: An analysis of the agreement and prospects for peace' in ICG Democratic Republic of Congo Report, No. 5, p. 4.

<sup>136</sup> News reporter, Daily Nation July 6<sup>th</sup>, 1999

<sup>137</sup> Miller, Eric: "The Inability of Peacekeeping to Address the Security Dilemma", 2010.



key agreements. The preamble makes reference to the UN and OAU charters, emphasizing the principles of state sovereignty and territorial integrity of the DRC.

In Article 1 all parties to the conflict committed to cease, 24 hours after signing the agreement all hostilities, military movements and reinforcements as well as hostile actions including hostile propaganda against one another. Article 2 on security concerns stressed that all involved parties should commit themselves to immediately addressing these concerns of not just the DRC but for the surrounding countries. Article 3 dealt with various issues that included a request for deployment of a UN peace keeping mission in the DRC, the withdrawal of foreign troops, the organization of political talks among the Congolese parties, the formation of a new national army and the disarming of armed militia.<sup>138</sup>

Key issues that affect the durability of peace agreements such as reconciliation, national dialogue and establishing a new political dispensation in the country were addressed in the closing paragraphs of the agreement. A national dialogue which would in essence serve as a framework for a political solution to the conflict was to be implemented 45 days after the signing of the agreement and was to last for 45 days. This national dialogue would also lay the foundation for the creation of national institutions that would hold the DRC as a country together.<sup>139</sup>

The annexures were heavy on implementation modalities. Annexure A had 13 articles. Central to the implementation was the establishment of the a Joint Military Committee (JMC), tasked to monitor the implementation of the ceasefire as well as the withdrawal of foreign troops and disarming of militias, armed groups and civilian Congolese. The JMC was in essence a peacekeeping body even as a peacekeeping force was awaited from the OAU and UN. The JMC was answerable to a political committee and in itself was composed of representatives from each party to the agreement under a neutral Chairman appointed by the OAU. The political committee was composed of Ministers of Foreign Affairs and Defence or ‘any other representative duly appointed by each party’.

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<sup>138</sup> Bureau of African Affairs, U.S. Department of State, *Background Note: Democratic Republic of the Congo*, Retrieved from <http://www.state.gov/r/pa/ei/bgn/2823.htm> on 17<sup>th</sup> July 2011

<sup>139</sup> Renton, David; Seddon, David; Zeilig, Leo (2007). "The Congo: Plunder & Resistance". New York: Zed Books

The envisaged UN peace keeping mission was expected to conduct peace enforcement activities such as tracking down and disarming armed groups in the DRC, screening mass killers and perpetrators of crimes against humanity and war criminals as well as handing over Rwanda genocide suspects to the International Criminal Court for Rwanda. The armed forces of the warring parties were expected through the Lusaka agreement to, disengage from territories in the DRC where they were direct contact with each other and redeploy to 'defensive positions to apply for a buffer zone'.<sup>140</sup>

The Lusaka agreement provided for an all-inclusive process, the Inter Congolese Dialogue' to produce a new political order for the Congo. The former President of Botswana, Sir Ketumile Masire was appointed to facilitate the process in December 1999. A key provision was that all domestic parties to the dispute, both armed and unarmed opposition groups, were to participate in the process from an equal footing. The inclusion of these groups was a very positive move, particularly while contrasted with earlier mistakes of leaving them out of the discussions.<sup>141</sup>

Annexure B and C dealt with, respectively, an implementation calendar that provided deadlines for each event, and a definitions and acronyms. The Lusaka Ceasefire Accord had positive elements that pointed to a process that would hopefully lead to the peace that the DRC so urgently needed. This positive elements of the Lusaka agreement included for the first time, the signing by all major parties to the dispute, including foreign governments and rebel groups. All countries and rebel groups involved had finally sat at one table and signed on to a peace deal.<sup>142</sup> The Lusaka Ceasefire Accord created a space in which the Congolese themselves could discuss the issues that led them to conflict, internally. The Inter Congolese dialogue created by the Lusaka Ceasefire Accord created space for a discussion on an internal healing process among the Congolese. The Ceasefire Accord did more than bring all the parties together. It recognized all the overlapping layers of inter and intra state actors involved in the second war. It carefully discussed and assigned roles to all the parties to the

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<sup>140</sup> Wikipedia Free Encyclopaedia, *Lusaka Ceasefire Accord*, Retrieved from <http://en.wikipedia.org/wiki/secondcongowar>, on 28<sup>th</sup> July 2011

<sup>141</sup> Central Intelligence Agency. World Factbook 1998. Country listing for Democratic Republic of Congo. <http://www.umsl.edu/services/govdocs/wofact98/61.htm>. Accessed Jan. 8, 2012.

<sup>142</sup> Laurent Baregu, Mwesiga; Chris Landsberg. *From Cape to Congo: Southern Africa's Evolving Security Challenges*. International Peace Academy. 2003, p. 214

agreement depending on their roles in the war.<sup>143</sup> In doing so, the Lusaka Ceasefire Accord was careful not to elevate any warring party over another. The Accord put all the parties to the agreement on the same footing in which they participated on the same status. This effectively put to paid the arguments on who was the belligerent and who was the main cause of the recurring violence<sup>144</sup>. Importantly for Rwanda, there was recognition that the presence of the Hutu militias constituted security concerns of Congo's neighbors regarding insurgency movements seeking to overthrow their governments from bases in the Congo.

The Lusaka agreement was a highly acclaimed document. However, its key achievements were also among its key failures. The agreement was negotiated within the framework of the SADC, a key platform upon which the DRC could get its voice heard. This was at once a plus and a mins, as the SADC in addition to ensuring an international voice, ended up also representing the 'foreignness' of the Lusaka Agreement, leading to the Congolese feeling that it represented foreign interests, rather than their own.

The peace agreement proved to be in itself, a problem. The agreement represented a breakthrough in that for the first time, all the parties had met and agreed on establishment of processes that would lead to the peaceful resolution of their differences. It presented the opportunity for a significant conflict transformation not only for the DRC but also for the entire region. The agreement laid the foundation as a first step towards paving the way for the DRC's first democratic election 2006.<sup>145</sup>

The first shortcoming of the peace agreement was presented by its title. Presented as the 'Lusaka Cease Fire Agreement', the agreement went ahead to attempt to solve a whole host of other problems beyond the ceasefire. Mangu argues that the 'titling of the agreement as the 'DRC ceasefire agreement' was misleading since it was intended to achieve more than the official designation suggested'.<sup>146</sup> The second shortcoming of the Lusaka peace agreement was its complexity. Its very structure was devoid of simple solutions to simple

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<sup>143</sup> Ibid

<sup>144</sup> Prunier, Gérard, *Africa's World War: Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe*, 2011 (also published as *From Genocide to Continental War: The Congolese Conflict and the Crisis of Contemporary Africa: The Congo Conflict and the Crisis of Contemporary Africa*).

<sup>145</sup> Ibid

<sup>146</sup> Mangu. A.M.B (2003) The conflict in the Democratic of Congo and the protection of rights under the African Charter, in *African Human rights Journal* (311, P246)

problems. Weiss described it as a ‘very complicated plan for peace’<sup>147</sup> The third shortcoming was the legitimization of foreign governments in interfering in the matters of the DRC. The structures it created, for instance the JMC, provided space for complication and interference.

The agreement recognized the presence of hostile foreign armies on DRC soil. However the Lusaka Peace Agreement did not compel these armies to an unconditional withdrawal from the DRC. The agreement placed the invading foreign armies on the same platform as the armies that the DRC had invited to defend it against the invaders and linked the withdrawal of both sets of armies. The DRC found this very frustrating, as they needed the friendly armies to help them maintain peace but did not need the invading Ugandan and Rwandan armies who they could not trust to maintain peace. Mangu expresses this frustration saying that ‘ by authorizing the Rwandan and Ugandan armies to stay on Congolese soil..... to administer part of the Congolese territory, it regrettably condoned the Rwandan and Ugandan aggression and ‘legalized’ their violation of the sovereignty and territorial integrity of the DRC, and their interference in Congolese affairs’.

The fourth shortcoming was that there was no authority entrusted with its enforcement. This was a critical failure for a country with so many gaps in its leadership. How was the DRC expected to enforce this agreement when the President was clearly not in charge of his country? Swart and Solomon argue that the Lusaka ceasefire itself failed because of ‘the absence of an international guarantor who could compel compliance.’<sup>148</sup> There was no way the Lusaka peace agreement as constituted would have averted further violence and this therefore by extension meant that it provided no peace even at its signing.

The fifth shortcoming of the agreement was that it did not change the statuses of influence controlled by different rebel factions and their patrons who in essence were still the foreign countries signing the agreement with them. This therefore meant that the MLC and Uganda controlled the Northwest, Uganda and more proxies in the North East, Rwanda and the RCD controlled the East (Rwanda was to control a bigger area when it began to sponsor the CNDP).

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<sup>147</sup> Weiss, H. ‘War and peace in the Democratic Republic of the Congo’ available at [www.unc.edu/depts./diplomat/AD issues/amdipl\\_16 weiss/weiss\\_print1html](http://www.unc.edu/depts./diplomat/AD%20issues/amdipl_16%20weiss/weiss_print1.html)>accessed on 20 June 2012.

<sup>148</sup> Swart, G. and Solomon, H. (2004) ‘ Conflict in the DRC: A critical assessment of the Lusaka Ceasefire agreement in SAAIA report No.40, Johannesburg: The South African Institute for International Affairs p.16

The sixth and probably the shortcoming that has come to haunt the Lusaka Agreement most was leaving the Mai Mai rebel group out<sup>149</sup>. The Mai Mai was an armed rebel group supported by Laurent Kabila. He had even gone to the extent of declaring them part of the Congolese army. The Mai Mai were neither included in the peace talks nor mentioned as participants in the proposed Inter Congolese dialogue. Engaging the Mai Mai to date comprises of a missed opportunity as they continue to fight openly as mercenaries for hire while fighting behind the scenes to disrupt all peace processes in the DRC. The Mai Mai is today fighting Rwandan proxy forces in the Kivus. With all this shortcomings, it was not a surprise therefore that there was not a lot of commitment on the part of the signatories. Uganda for example, withdrew unilaterally from the agreement in 2001, following the release of the UN report on Resource Exploitation in the DRC, in which Ugandan officials were named as perpetrators.

The final blow for the implementation of the agreement would come from the criticism directed at it by the DRC President himself. Joseph Kabila termed the Lusaka Peace Agreement a document that contained ‘obstacles to its own implementation as it placed more emphasis on the internal aspects of the conflict while legitimizing Rwanda’s and Uganda’s presence in and exploitation of the DRC by centering the process on their security needs’<sup>150</sup>. In Joseph Kabila’s inaugural speech as President, he had said he would support the agreement on condition that ‘the aggressing armies from Rwanda, Burundi and Uganda withdrew unconditionally and without delay from DRC’.<sup>151</sup> This did not happen as fast as the DRC wanted it to and the agreement has been described as a ‘charade completely unfit for dealing with the situation on the ground’<sup>152</sup>.

It had originally been seen as a plus was that the United Nations peacekeeping force was approved by the Security Council in 1999, mainly to put an end to hostilities in the eastern provinces, as outlined in the July 1999 Lusaka agreement. This peacekeeping force, received with high expectations, has however been unable to keep any peace in the DRC to date.

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<sup>149</sup> The Mai Mai (or Mayi Mayi) are Congolese civilian ‘self-defence’ militias in the Kivus who mobilise to fight foreign occupation. They have no common leadership or coordination.

<sup>150</sup> Speech made by Joseph Kabila to the SADC Heads of State and Government Summit in Blantyre, Malawi, January 2002.

<sup>151</sup> The inaugural address was presented on 26<sup>th</sup> January 2001. See Congo – Afrique, Discourse programme du President Joseph Kabila No.352, Fevrier 2001,p.2

<sup>152</sup> Prunier, G. From Genocide to Continental War: The ‘Congolese’ Conflict and the Crisis of Contemporary Africa, London: Hurst, 2009

The Lusaka agreement itself was of course a failure. All State parties to the DRC conflict, namely the DRC, Namibia, Angola, Zimbabwe, Burundi, Rwanda and Uganda, violated the terms of agreement. They were slow to withdraw their troops, watching each other to see who would leave first. The conflict continued unabated.

#### **4.5 The Lusaka signatories follow up: Declaration on the Fundamental Principles, 4<sup>th</sup> May 2001**

Joseph Kabila, once in power in January 2001 following his father Laurent Kabila's assassination, took steps to revive the Lusaka process. With a Security Council meeting scheduled for a regional visit, all the Lusaka agreement signatories met again in Lusaka and signed a Declaration on the Fundamental Principles on 4 May 2001. The agreement failed to translate to peace on the ground. The war continued and in fact, it was as if no agreement had been signed. The agreement failed because the Security Council meeting visit motivated the signing parties. They had no intentions of ending the conflict beyond impressing the Security Council.

In an application filed in the registry of the International Court of Justice (ICJ) on 28<sup>th</sup> May 2002, the DRC instituted proceedings against Rwanda, in what it termed a 'dispute concerning massive, serious and flagrant violations of human rights and international human rights law' alleged to have been committed in "breach of the International Bill of Human Rights" other relevant international instruments and mandatory resolutions of the United Nations Security Council." The application complained of "flagrant and serious violations of human rights and of international humanitarian law, resulting from acts of armed aggression perpetrated by Rwanda on the DRC". DRC specifically accused Rwanda in this application to the ICJ of "flagrant violations of the Lusaka Ceasefire Agreement and mass killings."<sup>153</sup>

#### **4.6 The 2002 Agreements**

The year 2002 was to witness a flurry of peace agreements and communiqués on the DRC. All of them are identified by their singular failure to end the war. The section below explain the key agreements.

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<sup>153</sup> See International Court of Justice, case concerning armed activities on the (ICJ) Territory of the Congo (New Application 2: 2002) (Democratic Republic of the Congo ((DRC) V. Rwanda) (Request for the indication of Provisional measures) 10July General List, No. 126, July10, 2002

#### **4.6.1 The Sun City Agreement, 19 April 2002**

The Sun City Agreement, named after Sun City in Johannesburg South Africa was a result of what was dubbed the Inter Congolese dialogue (ICD).<sup>154</sup> There was a lot of hope that this agreement would make significant progress largely because it was grounded on a Congolese internal process, the Inter Congolese Dialogue. The Sun City Agreement<sup>155</sup> was reached between the Mouvement de liberation du Congo (MLC) as well as many other ‘unarmed opposition groups’, civil society and the DRC government. The ultimate aim of the agreement was to end the war and set up a government of national unity. South African President Thabo Mbeki and the heads of state of Botswana, Namibia, Zimbabwe and Zambia witnessed the agreement.

The Sun City Agreement almost did not happen. The Lusaka agreement had planned for a six week long national dialogue with both unarmed and armed Congolese groups. The dialogue was supposed to happen alongside a parallel process of disarming of armed groups and the departure of the foreign armies as part of its implementation. The dialogue was to discuss among other agendas strengthening future Congolese institutions and the interim government of the Congo. Laurent Kabila frustrated the efforts of the dialogue’s facilitator President Masire. Kabila also refused to cooperate with the United Nations.<sup>156</sup> Kabila’s key problem with the process was that he did not want the other parties to enjoy the same status as he did. Kabila picked quarrels with Masire over everything, the start date of the negotiations, Masire’s inability to speak French, and the office in Kinshasa that he eventually ordered closed. He accused Masire of favouring Anglo phone Uganda and Rwanda and demanded a Franco phone facilitator.

The Inter-Congolese Dialogue finally got started with a preparatory meeting in Gaborone on 20–24 August 2001, attended by representatives of all signatories to the Lusaka agreement and the Congolese non-violent political opposition and civil society, as well as observers

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<sup>154</sup> A detailed account of the negotiations at Sun City can be found in the report International Crisis Group, Storm Clouds Over Sun City: the Urgent Need to Recast the Congolese Peace Process, Africa Report N°44, 14 May 2002.

<sup>155</sup> Interim report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, Fifty-seventh session, Item 109 (c) of the agenda, Human rights questions: human rights situations and reports of special rapporteurs and representatives, 26<sup>th</sup> September 2002.

<sup>156</sup> Institute for Security Studies. 2004. Growing instability in the Kivu’s: Testing the DRC Transition to the Limits. pp- 22 -29. Pretoria

from the UN, OAU, SADC, EU, and the JMC. After some disagreements over who would participate in the talks and on the venue, they agreed that the national dialogue would be held in Addis Ababa for a period of six weeks beginning on 15 October 2001. The peace talks opened as planned at the UN Economic Commission for Africa (ECA) conference hall in Addis Ababa which resulted in hosting fewer delegates than if it had been held in the DRC.<sup>157</sup>

Kabila continued to frustrate the talks insisting on Mai Mai representation, as he needed more people he could manipulate. Kabila eventually, finally actually walked out of the talks. This proposal to include the Mai Mai was strongly opposed by the Congolese rebel groups who argued that those who were not present in Lusaka could not be included in the talks in Addis Ababa. It took four months before the national dialogue finally reopened in South Africa's Sun City on 25<sup>th</sup> February 2002. The MLC initially refused to participate on the grounds that the government had sent in unknown civilian opposition parties. The talks lasted for 52 days without achieving a general agreement between the key actors.<sup>158</sup>

South Africa struggled to get them to agree to no avail. The government and the MLC signed a transitional power sharing agreement in which Joseph Kabila would remain president and Jean- Pierre Bemba would be named Prime Minister. The United States drummed up support for this agreement. This agreement was however rejected by the Rwanda – backed RCD – Goma and the political opposition, both of which were marginalized by this side deal. Masire was quoted as saying ‘ we are leaving Sun City without fully realizing our goals’.<sup>159</sup> However on the positive side the talks produced useful resolution for long term efforts to provide for a durable peace such as setting up institutions such as a Truth Justice and Reconciliation Commission.

The shortcomings that led to the failure of this agreement have been blamed on many things. The facilitation of President Masire was faulted as not being firm enough. The Congolese also insisted that Masire never quite understood the dynamics and underlying relationships between the negotiating parties. Presidents Masire's inability to speak French gave credence

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<sup>157</sup>Wikipedia Free Encyclopaedia, *Sun City Agreement*. Accessed from <http://en.wikipedia.org/wiki/secondcongowar>, on 28<sup>th</sup> July 2011

<sup>158</sup>The Sun City negotiations, Bouvier, Paule and Francesca Bomboko, *Le Dialogue Intercongolais* (Paris: L'Harmattan, 2004) [www.ledialogueintercongolaise](http://www.ledialogueintercongolaise.org) accessed 12<sup>th</sup> May 2012

<sup>159</sup>[www.integratedregionalinformationnetwork.org](http://www.integratedregionalinformationnetwork.org), Congolese talks report 22 April 2002 accessed 20<sup>th</sup> June 2012.



to the Congolese claims that much of the actual negotiations occurred outside the facilitated sessions away from the mediation team, in French that the Congolese were comfortable in. President Masire's was accused in specific instances of lack of firmness in allowing the opposing teams stall tactics to continually derail the process. The process was also inadequately funded resulting in many postponements.<sup>160</sup>

The parties to the process also carried their share of blame that included the fact that war went on unabated in the DRC with the prompting of the parties in the room. The parties in the room wanted to appear strong in the war so as to get more bargaining power at the peace table. This meant that the warlords at the peace table were encouraging their troops to fight so that they could gain more mileage at the peace table. The third Congo war actually emerged as the Sun City deliberations were going on.<sup>161</sup>

The marginalization of the RCD ensured that the parties at the table ignored the underlying objectives of Rwanda. It has always been clear that Rwanda wants to establish a sphere of influence in Eastern Congo through direct military occupation, proxy forces or both. No peace process in the DRC will ever succeed if Rwanda is not at the peace table. The parties focused on negotiating for plum positions for themselves instead of stopping the war that was going on in the DRC yet they had the power to stop it. Consequently, talks were revived at Matadi, in an attempt to bring everyone back on board again and finalise the agreement between Kabila and Bemba. These talks collapsed when Kabila withdrew from the agreement.<sup>162</sup>

In addition to the above shortcomings, the key criticism of the Sun City Agreement was that it laid the foundation for the third Congo war. The agreement created room for Jean Pierre Bemba the leader of the MLC to serve as a prime minister while Joseph Kabila would remain the president of the Democratique Republic of Congo during a transition period of two years that was extendable to three. Kabila was expected to share power with four vice – presidents, with each of the two main armed opposition movements contributing two vice presidents, the third was to be from the unarmed opposition and the fourth from the government.

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<sup>160</sup> Ibid

<sup>161</sup> □ Van Reybrouck, David *Congo: Een geschiedenis*, Congo: A History, 2010 Dutch, 2012 French; 2013 scheduled English, HarperCollins.

<sup>162</sup> "Democratic Republic of Congo" IN *Compendium of Elections in Southern Africa* (2002), edited by Tom Lodge, Denis Kadima and David Pottie, EISA, 73.

The fall out between Bemba and Kabila was not long in coming. Much of the acrimony had begun during the discussions on the agreement itself, with the opposition complaining that they were not given a complete dossier of documentation when they signed the agreement. They interpreted this to mean that they were not to take the documents back to the DRC. Bemba and Kabila would turn out to be bitter political foes. In 2006, Bemba would run for presidency and get the second highest number of votes after Kabila. In 24 May 2008, the International Criminal Court would issue an arrest warrant against Jean Pierre Bemba. He is currently facing trial charged with two crimes against humanity and three counts of war crimes.<sup>163</sup>

One of the armed opposition groups, the Rassemblement Congolais Pour la Democratie (RCD- Goma) which enjoyed support from Rwanda as well as the unarmed political opposition the Union Pour la Democratique et le Progres Social (UDPS) led by the former prime minister Etienne Tshisekedi did not accept to sign the agreement.

#### **4.6.2 Pretoria Accord - July 2002**

In July 2002, the Governments of the Republic of Rwanda and the Democratic Republic of Congo signed an agreement. The reasoning was that as the key protagonists, if they signed an agreement then peace with everyone else would follow more naturally. The agreement was framed on principals that spoke to the need to withdraw all Rwandan troops from the territory of the Democratic Republic of the Congo. The agreement also spoke to the need to dismantle the Ex- Far and the Interhamwe Forces in the Democratic Republic of the Congo.

#### **4.6.3 Programme of Implementation of the Pretoria Accord**

The Governments of the Republic of Rwanda and the Democratic Republic of Congo also signed on to a programme of implementation of the Pretoria Accord. The programme of implementation laid out specifics on the withdrawal of Rwandan troops from the territory of the Democratic Republic of the Congo. The programme also specifically laid out the steps towards dismantling of the Ex- Far and Interhamwe Forces in the Democratic Republic of the Congo.

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<sup>163</sup> Kadima Denis and Pottie David "Democratic Republic of Congo" IN *Compendium of Elections in Southern Africa*, edited by Tom Lodge. 2002.

This did not happen and the peace agreement failed. The DRC did not decisively dismantle the Ex- Far and neither did Rwanda with draw its troops because there was no oversight. The DRC also attempted and succeeded in signing an agreement with Uganda in which it tried to the same thing as the Pretoria Accord had tried to do with Rwanda, get Uganda to get its armies out of the DRC. The Agreement that followed the Pretoria Accord signed with Uganda was the Luanda Agreement.<sup>164</sup>

#### **4.6.4 The Luanda Agreement - September 2002**

The Luanda agreement<sup>165</sup>, signed between the Governments of the Democratic Republic of the Congo and the Republic of Uganda was centered on the withdrawal of Ugandan troops from the Democratic Republic of the Congo. The agreement also emphasized cooperation and normalization of relations between the two countries. Ugandan troops were partly withdrawn. However, the cooperation and normalization of relations between the two countries did not happen

#### **4.6.5 12<sup>th</sup> and 13<sup>th</sup> October 2002 Communiqué issued to Congolese Foreign Affairs**

In October 2002, the Congolese Foreign Affairs Minister received a communiqué from Burundi that affirmed that Burundian troops would withdraw from the DRC. This however, did not happen.

#### **4.6.6 Communiqué on meeting between Presidents of the RCD/ML and the UPC and President Yoweri Museveni.**

In November 2002, a communiqué was issued on a meeting between Presidents of the RCD/ML and the UPC with what they stated was a view towards ending ‘the tribal war dividing the Ituri region and create favorable conditions for the Ituri Commission provided for in the Luanda Agreement.

This as expected did not happen and no war was affected by the signing<sup>166</sup>

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<sup>164</sup> Storm Clouds Over Sun City: The Urgent Need To Recast The Congolese Peace Process ICG Africa Report N° 44, 14 May 2002

<sup>165</sup> Ibid

<sup>166</sup> International Court of Justice, Year 2005, 19 December 2005, Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda), available at <http://www.icj-cij.org/docket/files/116/10455.pdf>.

#### **4.6.7 4th December 2002, United Nations Security Council Resolution 1445 (2002) on the DRC**

The United Nations meanwhile was completely fed up with the charade of peace agreements that did not bring peace and adopted unanimously, council resolution 1445. This was after in frustration recalling all previous resolutions on the situation in the Democratic Republic of Congo. <sup>167</sup>The resolution expanded the military component of the United Nations Mission in the Democratic Republic of Congo (MONUC) from 4,250 to 8,700 peacekeepers, as those on the ground had been unable to keep the peace and stop the war.

#### **4.6.8 The Pretoria global and all-inclusive agreement, 17 December 2002**

On 17<sup>th</sup> December 2002, all the Congolese parties of the Inter Congolese Dialogue, namely: the national government, the MLC, the RCD, the RCD-ML, the RCD-N, the domestic political opposition, representatives of civil society and the Mai Mai, signed the Global and All- inclusive Agreement. The various warring factions signed the global and all-inclusive agreement in Pretoria.

The agreement failed, again, mainly because when it was being discussed, as if the DRC being at war with itself was not bad enough, there was escalating violence between rival Rwandan and Ugandan proxy forces in the east. <sup>168</sup>This fresh move prompted the appointment of two UN Special Envoys with clear instructions to play a much more proactive mediation role than Masire. These two envoys were former Senegalese Prime Minister Mustafa Nyasse and a former Eritrean diplomat Haile Menkerios. Mekerios had dealt with the Kabila alliance during the first war and was therefore an old hand in Congo's politics.

The resulting Pretoria agreement, brokered by Nyasse and Thabo Mbeki in December 2002, established an all-inclusive framework for the '1+4' (One President, four Vice Presidents) transitional government of national unity that was eventually seated in 2003. It corrected the failures of Sun City, as both Nyasse and Mbeki recognized that the power realities between Kinshasa and Kigali could not be ignored. It also ensured that some Mai Mai would be represented in this agreement, thus avoiding the participation problems that delayed Sun City

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<sup>167</sup> Ibid

<sup>168</sup> Human Rights Watch, "Democratic Republic of the Congo, What Kabila Is Hiding: Civilian Killings and Impunity in Congo," 9/5(A), available at <http://www.hrw.org/reports97/congo/1997>

for months. The agreement did create space for the elections to be held in the DRC, an event that had not happened since independence. It also created temporary respite from war, with the DRC enjoying a period of relative unbroken peace.<sup>169</sup>

#### **4.6.9 National agreement in Gbadolite, 30<sup>th</sup> December 2002**

On 30<sup>th</sup> December 2002, the Presidents of the armed opposition groups of MLC, RCD/ML and RCD signed a National agreement in Gbadolite. They did so at the invitation of Mr. Jean Pierre Bemba. The agreement failed. Its reason for failure was obvious as Jean Pierre Bemba did not involve the government of Kabila and was seen more as a public relations strategy by Bemba. Bemba was also planning to get the rebels on his side through the agreement.

#### **4.6.10 The Inter-Congolese National Dialogue Agreement, April 2003.**

The - Inter-Congolese National Dialogue, held in Sun City on 1- 2 April 2003 endorsed all agreements approved until then. It was a product of the DRC's internal processes. The 17 December 2002 - Pretoria global and all-inclusive agreement between the belligerents in the Congolese conflict agreement was endorsed in the final session of the Inter- Congolese dialogue at Sun City in April 2003. In June 2003 a transitional government of national unity that drew in the various warring factions was set up. The government established a two-chamber parliament and a negotiated interim constitution was promulgated and various other institutions were established.

On December 18, 2005 the Congolese voted in a referendum to approve the Constitution that had been negotiated by the institutions established as a result of the interim Constitution. The voter registration was very high and 84 % of the electorate voted in support of the Constitution. The Constitution was promulgated on 18<sup>th</sup> February 2006 and Presidential elections held later in the year. There were 33 Presidential candidates, as each of the warring factions presented a candidate. There were also 280 political parties as each of the warring factions plus divisions among them created political parties.<sup>170</sup>

There were, unlike in previous attempts at peace, efforts towards addressing social and economic issues. An economic program that sought to rebuild the country's infrastructure

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<sup>169</sup> Reyntjens F., "Briefing: The Democratic Republic of Congo, from Kabila to Kabila," African Affairs 100 (2001): 311-1

<sup>170</sup> Ibid

was adopted. Key institutions tasked with stabilizing the microeconomic situation and reducing widespread poverty and combating corruption in government and in the area of the Congo's vast national resources. Things were on a roll and finally many Congolese felt that peace was at hand. An anti-corruption campaign called Operation Clean Hands was launched in October 2005, rapidly followed by the arrest of quite a number of senior government officials on charges of mismanaging tax resources between 2001 and 2005.

The April 2003 Democratic Republic of the Congo - Inter-Congolese National Dialogue Agreement also failed. The reasons for the failure were related to what it sought to achieve. The 2003 agreement laid the foundation of setting up a transitional government in 2003 after the failure of all the 2002 agreements.<sup>171</sup> The main objectives of the transitional government were to re unite, pacify and reestablish governmental authority throughout the Congolese territory. It also ambitiously sought to foster national reconciliation and reform security forces by integrating rival factions. The transitional government also set out to organize elections and set up new political institutions. Implementation of this agreement would however be made almost impossible because of the undefined power sharing agreements of the transitional government. Of particular contention was the 1 + 4 formula of one president and four vice presidents.<sup>172</sup>

President Kabila, Vice President Jean Pierre Bemba and vice president Azarias Ruberwa bitterly contested for political space despite being in the same transitional government, with their key arena being the presidential elections in 2006. The international crisis group describes the problem as a dubious flaw regarding the 'logic of the transition process which sought to buy peace by giving all signatories to the deal, lucrative positions, an accommodation that came at the cost of continued impunity for human rights abuses and corruption and left intact patronage networks that permeate the state and the army'.<sup>173</sup> The sense of impunity entertained by the agreement was described as the 'glue' that held the peace process together.<sup>174</sup>

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<sup>171</sup> The final report of the neutral facilitator of the Inter-Congolese Dialogue and all documents approved within the framework of the ICD are available online at [www.drcpeace.org/docs](http://www.drcpeace.org/docs)

<sup>172</sup> Muzong W. Kodi *Anti corruption challenges in post election Democratic Republic of Congo*, London, Chatham House. 2007

<sup>173</sup> International Crisis Group (2007) Congo: Consolidating the peace, Africa reports No. 128, Nairobi/Brussels.

<sup>174</sup> Stearns, J.K 'Congo's peace, miracle or mirage ?' Current History. Paris. 2007

The Third Republic Constitution was ratified in December 2005 and presidential elections held in 2006. 25 million Congolese people were registered to vote. The agreement unraveled completely after the election with Jean Pierre Bemba claiming that he had been rigged out. Violence on all fronts especially between forces loyal to Kabila and others to Jean Pierre Bemba broke out. This prompted violence between all the other rebel groups. The DRC was as close to hell as it could ever have been. By now, everyone was fatigued with peace agreement signing. Despite all this agreements the DRC government was not in control and nothing moved and after the 2006 elections, DRC began its peace agreement signing process again the following year, in November 2007.

#### **4.6.11 Nairobi agreement between Rwanda and DRC, November 2007**

In the agreement signed in Nairobi between Rwanda and the DRC, the DRC pledged to disarm the FDLR and cooperate with Rwanda on a program to repatriate the Hutu in DRC back to Rwanda. The peace agreement failed. The reason for failure was that nobody, except the donor community which had funded it, including the signatories took any notice of it. The situation remained as before. The war continued this time involving quite prominently Laurent Nkunda a dissident from the DRC allied to Rwanda.<sup>175</sup>

#### **4.6.12 Peace agreement signed between the DRC and the various armed groups active in Eastern DRC, January 2008.**

In January 2008 a peace agreement was signed between the DRC government and the various armed groups active in Eastern DRC, including the faction led by dissident Laurent Nkunda following the failed Nairobi 2007 agreement. The January peace agreement involved a ceasefire agreement between the DRC government and 22-armed groups. The key agenda of the January 2008 peace agreement was to introduce a ceasefire as well as ensure a commitment to respect international humanitarian and human rights laws and principles. Key among these laws was the need to not to target or involve civilians in conflict. The January 2008 Peace agreement signed between the DRC and the various armed groups active in Eastern DRC, including the faction led by dissident Laurent Nkunda failed for a number of reasons that should have been obvious to the drafters. The 22 signatories were civilian

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<sup>175</sup> Wikipedia Free Encyclopaedia, Kivu, <http://en.wikipedia.org/wiki/kivu> Accessed on 11<sup>th</sup> December 2012

armed groups, and therefore the agreement shot itself in the foot before it was even signed considering that one of its key areas was noninvolvement of civilians in conflict.<sup>176</sup>

The second shortcoming was that despite the optimism that greeted the signing of the January 2008 peace treaty, violence continued unabated. Media reports from all over the world reported that by July, the peace agreement signed in January had unraveled leaving at least 200 people dead and 150,000 Congolese displaced. A group that brought together various NGOs, the Congo Advocacy Coalition (CAC) noted, “The peace agreement has failed to silence the guns, and the people of Eastern Congo continue to suffer and to run for their lives”<sup>177</sup> they also asked the signatories to respect the pledges made in January and to hold to account those who continue to abuse civilians. The group asked the UN to appoint a special advisor on human rights for Eastern Congo.

This situation exacerbated the already terrible situation as close to one million internally displaced people were already living in camps established by the UN. Patrick Lavand’Homme, then head of the UN office for the Coordination of Humanitarian Affairs in Goma, capital of North Kivu Province labeled the year 2008 the worst humanitarian situation in the Province with half a million people displaced within a short period of time. In addition to the unrealistic nature of some of its resolutions, the agreement saw the international actors such as the United States, the European Union, African Union and United Nations who helped broker the agreement leave, leaving the work of the implementation to the local actors and of monitoring to NGOs and the UN. The peace agreement was as usual big on paper. But on the ground as CAC pointed out, it was unsustainable, as it was not accompanied by funding to put in place a successful DDR program that would give the fighters in the armed groups’ useful alternative to violence from which they could earn a living from. The peace agreement did not also address where funding for successful land tenure and national healing and reconciliation would come from. Clearly, we had not heard the last of peace agreements from the DRC.<sup>178</sup>

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<sup>176</sup> Bureau of African Affairs, U.S. Department of State, *Background Note: Democratic Republic of the Congo*, Retrieved from <http://www.state.gov/r/pa/ei/bgn/2823.htm> on 17<sup>th</sup> July 2011

<sup>177</sup> The Washington post was quoting Juliette Prodhon, head of Oxfam Great Britain, a member of CAC. Other members of CAC include the International Rescue Committee, Human Rights Watch and Congo Advocacy Coalition.

<sup>178</sup> Ibid



#### **4.6.13 Peace agreement signed between the DRC government and the National Congress for the Defence of the People (CNDP), March 2009.**

In March 2009, an agreement was signed between the DRC government and the National Congress for the Defence of the People (CNDP) in a bid to end the Kivu armed conflict between the military of the Democratic Republic of the Congo (FARDC) and the Hutu militia from Rwanda forming the Democratic Forces for the Liberation of Rwanda (FDLR).<sup>179</sup> The agreement also drew in the United Nations Mission in the Democratic Republic of Congo as part of the solution. This resulted in an agreement signed in March 2009. All the parties again largely ignored agreement as oversight was virtually non-existent. This particular phase of the conflict and the never ending peace agreements gained a lot of media traction worldwide and was comprehensively reported on by the Daily Nation newspaper of Kenya as special coverage on the DRC.<sup>180</sup>

#### **4.7 Conclusion**

The Peace Agreements signed in the DRC consistently refused to or skirted around two major issues. One is the end of illegal mining that involves foreign countries that are at the same time involved in efforts to “broker” peace such as Belgium and France. The other is that there is widespread illicit trade in minerals, both among DRC nationals, neighboring countries and among the international community. Conferences and workshops that I have attended with DRC nationals consistently point to these two as the key unaddressed issues. None of the peace agreements signed comprehensively addresses the issue of minerals and conflicts. The peace agreements do not consider how to stop the exploitation of minerals. None of the peace agreements acknowledge that the DRC conflict has all along been a mineral driven conflict.

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<sup>179</sup> For more on Nkunda’s role during the war, see: Human Rights Watch, “Democratic Republic of Congo, War Crimes in Kisangani: The Response of Rwandan-backed Rebels to the May 2002 Mutiny,” 14:6(A) (August 2002).

<sup>180</sup> Nation reporter, Daily Nation, April 11<sup>th</sup> 2009

## **CHAPTER FIVE**

### **THE ROLE OF THE INTERNATIONAL COMMUNITY IN THE CONFLICT AND PEACE PROCESSES IN THE DRC**

#### **5.1 Introduction**

The conflict in the DRC has involved at least nine African states and a host of international actors. The first war, which began in September 1996 as an invasion by Rwanda, Uganda and Angola, neighboring states of the country then called Zaire succeeded in replacing Mobutu Sese Seko with Laurent Kabila in May 1997.<sup>181</sup> The international community has had a consistent presence in the DRC since the pre and post independence eras and in the present day. The international community consists of countries with interests in the DRC such as the former colonizer Belgium, and France as DRC is French speaking. Others included countries such as the United States, who took interest in the DRC since the days of the cold war. Bodies such as the Organisation of African Unity that subsequently became the African Union, the European Commission and the European Union have also at various points been part of the solution or the problems in the DRC.

The peace negotiations in the DRC have constantly provided a platform for securing international recognition for the international community rather than representing a commitment to peace in the DRC. Reading through all the agreements and following the actions of the international actors, it is difficult to prove that any of them was completely cognizant to the country's peace needs.<sup>182</sup>

#### **5.2 The role of Belgium**

Many former colonial masters continue to have a tenacious hold on their old colonies with 'remarkable cases in which the former colonies have survived the turbulence of decolonization and the struggle of decolonization'.<sup>183</sup> The DRC has been no exception. Belgium has through the European Commission particularly contributed to the state of affairs in the DRC and instances in which it takes on clearly national roles, that should otherwise be

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<sup>181</sup> U.N Office for the Coordination of Humanitarian Affairs. 2003-06. Monitoring De La Situation Humanitaire En RDC. Kinshasa (D.R. Congo): UN Office for the Coordination of Humanitarian Aid. Accessed Feb 22, 2012.

<sup>182</sup> Turner Thomas, *Congo Wars: Conflict, Myth, Reality* (London: Zed Books, 2007), 124 and 125

<sup>183</sup> *Ibid* Pentland pp 22

taken up by the DRC is not uncommon. This meddling has also actually been known to happen on the invitation from the Government of DRC itself. For example, in 1991, Prime Minister Kengo wa Dondo asked the European Commission to take on the role of National Authorizing Officer (*Ordonnateur national*) a role that the Belgians had played before colonialism. This meant that the Commission using Belgium, assumed part of the functions of the independent DRC government to implement its projects, while at the same time managing funds from Brussels.<sup>184</sup>

In 2001, the government of Joseph Kabila would ask the European Commission to do what Prime Minister KengowaDondo had asked of it in 1991, to continue acting as National Authorizing officer for the implementation of the National Indicative Programme of the 8<sup>th</sup> European Development Fund. This was a direct invitation to Belgium to continue running the DRC's affairs, including its mines, which in itself is a huge problem because Belgium is not a party to the peace agreements.

### **5.3 The organization of African Unity**

The DRC is a member as an African country of the Organization of African Unity (OAU). The OAU has discussed the DRC as an agenda since 1997 in a bid to solve the conflicts. The OAU's most visible intervention had been when the OAU had, through its Secretary General Salim Ahmed Salim sent emissaries to Rwanda, Uganda and the DRC to investigate the reported 'invasion' of the DRC in 1997. In a meeting of foreign ministers hosted in Addis Ababa, a draft ceasefire agreement was formulated. This agreement was agreed on in principle by the belligerents, however Rwanda, Uganda and the DRC never signed on to it. The OAU came back to the scene to support and participate in the 1999 Lusaka negotiations. The Secretary General kept up a consistent stream of meetings during the Lusaka negotiations in a bid to bring the parties to the conflict together to advance peace prospects. However, the efforts were to come to naught when the Lusaka agreement failed to end the conflict. However it has been clear since 1997 that the OAU is weak in bringing the conflict to an end<sup>185</sup>

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<sup>184</sup> Bureau of African Affairs, U.S Department of State, Background Note: Democratic Republic of the Congo, <http://www.stae.gov/r/pa/ei/bgn/2823.htm>, 2006.

<sup>185</sup> International Court of Justice, Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda), available at <http://www.icj-cij.org/docket/files/116/10455.pdf>. 2005

#### 5.4 The United Nations

The United Nations has also played a huge part in interventions in the DRC. During the Mobutu crisis the United Nations issued weak declaratory resolutions as international actors focused on Mobutu as the problem. There were intense international and regional diplomatic efforts to negotiate Mobutu's exit.<sup>186</sup>

The Former United Nations<sup>187</sup> Secretary – General Kofi Annan would later work to broker a ceasefire deal among belligerent countries during the France – Africa summit in Paris in November of 1998. However the agreement did not hold. The UN Security Council buttressed his efforts by issuing three presidential statements between August and December. The council members called for, in their statements, an end to hostilities. On 9<sup>th</sup> April 1999, it adopted resolution 1234. Resolution 1234 called for the withdrawal of 'uninvited troops' from the country.

Meanwhile, in the DRC itself, UN officials were attending negotiation sessions under the Lusaka initiative. Kofi Annan appointed Moustapha Niasse as UN Special envoy for the DRC peace process. Niasse's role was to determine the positions of the parties, identify obstacles to the signing of a ceasefire agreement and make recommendations on a possible UN role to complement existing peace initiatives. Niasse would report back to the UN Security Council and brief the Security Council on his findings.<sup>188</sup>

Former UN Secretary General Boutros Boutros – Ghali had drafted an important document titled "*An Agenda for Peace*" which proposed responsibilities and responses for the United Nations and the international community in dealing with contemporary conflicts. Boutros Ghali was particularly concerned about the situation in the DRC. Boutros – Ghali suggested building on four key areas of approach, preventive diplomacy, peacemaking, peacekeeping and post conflict reconstruction suggesting that in conflict the sequence he proposes can in different contexts and times contribute to the resolution of conflict and sustenance of peace.

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<sup>186</sup> Ibid

<sup>187</sup> AfricaFocusBulletin, Congo (Kinshasa): War goes on, Little Pressure for Peace, Washington: Africa Focus Bulletin, October 11, 2008, <http://www.africafocus.org/docs08/con0810.p> Accessed 10<sup>th</sup> December 2012

<sup>188</sup> Ibid

This was the approach adopted in the DRC as prescriptions on the DRC are clearly based on foreign expertise. The Secretary General further connects peace building to the post conflict support of peace accords and the rebuilding of war torn societies.

None of these approaches have worked for the DRC.

### **5.5 The role of South Africa**

South Africa, took special interest in the DRC case after Nelson Mandela took over leadership as President.<sup>189</sup> The ruling ANC party, was determined to use its resources and influence to end violent conflict all over Africa, because of the suffering in the period under the Apartheid that they had gone through. South Africa therefore used its resources especially through the SADC, and proved to be one of the most interested parties to the DRC conflict. Prior to the creation of the Chiluba led committee on the DRC peace process, a SADC meeting mandated former South African President Nelson Mandela, who was at the time chairing SADC, to organize a DRC ceasefire in consultation with the OAU Secretary General. Zimbabwean President Robert Gabriel Mugabe then headed the SADC security committee that had authorized military intervention in support of Kabila. Mugabe immediately opposed Mandela's mediation efforts, and expressed his differences openly.

South African President Nelson Mandela was farther mandated as the principal mediator to end the first war. Mandela's key organizing principle was aimed at ensuring a smooth transition through a negotiated exit for Mobutu. South Africa hosted the first meeting between Mobutu's government and the rebels in Cape Town on 20<sup>th</sup> February 1997. The United States was heavily involved and sent high-level envoys such as Assistant Secretary of State for African Affairs, George E Moose and President Clinton's then special assistant on Africa Susan Rice<sup>190</sup>. South Africa in turn sent, to support President Mandela Deputy Foreign Minister Aziz Pahad. The talks and subsequent attempts failed to reach agreement.

Mandela's mediation efforts were slowed down and bound to fail as he did not include the so called non- violent opposition, Congolese NGOs, churches and long time opposition leaders all of whom were powerful power bases and had considerable public support in their opposition to the Mobutu dictatorship. Mandela limited participation to those who had guns.

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<sup>189</sup> The Fund for Peace. *Failed States Index 2011*. (Washington, DC: The Fund for Peace, 2011), <http://www.foreignpolicy.com/failedstates>, accessed on 10th May 2012

<sup>190</sup> News reporter, Daily Nation, Reopening the DRC wounds. 22<sup>nd</sup> July 2007

By excluding these critical actors, from the negotiations for a transitional government, the mediation efforts effectively kept out political leaders who had gained much popularity over the years through opposing Mobutu. These leaders, excluded in 1997, had cut their teeth in leading the national Sovereign Conference in 1993. To ignore them was to court peril.

Ambassador Sahnoun of Algeria was appointed in January 1997 as joint UN-OAU Special Representative for the Great Lakes region to support Mandela.<sup>191</sup> On 17<sup>th</sup> May 1997, Mandela and Sahnoun failed to produce an agreement for another round of talks but got a coup de grace of sorts when Mobutu facing certain military defeat left the Congo never to come back. The Anti Mobutu alliance of the countries of Rwanda, Uganda and Angola, marched into the country unopposed, taking victory in securing a peaceful handover from Mandela's hands.<sup>192</sup>

Mobutu leaving and the might of the invading forces as well as division within the Congolese army, not Mandela's efforts at brokering a peace agreement, ended the first Congo war. One of the tragic consequences of the failed Mandela led peace process was that Laurent Kabila and his Rwanda and Ugandan allies gained international legitimacy for ousting Mobutu by force. This was to be a card that Kabila exploited to the fullest, when at the height of his hold on power as a dictator, he would frequently ignore later calls by the United Nations and donors for the introduction of multi-party politics.

President Mbeki, on taking over office, announced a new peace initiative that involved the deployment of South African peacekeepers and the transformation of the belligerent foreign army units in the DRC into a peacekeeping force. A discussion held in South Africa's parliament highlights the depth of the country's involvement. A statement issued by the President said:

“We are very deeply involved in these processes in the Congo. Our Department of Defence, the National Defence Force, the Police Service, Home Affairs, Public Service and Administration, the Independent Electoral Commission, all of them are involved in assisting the DRC to progress towards the elections and that country's reconstruction in the future. The discussion is carried in full in the annexes<sup>193</sup>

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<sup>191</sup> Wikipedia Free Encyclopaedia, Mobutu Sese Seko, [http://en.wikipedia.org/wiki/Mobutu\\_Sese\\_Seko](http://en.wikipedia.org/wiki/Mobutu_Sese_Seko) Accessed on 11<sup>th</sup> December 2012

<sup>192</sup> United Nations Security Council Weiss, H. 'War and peace in the Democratic Republic of the Congo', available at [www.unc.edu/depts/diplomat/AD/issues/amdil](http://www.unc.edu/depts/diplomat/AD/issues/amdil), accessed on 22nd November 2009.

<sup>193</sup> Thursday, 18 May 2006, proceedings of the national assembly, website of department of International Relations and Cooperation, Republic of South Africa

## **5.6 Joint Efforts of The International Community**

The second Congo war broke out in 1998 when Rwanda and Uganda broke with Kabila and attempted to oust him in the same way that Mobutu had been ousted, by force. They were not very successful as Angola had changed sides and now defended Kabila. The international intervention involved dispatching a team of OAU and UN representatives who had trouble identifying the belligerents and causes of the conflict. The draft ceasefire agreement ultimately identified Angola, DRC, Namibia, Rwanda, Uganda and Zimbabwe as parties to the conflict.<sup>194</sup>

The Southern African Development Community (SADC) appointed Zambian President Fredrick Chiluba to lead the peace effort. The European Union also appointed Aldo Ajello as Special Envoy with the United States sending in Ambassador Thomas Pickering, then Undersecretary of State for Political Affairs and former US Senator Howard Wolpe as Special Envoy. An attempt was made prior to the signing of the Lusaka Peace Accord to analyse the principal peace efforts since 1998 by the international community as well as merge the various mediation initiatives aimed at finding a negotiated solution to the conflict.

The Congolese in the process constantly complained of external interference and that not much heed was paid to their opinions. They complained most bitterly of the European Union and the United States involvement through their representatives Wolpe and Ajello.<sup>195</sup> Their joint efforts towards peace however resulted in the Lusaka agreement. There was to the international communities' credit, considerable pressure and goodwill from their governments to end the war. The Lusaka agreement called for the immediate cessation of hostilities within the twenty-four hours of it signing. The international community dusted its hands and celebrated the agreement. Meanwhile violence between competing and proxy groups continued behind the ceasefire lines. When this violence began to manifest itself more openly it began to be called the third Congo war. Lusaka and its international community intervention, had failed.<sup>196</sup>

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<sup>194</sup> Van Acker, Frank, and Koen Vlassenroot. 2000. Youth and Conflict in Kivu: 'Komona Clair'. Journal of Humanitarian Assistance [www.jha.ac](http://www.jha.ac). Accessed on 12<sup>th</sup> February 2013.

<sup>196</sup> Oral Interview with Francois Dida, Nairobi, 12<sup>th</sup> August 2011, a Congolese national who has lived in the Kivus for thirty years of his life, including during the period when the second Congo war became the third Congo war. Francois is now a tailor in Nairobi.

### **5.6.1 The reaction to the DRC on the various roles of the International Community in relation to the Lusaka Agreement**

Of all the peace agreements drafted on behalf of the DRC, none has been more comprehensive and yet had a more negative reaction by the DRC than the Lusaka peace agreement. No other agreement provides a clearer lens within which to see the role of the International community than the Lusaka peace agreement. The DRC did not find the signatories to the Lusaka peace process as largely being committed towards the peace agreement. The signatories were to prove upon signing, reluctance to abide by the provisions of the agreement.<sup>197</sup>

Swart and Solomon have said that ‘the Lusaka agreement was imposed, even forced upon the signatories metaphorically at gun point, rather than being offered as a symbolic ‘olive branch’<sup>198</sup>. The drafters of the peace agreement relied on the carrots that they dangled to the signatories to make them sign. The DRC Government had to sign because it desperately needed to assert its authority as a Government as well as state authority over its territory. Zimbabwe had intervened on the side of the DRC. It was therefore important that Zimbabwe was party to an agreement that emphasized the DRC’s sovereignty as it legitimized Zimbabwe’s intervention. Angola was intelligent enough to include their own rebels, UNITA in the Lusaka peace agreement on the list of groups to be disarmed. This gave Angola the opportunity to market itself as the good ‘boy’ as opposed to UNITA. Through the Lusaka agreement, Angola was able to get a commitment for closing down the supply lines of arms for UNITA that ran through the DRC.<sup>199</sup>

Rwanda had the greatest need for the Lusaka agreement to be signed. Its need however had nothing to do with peace in the DRC. The Lusaka agreement recognized for the first time, the security threat posed by the *Inter hamwe* and *Ex- Far*. The agreement made the *Inter hammwe* and *Ex Far* an international threat, not a Rwandan threat. This meant that the

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<sup>197</sup> Human Rights Watch. 2004. D.R. Congo: Unease in the DRC. Washington, D.C: [www.humanrights.watch](http://www.humanrights.watch). Accessed on 10<sup>th</sup> July 2011

<sup>198</sup> Ibid Swart, G and Solomon

<sup>199</sup> Bureau of African Affairs, U.S. Department of State, *Background Note: Democratic Republic of the Congo*, Retrieved from <http://www.state.gov/r/pa/ei/bgn/2823.htm> on 20<sup>th</sup> February, 2013



agreement called for an international response not a Rwandan response.<sup>200</sup> Rwanda was to be summoned by the International Court of Justice to answer to charges in what the court called a dispute ‘ in respect of concerning massive, serious and flagrant violations of human rights and of international humanitarian law alleged to have been committed in breach of the International Bill of Human Rights, other relevant international instruments and mandatory resolutions of the United Nations Security Council’ in which DRC complained of ‘ acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of Congo in flagrant breach of the sovereignty and territorial integrity as guaranteed by the United Nations and OAU Charters.’<sup>201</sup>

The United Nations peacekeeping force MONUC was approved by the Security Council in 1999, mainly to put an end to hostilities in the eastern provinces, as outlined in the July 1999 Lusaka agreement. The agreement had sought to achieve, among others, the departure of foreign armies and militias. This objective has not been achieved to date. European Union initiatives such as Operation Artemis or the Quick Reaction Force have not been more effective. The multiplier effect was to be felt by the ineffectiveness of a further set of negotiations, the Sun City Dialogue, held in South Africa in February 2001, which failed because the terms outlined in the Lusaka agreement were not respected.

### **5.6.2 The role of the International community in the Sun City Agreement: The DRC reaction**

The DRC has constantly made it clear that it was not comfortable with the various peace agreements protracted on its behalf from many angles. One of these angles was on the mediators to the conflict. For example at a SADC meeting in 2000, the then President of the DRC Laurent Kabila indicated that he was no longer comfortable with Masire from South Africa as a facilitator of the process. Kabila felt that Masire represented a bias towards Uganda and Rwanda; two countries he felt were close to South Africa. Uganda and Rwanda were two countries that have over the course of time supported various rebel movements in the DRC. This discomfort would resort in Kabila suspending the accords and calling for direct negotiations with Rwanda, Uganda and Burundi. Kabila further suspended the UN

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<sup>200</sup> International Crisis Group (1999) The agreement on a ceasefire in the Democratic Republic of the Congo: An analysis of the agreement and prospects for peace’ in ICG Democratic Republic of Congo Report no. 5. P4

<sup>201</sup> International Court of Justice (ICJ) : Case concerning armed activities on the territory of the Congo (New Application: 2002) (Democratic Republic of the Congo (DRC) V. Rwanda) ( Request for the Indication of Provisional measures) July 10, 2002.

peacekeepers.<sup>202</sup> For more than 45 days in early 2003, South Africa hosted the alienated parties in the DRC conflict to South Africa's lavish Sun City resort. The hotel bill was reputed to have cost the South African taxpayer U.S \$ 3 Million.<sup>203</sup>

The Third Republic Constitution was ratified in December 2005 and presidential elections held in 2006. 25 million Congolese people were registered to vote. The international community put in an approximate \$ 500 million to cover the cost of the electoral process. The International crisis group in 2007 reported that the international community viewed Kabila 'as the likely and preferred winner of the elections' that shows their clear bias towards Kabila as winner.

Trefon describes it as:

'Kabila received strong support from the Kinshasa based Comite international d'accompagnement de la Transition (CIAT). The CIAT was a parallel executive body heavily involved in elaborating strategies and policies relating to political, economic, and security priorities. It played a major role in giving direction to institution building policy during the transition period. *Sauver la pouvoir* (support the incumbent power) was the expression many Congolese, especially from Kinshasa and the diaspora used to describe what was commonly perceived as the hidden agenda of CIAT. Another example of the Kabila legitimization strategy included a pledge of \$ 3.9 million at a donor's consultative meeting in Paris for project financing for the government action program 2004 – 06 in December 2003. This was part of a much larger finance package to support the transition and post-election phases of nearly \$ 15 billion between 2001 and 2007. This foreign support earned Kabila the reputation of 'the candidate of the white man'. The consultancy firm Steven & Schriefer, which was part of the George. W. Bush for President Media team orchestrated the Kabila electoral campaign'.<sup>204</sup>

## 5.7 Conclusion

Peacemaking in the DRC as the recent violence perpetrated by the M23 rebels prove, is hinged on the goodwill of neighboring countries to not only not support the rebels but also to support the peace processes. In the current conflict, Rwanda's president Kagame has been publicly accused by the president of the DRC Kabila of being behind the M23 invasion.<sup>205</sup>

Recent developments have again emphasized the fragility of the DRC peace process, the failures of its various peace processes as well as the delicacy of international interventions as was evident with the escalation of hostilities between government forces and the M23. The

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<sup>202</sup> Arnold G. (2005) Africa, a modern history, London: Atlantic Books. P. 893

<sup>203</sup> Gault – Hunter Charlayne, (2006) New News out of Africa, New York, Oxford University Press

<sup>204</sup> Ibid Trefon pp 18

<sup>205</sup> -Congo rebels advance to outskirts of Goma". Reuters. 18 November 2012. Archived from the original on 21 November 2012. Retrieved 18 November 2012.

strategic border town of Goma has on many occasions, threatened to fall, exposing the weaknesses of not only the FARDC but of MONUC, the UN Stand by Force. The failures of MONUC highlight the limitations of military solutions to the DRC. The UN Security Council in 2012 authorised additional troops to MONUC but more troops will raise expectations that they, more than the DRC state should protect the Congolese civilians.

The international community however has always focused on one conflict at a time, not taking on the DRC conflicts in their entirety, disregarding the regional dynamics of conflicts such as spillover effects that cause a conflict to undo peace efforts in a neighboring country. The international community has also refused to deal with the issue of exploitation of minerals of the DRC.

## **CHAPTER SIX**

### **CONCLUSION**

The Democratic Republic of the Congo (DRC), formerly named Zaire, is a huge, resource-rich country in Central Africa that has been imbedded in violent conflict for decades. More than 2.5 million people are estimated to have died in the Congo's complex four-year civil war, which involved seven foreign armies and numerous rebel groups that often fought among themselves. The story of the many efforts to mediate an end to violence in the DRC is long and complex. This paper briefly examines key lessons that can be drawn from those earlier efforts, and the missed opportunities that continue to challenge current efforts to achieve a durable peace in the Congo. The history of the DRC has been characterized by conflict since its very creation. The colonial establishment was founded, thrived and sustained itself through conflict through manipulation of the rich resources that are buried in the DRC as minerals.

Independence for DRC never meant peace. Mobutu Sese Seko led the country into worse conflict than the Congolese had experienced during colonialism. His successors, Laurent Kabila and his son Joseph Kabila have been part of and therefore unable to stop the exploiting of natural mineral resource. These continuous conflicts have necessitated the signing of myriad peace agreements, which have involved the local leadership of DRC, the neighboring countries and the international community in an effort to stop the violence. Despite the signing of these agreements the war has continued in the DRC. The international community and the countries in the region are fatigued with the making processes. Despite all this agreements the Congo is still in conflict with itself. The peace agreements have not translated into peace.

The narrative of the peace processes and agreements in the DRC is complicated and has been the subject of many discussions. This study only seeks to briefly examine key lessons that have been drawn from not just earlier scholarly efforts but also from the sentiments of mainly Congolese and Rwandans. The story told in this study is one of many missed opportunities that continue to challenge current efforts to achieve a durable peace in the Congo.

The paper's key argument is that so long as peace processes are imposed from without, ignore mineral resources as well as key relationships within the DRC that are critical to

resolving the conflict, and continue to be led by outsiders these efforts will fail. The DRC conflict requires a lot of political will and leadership that is oriented towards a positive peace process. This study addresses itself to the many reasons peace agreements, however well intentioned or whatever the key interest of the stakeholders in the DRC fail and suggests recommendations on what can be done.

The ordinary citizen in the DRC feels that Government is too removed from the common man and that the Governments only visibility on the ground is in the military. The authority of the national and local institutions is considerably weak or in the hands of the militia, despite the coming into office of elected officials in the last elections. Studies on peace agreements in the DRC have tended to focus on location, parameters, contexts and content, paying particular attention to for example, who sits in as a mediator while ignoring the important aspect of implementation. The study argues that the role and relationships of all actors in the DRC is a critical factor to implementing peace agreements and that as long as efforts to build peace neglect this relationship, peace agreements will remain unimplementable in the DRC.

The successive cyclic explosions of violence since 1996 have been related to the lack of state control over the country of DRC and the huge presence of illegal arms and proliferation of poorly controlled armed combatants. Major violations of human rights as discussed extensively in the literature review, have been witnessed. The violations in turn breed a culture of revenge and the continuance of perpetuation of more violence. The DRC economy has been destroyed and war making has become an economy in itself. The presence of foreign troops, mainly from the countries of Uganda, Rwanda, Zimbabwe, Namibia and Angola added a regional dimension to the conflict. The prioritization of the DRC government of public financial and other resources towards the military expenses related to the conflict has in turn increased the conflict that the Government seeks to solve.

The conflict in the DRC has also always been linked to the population of refugees of neighboring Rwanda. Armed conflict first broke out in South Kivu province in mid-October 1996 between the army and indigenous ethnic neighboring Rwanda where Tutsi minorities now dominate government and the armed forces, previously dominated by the Hutu.

The conflict in the Eastern Congo usually centers on the Tutsi and the Hutu angle. The Banyamulenge, Congolese Tutsi descendants, have been targets of increasing local

resentment arising from ethnic differences and economic grievances for years. The Mobutu regime intensified an effort to deprive them of their citizenship.

In October 1996, the Tutsi in South Kivu were ordered to leave by the region's deputy governor. The Tutsi fought back physically, surprising everyone. In North Kivu, other Tutsi guerrillas, acting in alliance with local, non-Tutsi militia, completed the capture of Goma. Ethnic tensions in eastern Zaire had been gravely exacerbated by the July 1994 arrival in eastern Zaire of an estimated 1.2 million Hutu refugees from Rwanda. The Hutu fled Rwanda, many of them having participated in the genocide as the Tutsi-dominated Rwanda Patriotic Front (RPF) was consolidating its conquest of Rwanda.

The Hutu refugee camps in the DRC housed Hutu genocidaires who were organizing armed incursions back into Rwanda and preparing for an attempt to retake the country. Rwandan authorities demanded that the international community take steps to curb their activities without any response. The initial Tutsi victories against the Hutu militia on DRC territory exposed the weakness of the Mobutu regime. This emboldened Laurent Kabila who united the Tutsi groups with other Zaire opposition forces.

There has been some slow progress in the DRC peace processes, which began in July/August 1999, and accelerated after the assassination of the President Laurent Kabila on January 16, 2001. United Nations Secretary General Kofi Annan, speaking to the Security Council on July 24, 2001 had reported that the 6-month old DRC ceasefire was holding, although there were allegations of violations that were under investigation and that most armed forces in DRC had disengaged in accordance with a U.N.-supported disengagement plan. He further said that the U.N. peacekeeping force in DRC, known as MONUC, had developed a positive working relationship with the DRC government.

Kofi Annan also warned that the prospects for long-term peace in the DRC were still bleak and pointed that "we are still far from the point in the DRC where the peace process is irreversible." His words were to be proved right six years down the line as the conflict in the DRC continues unabated.

The ideal outline for a sustainable DRC peace agreement would not be drawn from the usual template, which assumes that there are always two sides to the DRC conflict: the DRC Government versus the rebels or the DRC Government versus other Governments. The peace

agreement needed in the DRC would be a post – regime change agreement to create a state that is able to administer security to all its citizens. This is a process that would take time to consult the DRC citizens such as those in the Kivus who do not feel the presence of the Government. This would ensure that the peace structure would have public legitimacy and would ideally not take less than a one-year period.

My interactions with the people of the DRC who have endured conflict for years have confirmed that they aspire for peace. In the DRC, the question is not about what comes first, peace or justice. The question is about what kind of peace agreement will deliver sustainable peace. Many of the DRC conflict analysts agree that this kind of peace would only be ensured by a peace agreement that takes community not just political perspectives and guarantees medium to long term justice in the form of for example guarantees in a Constitution with Institutions to implement them. The peace agreements have failed spectacularly in failing to take into account factors such as the extent of groups that have suffered most. One of these groups includes women. The systematic abuse of women in the Democratic Republic of Congo has very little historical precedence. The DRC gave the world the term ‘use of rape as a weapon of war’ replicated in places such as Darfur. All sides for example perpetrate the rape of women and identity politics.

This situation ensures that the men at the table will not raise the issues of violations against women. It also means that the men at the table have no capacity to discuss those issues, as they cannot possibly bring a women’s perspective to the peace table. Issues to do with gender require a systematic approach. With the increased worldwide attention to the atrocities meted out on women in the DRC, gender issues as now being discussed as an ad-hoc basis after the signing of the agreements. Gender issues require as systematic approach that unearth the historical underlying causes of the conflict. Women have never been represented at the peace table in DRC.

Ignoring justice for those violated women or for those excluded from national peace making processes in the DRC inevitably leads to an unraveling of the ‘peace’ that is celebrated by those at the table, sometimes even within hours of its signing. Those who feel unrepresented in the process occasion the unraveling of the peace agreements as they begin violent conflicts as an expression of their dissatisfaction with the peace process.

Communities have been granted citizenship by governments on a whim, in much the same way as it has been taken away. From both a peace and justice perspective, any group that has been subject to injustice must receive attention. Identity based politics have become drivers of inequality and conflict in the DRC and yet they remain unaddressed in the agreements, getting lost in the power sharing agreements.

The peace agreements in the Democratic Republic of Congo are macabre in how similar they are in regard to approach of issues. Much of this similarity can be blamed on the actors to the peace process and in most cases it is usually a case of 'same forest, different monkeys', inevitably, this usually turn out to be those who can raise an armed militia or political voice. The peace agreements tend to include what has been included in peace agreements before without reflecting on other issues that could not have been within the interests of the people at the table.

The peace agreements can therefore be faulted for focusing on a cessation of war as a priority while failing to take into account the historical issues that inform the root causes of the violence and refusing to address mineral exploitation as a problem. Another reason that informs the failure of the peace processes is that those who sit at the peace table do not formulate an agreement amongst themselves as high-level perpetrators and victims. They do not admit to individual guilt. Their admission to guilt could be an indicator towards their goodwill towards the agreement. This admission would also pave the way for laying the foundation for a new order in which some of their injustices would be forgiven on the condition that the rule of law would now as created in the peace agreement, prevail. If the foundation of a new order is injustice, unresolved issues and inequality, it would not endure. The international community waits for peace processes like vultures around a dying animal. There is a lot of potential in being part of a peace process machine, much of it financial and Curriculum Vitae enhancing, not unfolds for all peace agreements in the DRC. This means that there is a retinue of peace actors including professional agreement writers waiting to descend on peace processes, earn their money and leave.

Consider the lofty stipulation in the Kampala declaration of 1991 that 'peace, security, and stability were the preconditions for development and cooperation in Africa', theoretical words steeped in generalizations without context that were not actualized by meaning in practice. This study has examined, among others, the Kampala declaration with a view



towards establishing whose peace, security and development the drafters spoke to and why these high sounding stipulations cannot therefore even within the best efforts of the DRC be translated from theory to actual implementation in practice and involvement of local actors. The DRC conflicts require not just strong institutions but locals without political interests involved in the peace processes. The peace processes require considerable time for conflict transformation to happen, including structural change. This is time that professional international 'brokers' of peace do not have. The DRC conflicts require a time period that will usually take a generation for the people to heal. The attention of the international community is usually fixated on the shortest time within which to get the signatures on the peace agreement. The weight of a signature in the peace process is more important for the international community than it is for the signatories, with the former celebrating their 'achievement' in media headlines without much bother about the implications. The attention span of the international community is ridiculously limited to the agreement before the drafting.

The DRC as a country does not have in place a study on lessons learnt from all the failed peace processes and inevitably stumbles from signing one peace agreement to the other. The DRC does not have a bird's eye view of all its conflicts and how interlinked they are and therefore a vision towards one joint process of conflict transformation. Lessons learnt are in the memories of individuals and have not been consolidated into core lessons. This means that in the drafting of a new peace agreement, many lessons that could have been learnt from the past are not systematically incorporated.

There has been little if any work done on comparing the texts of the peace agreements in the DRC with the reality of the implementation. After the signing, it is often realized how different this two worlds are. Some of the agreements for example the Lusaka peace agreement was really big on democratic values. However the implementation of this agreement showed a big gap between the aspirations of communities on the ground and the reality of the expectations of implementation, mainly related to the need to take into account the historical underlying issues of the conflict.

There are too many vested interests in the local communities and the international community that have been allowed to stand between 'genuine' peace processes for the entire country. This interests, coupled with the selfishness of an International community that takes

priority over its ego to the wellbeing of DRC in the signing of peace processes leads to a stalemate of a country of several peace agreements but no peace. This is where the title of this work comes from, peace on paper that has remained difficult to transfer to the ground.

Therefore there does not exist one agreement that deals with all the conflicts in the country in its entirety, such as for example Kenya had in 2008 through the Dr. Kofi Annan brokered National Dialogue and Reconciliation effort that succeeded in giving the country a national accord and a coalition government of national unity.

More reasons on the paper peace situation in the DRC exist. This includes long drawn out processes and elevating the stakeholders who sat at the peace table to the conflict as the decision makers. This has meant in the DRC that there are those who start conflicts in order to gain a place at the peace table so that the peace process can elevate them to the role of decision makers and that they are then able to share the spoils. Being a participant at the peace table also means that they are able to keep their enemies in the periphery. The process of having rebel commanders and ethnic militia leaders as peace signatories has ensured that the most serious perpetrators not only get to negotiate for what they imagine peace would look like in the process rewarding them with positions of authority and allowing them to negotiate themselves into power. Having perpetrators at the peace table is two pronged however. In many cases it is necessary to have the most serious offender at the peace table in DRC as this has usually had the result of preventing their return to violence. What has inevitably led to the return to violence is maintaining them as the only parties at the negotiation table, leaving out keys stakeholders such as the faith based organizations or business people. This inevitably lays the foundation for the next conflict, as any militia leader will be seeking to increase his fighting space.

The militia and rebel leaders who broker peace with the Government of DRC have no capacity to move peace making at the drafting peace table to peace making and to state building ensuring the setting up of legitimate and therefore sustainable structures.

The UN is in a good position to provide an ideal base from which to adopt a system wide approach that would deal with all the conflicts in the Democratic Republic of Congo. The role of state and non-state actors will continue to be complicated in the DRC in as much as peace is touted everywhere and has increasingly become a global goal, at least in rhetoric.

Peacemaking in the DRC requires a different way of thinking, boldness, imagination and creativity. How for example can peacemakers tap into traditional dispute resolution methods including for example the invocation of ancestral spirits to deal with violators? Could peace processes involve animal sacrifices that would be more binding to an African rather than the more western approach of signing off on paper? The peace making structures in the UN and the DRC are bureaucratic and keep using the same methods. They require reform and new thinking and in a way can actually be counted as an obstacle to the real peace that the DRC needs as opposed to the paper peace that they guarantee. The DRC conflicts are becoming more complex, the weapons more modern yet the methods for addressing them remain limited and inflexible.

In general, peace agreements in the DRC mainly address cease-fires and disarmaments. There is no conscious effort at redressing human rights abuses. The agreements themselves constitute a lot of political theory and it is difficult to attach direct reference to the needs of the people on the ground. The DRC will not know what sustainable peace is if the agreements only reflect the interests of the people at the table but not the needs of the average farmer in Bukavu. The need for alignment between peace making and bread and butter issues is crucial for the DRC. This is an area that has been studied however the effects of these studies are yet to be felt in the DRC. The interest in the area of study is a good thing but until the DRC gets peace agreement drafters who are able to engage with the average citizen of DRC's needs it will be futile to keep drafting peace agreements.

The drafters of peace agreements in the DRC are usually connected to the politics of the big men but disconnected from the complex realities on the ground. The conflict drivers and their complicated inter connections across the DRC are not reflected in the DRC peace agreements. This study opens to more questions than answers, which can be taken up by other people such as scholars, the United Nations and NGOs working on humanitarian work. A number of limitations emerged during my study. The first was the end of my role in the project that I was working on. The other was the resurgence of violent conflict in the Kivus that ensured that not only could I no longer access the Kivus but also that some of my key informants, such as the staff of the Life and Peace Institute had to be evacuated into Burundi on the 24<sup>th</sup> November 2012. The rehabilitation camp has stopped admitting the FDLR because of security concerns.

The Great Lakes region as well the wider Eastern African Countries need to keep peace making at the front of its agenda. The Regional Economic Communities such as ECCAS, East African Community (EAC) and IGAD who have done a commendable job in leading peace processes have limits to their effectiveness. Peace building is largely not a priority that gets state attention unless conflict precipitates a major crisis like that which is unfolding in Goma at the present. The international community is now exhausted with dealing with the conflicts in the DRC. Donor funding has shifted to other areas, notably South Sudan as there has been no serious breakthrough in the DRC.

It is increasingly clear that in the DRC there is always a danger of conflict breaking out anywhere, ironically as a result of the regularity within which peace agreements in the DRC break down. In DRC, war provides economic gains to too many interested parties, which means that the party that stands to gain from war will renege on the agreement and return to war. Clearly, we have not seen the last of the peace agreements, as conflict will continue in the DRC so long as minerals continue to exist. The presence of unstable movements particularly by refugees from war torn countries complicate the matter. No amount of peace agreements and international involvement – will end the war until the militarization of conflicts based on mineral resources is sorted out.

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