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Southern African Peace and Security Studies (SAPSS) publishes rigorous theoretical and empirical research in all areas of peace and security studies concerning the region of southern Africa, with a particular focus on practical policy-oriented research. The journal will also address evolving developments within the discipline. Articles address critical themes or case analyses and are contextualized within the scholarly and policy literature and existing debates on peace and security in Africa. Each issue contains a mixture of peer-reviewed research articles, policy briefs and book reviews. SAPSS is an open access journal and all articles published are available online at www.saccps.org/journal.

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An Overview of Peace and Security in Southern Africa

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The current state of peace and security in southern Africa is, to a large degree, the product of its history. Factors impacting on the political stability of the region today can be traced to the effects of age-old political structures and traditions (from the level of the village to that of the kingdom); to pre-colonial trading patterns and slavery; to the scramble for Africa and its subjugation under European colonisation; to waves of immigration from within and from beyond southern Africa; to the 'hot' superpower proxy wars of the Cold War; to the process of decolonisation and the struggle for control over the newly independent states; to the reconfiguration of global politics at the end of the Cold War; and to more recent changes and trends in the local and global landscape. Regrettably, this short overview is unable do justice to this history and its implications for peace and security in the region today (for such a historical perspective, see Bauer and Taylor 2005; Farley 2008; Reid 2012; Meredith 2011). It will focus its attention instead on southern Africa's recent past, beginning with the tumultuous events of the late 1980s and early 1990s.

The End of the Cold War

The years marking the end of the Cold War were accompanied by great changes in the geopolitical landscape of southern Africa. Superpower rivalry was a major cause of the continuation of devastating armed conflicts in Mozambique and Angola, and it was thus no coincidence that the end of the Cold War also saw the realisation of major peace agreements in both cases. While this period marked the end of conflict in Mozambique, the peace in Angola unfortunately did not hold, and its residents would soon have to brace themselves for another round of conflict, but the circumstances of the conflict were quite different this time, not least in terms of the international dynamics surrounding it. Belligerents now had to rely on oil and diamonds, rather than on US and Soviet backing and weapons that were once in plentiful supply.

But there were positive outcomes of the Angolan peace process as well, not least the Tripartite Accord of 1988, which not only saw the withdrawal of foreign troops in Angola (South African and Cuban), but also the independence of Namibia, a territory that had had remained under apartheid South African rule despite UN Security Council resolutions calling for the decolonisation of the territory. And apartheid was not only crumbling in Namibia. Although white rule continued until 1994 in South Africa, by 1990 the last laws officially sanctioning apartheid in that country had been repealed, and the political structures that had sustained it were

soon to be no more. The road ahead was not so clear, however, for Lesotho. The country bordered on all sides by South Africa was plagued by political instability and a series of coup d'états.

Meanwhile, further north, the rumblings of instability were growing louder in Zaire, where the end of the Cold War meant a loss of US interest in propping up that country's long-time dictator and kleptocrat, Mobutu Sese Seko. Deprived of vital external support, Mobutu began faltering in the face of increasing domestic opposition and unrest, including a looting spree by thousands of unpaid soldiers and escalating local conflict in the Kivus. But even as the resources needed to maintain patronage networks and central control over the territory diminished – to the degree that he was nicknamed the 'Mayor of Kinshasa', Mobutu's skill as a political player remained, and he continued to play potential rivals against one another, holding onto power until a Rwandan-led invasion in 1996.

The end of the Cold War also saw increasing pressures to 'democratise', at least in the sense of having multiple political parties contesting the seat of power through elections. In 1990, multiparty elections were held for the first time in the Comoros, and in 1991, Zambia became the second country in southern African (after Mauritius) in which an incumbent relinquished power after having lost in democratic elections (technically, it was the first, considering that although Mauritius had experienced a change of power through the ballot in 1982, the head of state at the time was in fact the UK's Queen Elizabeth II). Within a few months of these elections, the Seychelles and Tanzania officially decided to make the transition from a single-party state to a multiparty democracy. Elections held in Madagascar in 1992-3 also resulted in an incumbent losing elections and stepping down, but not before intense domestic pressure and the massacre by presidential guards of protesters calling for democratic reforms. A transition to multiparty party politics followed in Malawi, where in 1994, Hastings Kamuzu Banda, who had clung to power since independence in 1964, was soundly defeated at the polls.

But there was no shortage of heads of state and ruling parties that continued to extend their stay in power throughout this turbulent period. The system of governance in Swaziland, for example, remained an absolute monarchy. Elections following peace agreements in Angola and Mozambique did not mean a change in the status quo at the top of the political hierarchy, but simply a defeat for the political wings of rebel movements. In Zimbabwe, presidential elections were held in 1990, but President Robert Mugabe's re-election was never in question. And while Seychelles and Tanzania both made a transition to multiparty democracy in 1991, ruling parties in both cases remained unchallenged. Botswana, a country with a reputation for political freedoms and democracy, nevertheless remained under the same ruling party that had led the country to independence.

Post-Cold War Developments

How has the region fared in the twenty or so years since the Cold War came to an end? In terms of armed conflict, some parts of southern Africa have experienced catastrophic levels of suffering associated with organised violence. The conflict that reignited in Angola would

continue until 2002. Scorched earth tactics (including the use of copious amounts of landmines) brought about untold levels of suffering for the civilian population. Weakened financially and militarily, the rebels were eventually defeated on the battlefield, with their leader, Jonas Savimbi, killed in combat. One of their final acts was a terrorist attack on a train killing more than 250 people. The final phase of the conflict cost hundreds of thousands of lives (see Malaquias 2007 for an analysis of the rise and fall of the insurgency).

In Zaire/Democratic Republic of the Congo (DRC), the effects of armed conflict would be even worse. The aftermath of the Rwandan genocide dealt the final blow to the Mobutu regime in Zaire. Rwanda, Uganda, Burundi and Angola invaded Zaire in 1996, in an assault coordinated with an alliance of domestic rebel groups, and the government fell the following year. A falling out between Rwanda and the new Kabila regime in Kinshasa saw Rwanda re-invade in 1998 (with Uganda and Burundi) in support of a fresh set of local proxy groups, but this time, Angola, Zimbabwe and, to a lesser extent, Namibia, Chad and Sudan came to the aid of the new government. At a macro level, a territorial stalemate ensued, and the conflict became a patchwork of a vast array of actors and fluid alliances, including numerous national forces, rebel groups and militias (backed by a mineral-laden war economy). Rather than being a single conflict, it is more accurately described as a series of overlapping local, national and international conflicts with powerful security, political and economic dimensions (see Prunier 2009; Reyntjens 2009). The Inter-Congolese Dialogue and the associated peace agreements did much to quell the conflict at international and national levels, and saw the withdrawal of foreign forces by 2003, but the unresolved local-level conflicts (with cross-border dimensions) in the eastern DRC have continued largely unabated. At the time of writing, the eastern city of Goma is under threat from a powerful contingent of renegade forces thought to be supported by Rwanda. To date the conflicts in the DRC have been responsible for the loss of millions of lives (IRC 2008). Articles in this issue by Gerrie Swart and Masako Yonekawa discuss the current state of the conflict – one in which the lines between peace and war, and between peace and justice remain dangerously blurred.

Large-scale armed conflict has mercifully not been witnessed elsewhere in southern Africa. This does not necessarily mean, however, that as a whole the region has been in a state of what can be called peace. There have been several examples of outbreaks of political violence (albeit on a relatively small scale) in the region in recent years. In Angola, while at a national level, the guns have been silent for more than a decade, pockets of violence associated with a secession movement (and government reaction) have remained in the enclave of Cabinda (at least up until 2006) leaving up to 1,500 people dead (Project Ploughshares 2007). Tensions also remain high between Angola and the DRC over border demarcation, oil ownership, and relations with Uganda and Rwanda, resulting in mass expulsion (accompanied by widespread rape and other forms of human rights abuse) of Congolese in Angola. Elsewhere, outbreaks of violence in Zimbabwe have been the subject of a great deal of attention, not least from Western policymakers and media outlets. In 2000, reforms aimed ostensibly at ending inequalities in land ownership established under colonial rule, resulted in violent farm invasions targeting white

commercial farmers. This upheaval, combined with economic mismanagement and political wrangling, saw the economy spiral and the currency collapse. Elections in 2008 were marred by violence and intimidation, and left the incumbent, Mugabe, in power only after the opposition leader announced he would not stand in the run-off vote.

Ten years earlier, contested elections in Lesotho were also the subject of regional concern. In this case, a military intervention conducted by the Southern African Development Community (SADC) ensued. Lesotho now appears to have achieved some measure of political stability. The main troop contributor for this intervention, South Africa, has not been free of violence either. In 2008, riots targeting foreigners in the country left more than 60 people dead and up to 100,000 displaced (Kapp 2008). Furthermore, observers point to a disturbing trend of politicisation of the security services and growing political repression (Solomon 2012). At the time of writing, the country was reeling in the wake of the shooting of protesting miners that left 34 dead.

Political violence and instability have not been limited to the mainland. The Comoros have experienced considerable political upheaval over the past fifteen years, with a secessionist attempt by two of its islands, multiple coups and coup attempts, and finally a military intervention in 2008, in this case by the African Union (AU). More recently, Madagascar earned suspensions (still in place) from both the AU and SADC, following a coup d'état that occurred in the midst of public uprising against what was seen as an increasingly authoritarian government. The island state has since seen a further coup attempt and a mutiny within the army. Talks are currently underway with a view to achieving a political settlement. Closer to the mainland, Zanzibar, Tanzania's semi-autonomous archipelago, has a history of violent clashes over contested election results, but peaceful elections held in 2010 offer hope that this is a past that Zanzibar has overcome.

The 'Arab Spring' has added a new dimension to political tensions in the region. Although most governments in southern Africa cannot be compared (in terms of repressiveness) to many in the Arab world, there remains much work to be done to consolidate democracy, something that is quite visible in the existence of a number of heads of state and/or political parties that continue to cling to power (usually using a variety of dubious means) for extended periods of time. Jose Eduardo dos Santos has been in power in Angola since 1979, and Robert Mugabe of Zimbabwe is not far behind in terms of time at the helm. In many other countries (Mozambique, Tanzania, Botswana and Namibia, for example), the ruling parties still remain unchanged since independence. Against this backdrop, and the backdrop of poverty and unemployment still prevalent throughout the region, the significance of the Arab Spring has not been lost on embattled opposition leaders, nor on a significant portion of the population. Protests inspired by the Arab Spring have sprung up in Swaziland, Mozambique, and even Angola. The loss of Zambia's Movement for Multiparty Democracy (MMD) at the polls in 2011, after twenty years in power, was a long time coming, but the Arab Spring no doubt served to boost the fortunes of the opposition party that eventually took power. Nor has the significance of the events in northern Africa been lost on those in power in the south. The shutting down of protests in most

countries has been swift. In the case of Zimbabwe, for example, opposition party members were arrested for simply gathering to discuss the Arab Spring.

Conflict Resolution

The story of peace and security in southern Africa is not simply one that chronicles the problems it faces. Southern Africa has at its disposal several mechanisms for conflict resolution and the reduction of security threats. The UN Security Council has been a key actor in attempts to secure peace in the region's conflicts, most notably establishing and maintaining large-scale peacekeeping operations in Mozambique, Angola and the DRC. Other UN organs have also been called upon in the resolution of disputes. Botswana and Namibia, for example, amicably settled a dispute over the demarcation of the border between them after accepting a ruling by the International Court of Justice in 2000, and then by a joint commission in 2003. The AU, increasingly active (albeit limited in terms of resources) since its transition from the Organisation of African Unity (OAU), has also served as a vehicle for attempts at conflict resolution. As noted above, the AU sent troops into the Comoros, and, more recently, has suggested that it may send troops to the DRC to help quell the rebellion there (Al Jazeera 2012). It has been a forum in which the situation in Zimbabwe has been the object of considerable debate.

But the region also has its own region-specific organisation – SADC. While it officially came into being in its current form in 1992, SADC has its origins in the Frontline States (FLS) group aimed at ending colonial and white-rule, and the Southern African Development Coordination Conference (SADCC), which was formed in 1980. In 1998, it was the vehicle for controversial interventions in Lesotho and the DRC. Over the past fifteen years or so, SADC has taken steps to further institutionalise measures aimed at enhancing and peace and security in the region. In 1996, it established the SADC Organ on Politics, Defence and Security Cooperation (OPDSC). A process of restructuring of SADC institutions was initiated in 1999, and in 2001, members signed the SADC Protocol on Politics, Defence and Security Cooperation. The implementation of this Protocol was operationalized in 2004, after the signing of a Mutual Defence Pact in 2003, and the adoption of a Strategic Indicative Plan for the OPDSC (SIPO), which was then superseded by SIPO II, adopted in 2010 (see Van Nieuwkerk 2012). SADC also serves as the body through which southern Africa is to participate in the African Standby Force (ASF). In 2007, SADC launched its regional brigade (SADCBRIG) and has been working towards making it fully operational (Mandrup 2009). In 2009 SADCBRIG declared that it was ready for deployment, but it still lacks strategic lift and logistic capabilities. The flurry of activity and proliferation of acronyms are certainly welcome signs of progress. The question that lingers, however, is the degree to which protocols, pacts and plans will be implemented and translated into actual progress on the ground. There appears to be a degree of scepticism on this matter (Nathan 2012).

Efforts aimed at conflict resolution are not only visible in the development of institutions. Leaders from southern Africa (past and present) have tried their hand at mediation on numerous occasions. Botswana's former president, Ketumile Masire, for example, took on the task of mediator for the conflict in the DRC in 2000. A peace agreement for the conflict in Angola was

negotiated and signed in Zambia (the Lusaka Protocol in 1994); and agreements to end conflict in the DRC were made in Zambia (Lusaka Ceasefire Agreement in 1999), Angola (Luanda Accord in 2002), and South Africa (Sun City Agreement, Pretoria Accord and Pretoria Agreement in 2002). South African presidents have also attempted to mediate in the political crises in Zimbabwe, as critiqued by George Abel Mhango in this issue. Mediation attempts have not only been limited to the resolution of conflicts occurring in southern Africa. Former Tanzanian president, Julius Nyrere, for example, served as mediator for the conflict in Burundi. And as discussed in depth by Katabaro Miti in his article in this issue, successive South African presidents have engaged in diplomacy to resolve conflicts not only within the region, but also in Burundi, Cote d'Ivoire and Libya.

In many other ways, southern Africa finds itself engaging in peace and security issues beyond the region, whether by necessity or by choice. Four of the eleven states comprising the International Conference on the Great Lakes Region are from southern Africa (Angola, DRC, Tanzania and Zambia), and the issues it deals with cannot be separated from those concerning much of central and eastern Africa, including a number of cross-border rebellions that have emerged from Uganda, Rwanda and (South) Sudan.

Finally, it is important to note that southern African states are actively engaged in matters of peace and security at a global level, through membership in the UN Security Council (South Africa is currently a member), and through contributions to peacekeeping operations throughout the world. At the time of writing, ten states from southern Africa were contributing approximately 4,700 troops to peacekeeping operations, 70 percent of which were deployed outside southern Africa (the DRC is the only southern African country currently hosting peacekeepers) (UN 2012).

The Broader Context of Peace and Security

The discussion on peace and security in southern Africa, cannot, however, be limited to one that deals simply with the struggles over leadership, state structures, and conflict and cooperation between the countries that comprise the region. Firstly, Southern Africa's security is connected with security issues that have broader geopolitical implications. Secondly, the unit of the state is hardly adequate to contain or describe the multitude of actors that have an impact (both positive and negative) on peace and security. Finally, and perhaps most importantly, the perceived achievement and maintenance of social justice and well-being at the community and individual levels are some of the most fundamental elements of peace and security.

Colonialism in southern Africa officially ended in the 1960s and 70s, but its legacy remains. With the exception of South Africa, 'development' under colonialism was focused largely on facilitating the extraction of natural resources, and southern Africa post-independence was left in many ways economically dependent on the capital-rich former colonial powers, particularly after the oil shocks of the 1970s. Economic and political ties between former colonies and former colonisers remain close, and tend to favour the latter. Other powers have brought their influence to bear on the region – the USA and USSR in the Cold War era (needless to say, the USA

remains exceptionally influential today), and, more recently, China. The power that these external state actors can (and do) exert (both positive and negative) on matters of peace and security in the region cannot be ignored. They are armed not only with military might and the ability to project (or assist in the projection of) military might, but also with the ability to give and withhold aid vital to the day-to-day running of countries in the region, and to impose diplomatic and economic sanctions. The clout that they carry in the UN Security Council and international financial institutions (the World Bank and International Monetary Fund) also makes such actors a force to be reckoned with.

Influence takes on many forms. US legislation adopted in 2010 that regulates the use of minerals coming from the DRC, for example, has considerable implications for peace and security in that country and in the region (Global Witness 2011). So too does China's multi-billion dollar deal with the DRC exchanging mineral resources for the building of roads, railroads and other infrastructure (Meyer 2012). Influence can also be seen in the dilemma that Malawi faced over the hosting of an AU summit in 2012 because of the planned attendance of Sudan's leader, Omar al-Bashir, who is wanted by the International Criminal Court (ICC) on charges of war crimes over the conflict in Darfur. Malawi was bound by the AU to accept al-Bashir's attendance, but at the same time obliged as a party to the ICC to arrest him upon arrival. Malawi's new administration risked falling out of favour with Western donors and losing valuable aid if it allowed al-Bashir to enter the country without arresting him, and eventually chose to decline its role as summit host (Dzinesa 2012). In a different vein, it is important to note that Mauritius has recently commenced negotiations with the UK in a bid to regain the Chagos Islands. If successful, the political boundaries of southern Africa will extend deep into the Indian Ocean. More importantly, it will include a major US fleet and armed forces support base on the island of Diego Garcia. After expelling the inhabitants, the UK leased the island to the USA in the 1970s, and it has since been used as a base for the bombing of Afghanistan and Iraq, and possibly as a 'black site' CIA prison (Doward 2008). Mauritius intends to allow the US base to remain operational on the island.

Beyond the states that make up southern Africa and the major powers beyond, there is a whole host of non-state actors that need to be taken into account when considering the peace and security of the region (see, for example, Dokken 2008: 169-94). Importantly, such actors are not only 'non-state' actors in the sense that they are not controlled by the state in which they may be based, but also in the sense that they operate beyond (and often with little regard for) state borders. Some participate directly in violence associated with armed conflict – most notably, these are rebels, warlords/strongmen, militia, and even gangs or bandits that take advantage of a power vacuum and/or culture of impunity (these are not necessarily mutually exclusive categories). Such actors have, of course, been especially prominent in the conflict in the DRC. Private military corporations (PMCs – read mercenaries) have also played a role in conflicts in the region. They were key players in the Congo Crisis in the 1960s, and South African PMCs were active in conflicts throughout the continent in the 1990s, until they were banned by South African legislation introduced in 1998 (although this didn't stop an attempted coup d'état in

Equatorial Guinea by mercenaries from South Africa in 2005). Others actors play a role in facilitating conflict – corporations and individuals dealing in weapons, and/or minerals or other resources that are implicated in funding conflict.

Some of the negative forces that threaten peace and security have emerged over the past decade. The scourge of piracy that has its roots in the collapse of Somalia and the resulting power vacuum there, for example, has had a direct impact on southern Africa, with attacks being reported as far south as Mozambique. Mauritius, the Seychelles and Tanzania have recently signed agreements with the UK and the EU to receive and prosecute suspected pirates arrested by naval patrols in the Indian Ocean. Furthermore, in 2012, Mozambique, South Africa and Tanzania signed a tripartite agreement to coordinate their countermeasures against piracy. Nor has southern Africa been immune to the reaches of global terror networks and Western responses in the wake of the events of 11 September 2001. In 2005, for example, a British terror suspect with apparent links to Osama bin Laden was arrested in Zambia. At a broader level, concerns are growing about the role that South Africa is playing as an unwilling host to global terrorist networks, and about South Africa's inadequate countermeasures (Solomon 2011).

Conversely, there are non-state actors that have the potential to bridge differences between conflicting sectors of society, and ameliorate armed conflict and its effects. These include religious bodies, human rights groups, trade unions, women's groups, traditional leaders, the mass media, academic institutions and humanitarian aid groups (Molutsi 2003). At times, this may entail direct intervention. The Community of Sant'Egidio, a private religious organisation, for example, played a key role in negotiations to end conflict in Mozambique (Hume 1994). During Zimbabwe's 2008 political crisis, human rights groups monitored a Chinese ship carrying arms bound for Zimbabwe, petitioning for the prevention of its delivery, while union-backed dock workers in Durban, South Africa, physically prevented its cargo from being unloaded (BBC 2008). In a more general sense, non-governmental aid groups active on the ground in and around conflict zones are instrumental in reducing and preventing conflict-related suffering through emergency interventions providing food, medical care and shelter for those affected by the violence. Nowhere has this been seen more clearly than in responses to the conflict in the DRC.

Other actors have a more indirect (but equally important) role in conflict prevention and/or resolution. The mass media, for example, can choose to exacerbate tensions between groups in society, but they can also choose to apply a peace journalism approach, working to ease tensions, and offering the people not only the voices of the belligerents, but also of the voices of those working for peace (Lynch 2008). A variety of groups representing civil society at the grass-roots level also work to overcome differences, prevent the use of violence as a form of dispute resolution, and build peace. The role of women's organisations is critical in this regard. The voices of these groups are helping to change the traditionally male-dominated discourse on armed conflict, in which women are more often than not treated simply as voiceless victims. The rise of such groups points to changes in the way in which gender is viewed, both within the region and globally. Other groups can play other roles. Human rights organisations and academic institutions are able to identify and raise awareness in response to social and political threats to

peace and security. Religious groups have the potential to promote reconciliation and ease suffering in post-conflict situations. These and other such groups that make up civil society are transcending political power and borders, and becoming increasingly active in the arena of peace and security issues.

The above discussion points to the importance of maintaining a broad perspective – the achievement of maintenance of peace and security cannot be reduced to the consolidation of national political structures, the realisation of solid regional (and extra-regional) relations, and the neutralisation of (negative) non-state actors that participate in, and/or facilitate armed conflict. The achievement of a positive peace means adequately addressing the root causes of conflict (whether armed or social, present or potential), and maintaining a concern for human security as well as state and/or regional security. This is something that has macro- and micro-level implications, and is just as relevant within communities as it is within states and regions.

Poverty is perhaps an obvious starting point. While many economies in southern Africa are currently experiencing impressive levels of growth, poverty remains a harsh reality for the majority of the population in most of the region. In terms of per capita gross domestic product (GDP – adjusted for purchasing power parity), the DRC was ranked the lowest of more than 226 states and territories for 2011, followed by Zimbabwe (CIA World Factbook 2012a). Equally importantly, it is often not simply the existence of poverty per se, but also the distribution of poverty in a society – the gap between the haves and the have-nots – that serves as a key factor in conflict. Most southern African countries (most notably Namibia and South Africa) perform very poorly on the Gini index that measures the inequality in the distribution of family income, with Namibia and South Africa ranking as the countries with the highest levels of inequality in the world (CIA World Factbook 2012b). Poverty and inequalities in distribution of income are also related to the incidence of crime, which is another destabilising factor in society. This brings the performance of local systems of justice into the equation. In her contribution to this issue, Riziki Shahari Mngwali reminds us of the importance of dealing with the 'injustices' inherent in inadequately resourced and overburdened justice systems, and looks to community mediation as a way of ameliorating the situation.

The issue of inequality is not only a matter of family income either. Inequalities are also a major source of friction from a host of other perspectives, including land ownership, citizenship rights, access to public services and jobs, food and water security, political representation and gender. This may the result of colonial policies, post-independence patronage politics (see Chabal and Daloz 1999), lifestyle/immigration patterns, or a combination of some or all of the above. Although the factors involved in what became a conflict at a continental level in the DRC, for example, are many and varied, the local causes of conflict are closely related to politically charged clashes over citizenship and land ownership that came about because of waves of immigration from neighbouring Rwanda – beginning more than a century ago. Similarly, a key element of conflict in Zimbabwe, particularly after 2000, is related to the distribution of land, an issue that has its origins in colonial policies that gave the vast majority of arable land to the white settlers. While conflicts in Africa are often labelled as being 'ethnic' conflicts, the apparent

identity-based element is usually better understood as a manifestation of such inequalities in the distribution of resources, rights and power. The actual outbreak of armed conflict often takes the form of violent outbursts by disenfranchised youth, who are frustrated and angry at the poverty, the inequality, the dearth of employment opportunities they face, and the "patrimonial 'machinery' of dysfunctional states" (Bøås and Dunn 2007: 36).

The role of health and education in the maintenance of peace and security cannot be underestimated either. Southern Africa has the highest rates of HIV/AIDS in the world, and this has had devastating effects not just for the individuals who suffer from it, but, because of the large numbers of people affected, for society as a whole as well. It continues to rob society of human resources vital for the protection, wellbeing and development of society, not least in terms of defence, education and the health sector itself. Needless to say, this has become a major source of destabilisation for the region (see Ala 2003). It is also important to consider the issue of health problems as a consequence of violent conflict. The vast majority of conflict-related deaths in the DRC have been caused by sickness and starvation; and sexual violence perpetrated on a scale unparalleled in the world has had horrendous physical, psychological and social consequences for the victims, their families and their communities. Education also serves as a force for peace. Firstly, it is a tool to combat ignorance – which provides a fertile breeding ground for xenophobia, discrimination and bigotry. Secondly, education tends to increase the life choices available to its recipients, which potentially opens up employment opportunities. Finally, it contributes to the development of informed leadership in all sectors of society. Southern Africa continues to face major challenges with regards to both health and education. In 2011, the Human Development Index, which takes into account health, education and living standards, ranked the DRC as the lowest of 187 countries (although some countries, such as Somalia, were not included), and Mozambique was not far behind (UNDP 2011: 130). In many ways, the situation is certainly improving, but the road ahead is long.

Southern African Peace and Security Studies

There is a great deal of knowledge and experience in matters of conflict, peace and security in southern Africa. From an academic perspective, several research institutes with rich histories (based mostly in South Africa) continue to produce powerful analysis of the state of affairs in the region. And yet, seen from a global level, the resources devoted to understanding and learning the lessons of conflict and insecurity in southern Africa pale in comparison to those devoted to other parts of the world. Considering the challenges the region faces in this regard, this is clearly an issue that needs addressing. In many cases, valuable lessons, both academic and practical, remain within the minds of the individuals, and within the archives of the institutions, that have learned them. Gathering, compiling, analysing and making use of these lessons is an important endeavour, with relevance not only for the region itself, but for other parts of the world as well. There is a need for more research, on a variety of levels and from a variety of perspectives, on the state of conflict, peace and security in southern Africa.

This is the rationale behind the establishment of *Southern African Peace and Security Studies*. It emerged from discussions within a newly formed regional network of researchers and practitioners. Founded in 2011, it has taken the form of collaboration between a variety of institutions in the region and beyond, with cores in the University of Zambia, Zambian Open University, University of the Free State (South Africa), and the Mozambique-Tanzania Centre for Foreign Relations (Tanzania), together with Osaka University (Japan). Collaboration to date has included an international conference, the movement of scholars within and beyond southern Africa, and the establishment of a joint blog (Southern African Peace and Security Blog). The network held its first conference in Lusaka, Zambia in September 2011, focusing on the subject of mediation and peacemaking in southern Africa. This first issue of the journal is comprised primarily of papers presented at that conference. The network is in the process of institutionalisation, and will soon evolve into a centre based in Zambia – the Southern African Centre for Collaboration on Peace and Security (SACCPS).

While the network is anchored to these academic institutions, it remains highly conscious of the need for its projects to be undertaken with the active participation of policymakers and representatives of civil society. This will ensure that the research conducted and lessons learned are firmly grounded in the demand for the development of practical solutions for real-world issues, and that the achievements are accessible and useful to policymakers and civil society. The 2011 Lusaka conference welcomed not only participants from academia, but also representatives from the International Conference on the Great Lakes Region, a number of non-governmental organisations, and the media. This emphasis can also be seen in the format of this journal, with the inclusion of both academic articles and policy briefs.

With its sights set firmly on the region, *Southern African Peace and Security Studies* aims to produce a quality mix of cutting-edge academic and practical policy-oriented content, offering a variety of perspectives from experts and practitioners from within and beyond the region. The floor is now open.

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Biographical Note

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Is Quiet Diplomacy in Consonance with Meaningful Peacemaking in SADC? Lessons from Zimbabwe

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Abstract

Peace is one of the most contested research agendas in security studies. In recent times, proactive efforts towards peace have been epitomized by a peacemaking agenda that has been seen to be regional and home-grown in its approach. The experience in Africa indicates that the continent has been progressively advancing conflict resolution approaches which have been generally characterised by the logic of solidarity and respect of sovereignty. But at the heart of this daunting task lies the question of leadership and interests, which keep haunting comprehensive peace efforts of the continent. Southern Africa has been looking to South Africa as a pacesetter in SADC's peace agenda yet its efforts towards peacemaking seem to be encapsulated within a rather naive approach of quiet diplomacy. Hence, this paper argues that by accommodating the quiet diplomacy approach in the resolution of regional conflicts, SADC may be jeopardising its own commitment to peace and security, making it subject to capture by powerful interests. And the tendency to tolerate impunity on the basis of gradual reforms further shows the weakness of the approach as a credible peacemaking strategy. This paper draws lessons from the mediation efforts of South Africa in the Zimbabwe crisis.

Introduction

The post-Cold War context of African peacemaking has been characterized by a conviction that the continent needs more locally relevant approaches to peace. The 'African solutions to African problems' slogan frequently resonates with regional as well as continental peace and security frameworks whose rationale is that African leaders must take their destinies into their own hands by creating for themselves peace and human solidarity (Graham 2006). The hope is to have a peacemaking agenda that would deal with the underlying causes of conflict without recourse to threats on the mandate of incumbent African governments. In the southern African region, the question of Zimbabwe has proved to be an important test case for the Southern African Development Community (SADC) in its peacemaking efforts, considering the fact that the crisis erupted at such a time when Zimbabwe was chairing the SADC Organ for Defence and Security Cooperation, and was apparently at the helm of the resolution of conflicts in the Democratic Republic of the Congo (DRC) in 1998. And with simultaneous developments at home jeopardising political stability, the credibility of Zimbabwe as chair of the Organ came under

international scrutiny and criticism, further undermining the integrity of the region's conflict resolution.

The background of the situation in Zimbabwe dates back to the late 1990s when the country began experiencing a conundrum of political and economic problems that have been centred on the unresolved question of land. The formation of the Movement for Democratic Change (MDC) in 1998 further contributed to the shake-up in the country's political space as it raised prospects for a more democratic government that would guarantee equality and justice in the distribution of the country's resources. Hence, to safeguard its interests, the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF) used the issue of land as a tool for garnering support, but also as a weapon for disciplining any form of dissent. This led to state repression which necessitated the intervention of the international community through smart sanctions on the Mugabe regime on the pretext that the he tolerated a rampage by war veterans on white-owned farms[1]. What followed was a combination of downward economic spirals and a poor governance record causing the once regional economic pillar to plummet. Realizing the threat that the situation in Zimbabwe posed to the region as a whole, SADC made efforts to resolve the deepening gulf between the two main political camps, the ZANU-PF and the MDC.

The Zimbabwe crisis[2] has elicited much scholarly debate from various perspectives attempting to explain the cause, extent and consequence of the problem. One key aspect of these debates has been problematization of the quiet diplomacy approach adopted by South Africa. This debate ranges from the question of morals to that of ideology. On the one hand, some scholars have argued that by employing quiet diplomacy in engaging with Zimbabwe, South Africa has demonstrated hegemonic naivety in failing to bring Mugabe under control, hence falling short of displaying effective regional leadership (Sachikonye 2005; Adekeye and Landsberg 2003; Alden and Schoeman 2003). On the other hand, other scholars argue that through the exercise of quiet diplomacy, South Africa is demonstrating to the world how a regional hegemon can exert its preponderance in a contextual manner by insulating its territory (and interests) from external influence while at the same time conforming to the popular legacies of solidarity in the region (Soko and Balchin 2009; Prys 2008; Phimister 2004). Yet others have approached the debate from a pragmatic point of view, arguing that quiet diplomacy is a necessary evil for a South Africa that does not want to see an escalation of conflict in Zimbabwe (Lipton 2009; McKinley 2006; Graham 2006; Adelmann 2004). In other words, South Africa is ready to cope with an unstable neighbour as opposed to a failed neighbour.

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1 It must be noted that the white farmers in Zimbabwe contributed significantly to the success of the economy. See Masunungure and Badza (2010), Muzondidya (2010) and Moyo and Matondi (2003).

2 There is debate within extant literature as to whether the Zimbabwe question really constituted a *crisis* (see Mlambo and Raftapolous, 2010; Chobli, 2008; Sachikonye, 2005). I, therefore, use the word rather loosely to mean a situation in which a regime faces such an internal instability that it may challenge its legitimacy both domestically as well as internationally.

However, this paper's point of departure is that while the quiet diplomatic approach of South Africa in Zimbabwe is well acknowledged, little attention has been paid to the potentials and limitations of the approach as a peacemaking strategy within SADC. Hence, by drawing on the experience of South Africa's involvement in Zimbabwe, the paper endeavours to ascertain whether quiet diplomacy can contribute to our understanding of mediation and peacemaking efforts within the SADC framework of peace and security. The rationale is that, in the wake of home-grown approaches to peacemaking in the region, it is imperative that we assess their relevance towards the broader goal of achieving lasting peace.

Understanding Quiet Diplomacy in Southern Africa

The concept of quiet diplomacy has been advanced by South Africa in the Zimbabwe crisis and it is within this context that the concept will be unpacked. Quiet diplomacy refers to a combination of soft diplomatic approaches, mostly behind-the-scenes engagements, aimed at facilitating pacific settlement. In the case of Zimbabwe, these included bilateral meetings between heads of state and senior officials, South Africa's shielding of Zimbabwe from public criticism in international organizations, endorsement of questionable election results, persistent negotiations dubbed 'constructive engagement', and provision of economic packages with an aim of motivating change within Zimbabwe by Zimbabweans (Prys 2008; Graham 2006). The argument is that the absence of the public increases the chances of finding a diplomatic solution. Thus quiet diplomacy defies Woodrow Wilson's doctrine that "diplomacy shall proceed always frankly and in the public view" (Wilson 1918). In other quarters, this strategy has been dubbed the 'softly-softly' (Aldermann 2004) approach, reflecting the patriarchical manner in which South Africa treats Zimbabwe in its 'constructive' engagement. This process is marked by a patient toleration of Zimbabwe's deviance with the hope that through continuous open dialogue, President Mugabe will be made more amenable to negotiations.

Theoretically, the concept of quiet diplomacy reflects traits of preventive diplomacy, which is traditionally anchored in multilateralism. Preventive diplomacy refers to *concerted* action designed to resolve, manage, or contain disputes before they become violent (Stedman 1995). It requires that a third party serve as a mediator to resolve conflict between two or more parties. And according to Orth (1997), such concerted effort demands that first, the disputing parties must consent to resolve their differences through negotiation. And once an agreement is reached, the parties must abide by it and implement it. He further observes that the best outcome of a successful preventive diplomacy process is a negotiated settlement which both parties are prepared to implement (Orth 1997). This is in sharp contrast with megaphone diplomacy, whereby negotiations between countries or parties are held through press releases and announcements in order to force the other party into adopting a desired position. Thus quiet diplomacy epitomizes a contextual adaptation of preventive diplomatic efforts specifically customized to southern Africa. It subsists in the respect of state sovereignty and the legacies of the region's politics of liberation that have contributed to a culture of tolerance among statesmen. This molds a sense of solidarity which perpetuates the imperatives of fraternity and comradeship,

"underpinned by the unspoken rule that African governments do not openly criticize sovereign governments, even when they abuse the rights of their citizens" (Kagwanja 2009: 29). And the following quotation from Tajudeen Abdul-Raheem further indicates that this tendency is deep-seated in the philosophy of southern Africa's regionalism such that actions that significantly depart from norms of solidarity are treated with strong anti-imperialist reservations;

> Why can't these Westerners understand that the more they shout about Mugabe the stronger such leaders become and the more difficult it is for an African leader to condemn him openly for fear of being seen as a Western puppet? (Abdul-Raheem 2005)

For an in depth appreciation of quiet diplomacy, it is also vital that we situate the concept within SADC's peacemaking agenda. To begin with, the United Nations (UN) recognises the significant role of regional organizations in peacemaking (UN 1995: para. 4). In fact, Article 52 of the UN charter encourages pacific settlements of local disputes by regional organs. Regional bodies are thus acknowledged as hubs of conflict resolution on the strength that they foster interaction among states, facilitate collective action and encourage adherence to common norms and standards on governance and conflict resolution (UN 1998: para. 41). This is the case especially where national conflict has a destabilizing potential beyond the nation. In the case of SADC, its mandate for peacemaking rests with the Organ for Politics, Defence and Security Cooperation. The experience of peacemaking in the region indicates that due to lack of consensus among members, SADC has circumstantially found itself between two contested approaches to conflict resolution; with one focusing on military intervention and the other emphasizing diplomatic methods (Nathan 2010; Adelmann 2004). The product of this contest has been SADC's case-by-case approach to conflict resolution where methods and strategies applied by mediators have been customized to specific conflicts and lacking in uniformity.

In fact, the manner in which quiet diplomacy has been tolerated within SADC only reveals the deficiencies of the values and the principles used to govern mediation. The argument is made with respect to the fact that, despite laying the broader framework and institutions within which disputes are to be resolved, SADC is silent on how to mediate. The competence for mediation is taken for granted and the terms on which mediation must be executed are not clear. This renders the approach informal and often dependent on personalities rather than institutions. The lack of a guiding framework means that mediation remains improvised and overly subject to power politics (Ancas 2011). This creates a blank slate which some regional members have exploited through more personalised diplomatic approaches to dispute settlement. This justifies the gap that has been filled by South Africa's quiet diplomacy in the Zimbabwe crisis. What is evident in most accounts of South Africa's mediation in Zimbabwe is that quiet diplomacy was not benchmarked against SADC principles and norms of peacemaking despite being mandated by the organization to 'lead' the mediation efforts. This only attests to the gaps that exist in SADC's peacemaking framework.

The experience of post-Cold War peacemaking in southern Africa further suggests that when South Africa became democratic in 1994, most African countries feared that it would assume the role of a 'big brother' on the continent due to its growing optimism about potential leadership in Africa as displayed by its foreign policy and desire for greater democratization. However, after failing in such a role in Nigeria in 1995, and aware of the danger of acting like an appendage of the West, and of deep seated reservations that fellow African countries had with regard to its quickly evolving foreign policy predicated on democratization and respect for human rights, South Africa was becoming cautious. Hence, to keep its continental ambitions alive, South Africa attempted a balance between its support for state sovereignty and anti-imperialist ideals, on the one hand, and principles of good governance and human rights on the other (Lipton 2009; Soko and Balchin 2009). This translated into more consensual positions in peacemaking as opposed to reliance on military might. However, the use of quiet diplomacy by South Africa as a tool to achieve its foreign policy objectives came into the limelight with the crisis in Zimbabwe. And despite the fact that there has not been frequent reference to the approach in official documents, the usage of the term by the South African government traces back to 2000, when the government first acknowledged that it was using the approach as a strategy for engaging with Zimbabwe. Through a response to a parliamentary question, the government remarked that it "engages the President of Zimbabwe in silent diplomacy and that any pronouncements of the detail for discussions might be counterproductive" (Prys 2008:13-14). However, the government later argued that it had never used the approach, consequently blaming the media for the misrepresentation.

Quiet Diplomacy and Peacemaking in Southern Africa: An Audit

When the land problem in Zimbabwe began to capture international attention in 1999, South Africa began engaging Robert Mugabe on a 'quiet' diplomatic basis. This was on the conviction that 'quiet diplomacy' would be more effective than the West's 'megaphone diplomacy' in resolving the deteriorating political and economic situation in Zimbabwe. This led to moves to confine the resolution of the problem within the region in keeping with the desire to see Zimbabwe solve its own problems. Consequently, the African Union (AU) and SADC successfully insulated Zimbabwe from dispute settlement efforts from external (Western) parties in spite of the pressure that South Africa was receiving from Britain, USA and Australia (Soko and Balchin 2009; Prys 2008; Phimister 2004). However, it was only in 2007 that SADC gave South Africa the official mandate to take lead of the responsibility for mediation in Zimbabwe. South Africa was viewed as a likely broker of peace on the basis of a number of speculated assumptions. Firstly, South Africa's position on the continent was seen as that of a pacesetter in peace, security and development. Thus by pioneering such initiatives as the New Partnership for African Development (NEPAD), African renaissance, and the AU, South Africa demonstrated its growing influence and potential leadership in strategic matters concerning the continent (Graham 2006; Van Nieuwkerk 2004). Secondly, its position outside the continent served as a representation of its growing influence in the first world. This was evidenced in South Africa's

successful bid for a non-permanent seat at the UN Security Council and its increasing trade with Europe. Thirdly, South Africa had comparative advantage over the other countries in the region as evidenced by its material preponderance and its proximity to the problem situation. The point is that South Africa has superior political, economic and military capabilities and is considered a vanguard of democracy and human rights in the sub region. But most crucially, it is the neighbour most directly threatened with any escalation of the situation in Zimbabwe.

Nevertheless, as a mediator to the conflict, South Africa has attracted attention from many scholars who have problematized its soft approach on Zimbabwe, contrasting it with megaphone diplomacy demonstrated by the West. In as far as the outcome of South Africa's quiet diplomacy in Zimbabwe is concerned, the Global Partnership Agreement (GPA) that led to the Government of National Unity following the disputed elections of 2008 remains a landmark contribution of the mediation efforts. However, while the GPA has been celebrated as a breakthrough by most international observers, it remains a delicate and "unhappy compromise," a marriage of convenience between the two parties, ZANU-PF and MDC (Mlambo and Raftopolous 2010: 10). The reality is that the agreement is characterised by dissatisfaction and grudges on the part of the opposition that won an election but was denied the reins of power by the ruling party. As a result the agreement has become a theatre of power politics for the ZANU-PF and MDC, whereby the former has kept a tight grip on the coercive instruments of the state, further insisting that the military and the police forces should not in any way be 'reformed'. This has created an environment of pseudo-peace whereby conflict has high latency. Again, the GPA does not explain how the structural causes of the problems leading to the disputed elections of 2008 are going to be addressed so as to prevent any further eruptions. The point is that the agreement remains fragile and rests on its perceived 'convenience' to (and not the goodwill of) the leaders of the two camps, hence posing a threat to peace and stability in the country. In the same vein, the GPA remains silent on how the political situation can evolve to a stable elected government. This argument is made considering the fact that the roadmap to a new election seems to be given rhetorical attention, with little or no follow up to these commitments by either of the parties or the mediator. Furthermore, it is important to acknowledge the role of other international actors who were undoubtedly instrumental in the negotiations leading to the GPA. Hence it would be fallacious to fully attribute the GPA to the quiet diplomatic efforts of South Africa.

One of the assumptions of quiet diplomacy which has been considered instrumental for the GPA relates to the continuous engagement of the parties in conflict. The point is that direct contact kept open the communication channels between Mugabe and the outside world. It is argued that during his presidency, Mbeki had met with Mugabe on several occasions through which a climate of goodwill was purportedly created (Prys 2008). The hope had been that through the expression of this goodwill, the Zimbabwe government would be drawn to the negotiating table and look at the situation in a more liberal manner. Through constructive engagement, quiet diplomacy promised to broaden the space for conflict resolution and peacemaking through negotiation, mediation, and critical dialogue, rather than military force. However, since quiet diplomacy is not public, it thrives on unclear and unverifiable goals,

leading to informal commitment which does not necessarily bind either party. As such, goals tend to shift over time as interests shift in the process. This is further complicated by the fact that a lack of credible information for the parties often breeds insecurities and suspicion, which leads the parties to pay lip service to milestones that are agreed to. The lack of information breeds speculation regarding what happens behind the scenes and the terms on which negotiations are made. This can be noted in the tendency of Robert Mugabe to renege on most of his commitments since the commencement of the 'constructive engagement'. It is argued that at one point Mugabe had assured Mbeki that he would uphold the rule of law and stop harassment of white farmers but later Mugabe told the press that he had never uttered such sentiments (Graham 2006). Again, there have been instances where official communication between Mbeki and Mugabe had been leaked into the media in Zimbabwe thereby raising mistrust and suspicion regarding the parties as well as the mediator. One such instance concerned a letter to Mugabe in which Mbeki urged his colleague to return to reconciliation talks with the MDC, which was leaked to the state-owned media (Graham 2006). This led to more defiance than cooperation from Mugabe.

Again, the absence of the public in the mediation process raises concerns over the viability of quiet diplomacy as an effective peacemaking strategy. The argument is that the involvement of civil society could have helped legitimize the process of conflict resolution. However, the justification given for the exclusion of the 'public' was the wariness with delays in consultation and negotiation that arise when many stakeholders are involved. But it must be borne in mind that the Zimbabwe crisis had its roots in the fault lines in state and society, a space where power is contested and government decision-making originates. It is argued that on a number of occasions civil society felt that the process was not representative of their interests and as a result they did not take the mediator seriously (Mlambo and Raftopolous 2010). Thus by ignoring such an important policy space, quiet diplomacy circumvented important players who understood the structural basis of the conflict, thereby missing an opportunity to deal with the real problems behind the crisis.

Another limitation of quiet diplomacy as a peacemaking strategy relates to the fact that it conforms to the logic of solidarity, fraternity and sovereignty. The point is that the solidarity politics of juridical statehood takes precedence over the need to ensure freedom, rule of law and respect for human rights, which are the basic tenets of both the South African foreign policy as well as the SADC peace and security framework. It seems that SADC countries have a general "hypersensitivity to western criticism" while at the same time being "oblivious to tyranny in their midst" (Phimister 2004: 290). Reaffirming this logic of (African) solidarity, former South African Foreign Minister, Dlamini Zuma, once remarked that "if your neighbour's house is on fire, you do not slap the child who started it. You help them to put out the fire", as this was the African way to respond (Graham 2006: 120). The challenge, however, is that while such values play a crucial role in preserving the region's unity against external threats, they tend to reflect the weakness of the region, in the sense that member states develop a culture of tolerance and lenience towards violation of regional principles and protocols. The consequence is that this may

bolster regime security at the expense of human security and regional stability, thereby impeding the resolution of conflicts. And as Nathan argues, the principles of solidarity politics "mask rather than transcend the substantive political differences between member states ... when foreign powers put pressure on a SADC state; however they do not apply when SADC states are at loggerheads with each other" (Nathan 2010: 15). This is further demonstrated by the fact that in line with the 'constructive engagement' policy, South Africa, together with other SADC countries, have been speaking strongly against sanctions on Zimbabwe, arguing that sanctions were not consistent with a non-confrontational diplomatic style and because diplomatic support for Zimbabwe was necessary to keep up the South African influence (Masunungure and Badza 2010; Bush and Szeftel 2002). This was the case even in instances where Zimbabwe was in utter violation of human rights. And as observed by Sachikonye (2005), when Zimbabwe was suspended from the Commonwealth following unprecedented state repression on the population, South Africa argued, albeit unsuccessfully, for the immediate lifting of Zimbabwe's suspension at the Brisbane Conference in 2002. And at the 2003 Abuja Conference, SADC concertedly denounced the twelve-month extension of Zimbabwe's suspension.

The experience of quiet diplomacy in Zimbabwe also brings to the fore the question of leadership of, and responsibility for, peacemaking in the region. The exclusivity of the quiet diplomacy approach renders it unfriendly to innovative input from other regional members. SADC has to seriously rethink the 'point man' approach in regional pacific settlements since it precludes other potentially influential parties from participating in the process. This approach tends to insulate mediation even from well-intentioned neighbouring parties. This comes from the backdrop that on many occasions South Africa has denied other members a chance to get involved in the pacific settlement. It is argued that within the overly unilateral mediation efforts in Zimbabwe, there have been voices within the region calling for an expanded mediation team and that at the helm of the voices have been Zambia, Botswana and Tanzania. However, there was strong resistance to this from South Africa, which capitalized on the absence of a normative congruence in the practice of regional politics in order to polarise potential regional players as looming spoilers. In cases where troikas were instituted by SADC to engage with conflicting parties in Zimbabwe, they have mostly been labelled as being comprised of less influential leaders/countries and this has always left South Africa as the dominant party in the process. But despite its insistence on this patriarchical approach, South Africa failed on many occasions to bring Mugabe to the negotiating table. This only demonstrates the perils of gatekeeping tendencies when mediating regional disputes that have extra-regional implications.

Interests are another salient issue that provide a lens for examining quiet diplomacy. This point is made considering that diplomacy essentially seeks to serve specific interests. In the case of the Zimbabwe crisis, there are observations that the use of quiet diplomacy for mediation exposed methodological as well as moral shortfalls in the conduct of peacemaking. In fact, there seems to be a serious disjuncture between expectations and practice in the sense that while mediation puts the interests of the parties above of those of the mediator, quiet diplomacy tends to be marred by competing interests between the parties, on the one hand, and the broker on the

other. Nathan (2010) posits that for peacemaking effectiveness, the parties to the conflict must believe that the mandate of the mediating institution serves their interests in order to increase trust in the mediation process. However, the neutrality of the mediator in the Zimbabwe crisis is held suspect as most accounts of the conflict resolution efforts indicate that the quiet diplomacy approach was overly tilted towards the government. This observation comes from the fact that the unofficial (quiet) 'constructive engagement' had already been taking place between the governments of South Africa and Zimbabwe well in advance of the official mediation (Prys 2008; Graham 2006; Adelmann 2004). And since most discussions were being held behind closed doors, it would be difficult to comprehend how a balanced approach would be achieved in the engagement. This spells the inherent weakness of quiet diplomacy in the sense that the approach is state-centric and as such does not give sufficient attention to other critical stakeholders in the process of peacemaking. This is further reflected in the scepticism expressed by the MDC to the extent that Morgan Tsvangirai, at one point, condemned the approach, labelling Mbeki as a "dishonest broker" and accused South Africa of becoming part of the Zimbabwe problem (McKinley 2006: 95). There was a lack of conviction by the MDC regarding the posture that South Africa took towards ZANU-PF which created the feeling that the MDC was playing second fiddle and was being recognized "grudgingly and late" (Sachikonye 2005).

In the same vein, it can be contended that the competing interests in the conflict resolution process in Zimbabwe may draw immensely from the actors' differing perceptions of the crisis and its impact. In the case of the mediator, there are arguments to the extent that South Africa had vested interests in the crisis because it wanted to secure its border from the influx of Zimbabwean refuges, hence its actions could not be read as those of a neutral intervener who puts the interest of the parties above everything else. It is clear that South Africa was not prepared to put up with a meltdown within its neighbourhood. As a result, Mbeki did everything within his means in order to avoid an increased burden for South Africa caused by an influx of Zimbabwean immigrants and border problems that might have arisen in the aftermath of the 2008 elections (Hager 2007; Graham 2006; Adelmann 2004). However, beneath such perceptions can also be deciphered economic interests. This is reflected in Dale McKinley's critique of Mbeki's earliest attempts at uniting the two parties in which he argues that, "the attempt to forge an elitist political deal ... should be seen as ... confirmation that Mbeki's bottom line remains one of securing the strategic interests of South African capital whilst simultaneously consolidating his government's role as the main African arbiter of both a regional and continental capitalist political economy" (McKinley 2006: 98). This point is further echoed by Soko and Balchin (2009) who, while dismissing a direct relationship between South Africa's foreign policy and private sector interests, acknowledge that South Africa has not hesitated to capitalize on the economic opportunities arising from Zimbabwe's economic and political collapse, especially in the mining and industrial sectors. Thus it can be argued from a realist point of view, that South Africa might have pursued quiet diplomacy in order to serve its own interests.

Conclusion

The foregoing discussion demonstrates that the quest for African solutions to African problems is proving to be a daunting task in the absence of robust peacemaking. The mediation efforts in the Zimbabwe crisis clearly epitomize the institutional and structural shortfalls prevailing in quiet diplomacy as a mediation tool, and the lack of commitment of the region towards a lasting pacific settlement in the country. While South Africa's fear of megaphone diplomacy may be well justified, the recourse to quiet diplomacy has not contributed to the purpose of achieving meaningful peace either, since the situation in Zimbabwe remains unstable. This state of affairs offers a false semblance of peace where a meltdown remains latent. But again, the use of quiet diplomacy by South Africa in Zimbabwe demonstrates that southern Africa has yet to unshackle itself from the tentacles of juridical statehood and move beyond the veil of sovereignty towards assertive dispute resolution underpinned by the very principles enshrined in the region's charters and protocols. Furthermore, competing interests between the mediator and the parties to the dispute greatly jeopardised the settlement process and created an environment of mistrust. The paper has demonstrated that South Africa did not go far enough to rise above its interests in the situation, and this ultimately affected the posture and outcome of the mediation process. This points to the limits of mediation efforts that are dominated by a single intervening party, considering that this may raise unnecessary concerns over the integrity of the process. Hence for effective peacemaking in the sub-region, there is a need to insulate the process from personal interests and rethink the political culture of solidarity in order to eliminate impunity. It must also be appreciated that responsibility for conflict resolution within a regional setup should not be entrusted to an individual country regardless of its capacity. To ensure depersonalised and credible regional peacemaking, there must be a collective obligation of all the member states and the role of parties must be underlined. Otherwise, peacemaking approaches that focus squarely on stopping immediate violence but fail to deal with the underlying structural causes of conflict will fall short of guaranteeing stability.

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Biographical Note

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South Africa and Conflict Resolution in Africa:
From Mandela to Zuma

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Abstract

This article looks at how the three presidential leaders of South Africa – Nelson Mandela, Thabo Mbeki and Jacob Zuma, have dealt with various conflict situations on the African continent. They were involved in the Burundi conflict (Mandela and Zuma), in the DRC, Cote d'Ivoire and Zimbabwe (Mbeki and Zuma) and the Libya conflict (Zuma). In their handling of these conflicts they were influenced by their own experiences during the Convention for a Democratic South Africa (CODESA). This acted as a handicap because the CODESA conditions did not exist in the collapsing and failing African States. What is important, however, is the fact that there has been a willingness and political commitment to address the continental conflicts and national resources have been committed to this end.

Introduction

It is important to start this article by noting two things that have influenced South Africa's involvement in conflict resolution on the continent. First is the conviction that conflicts deter development on the continent through sheer destruction that includes massive death and displacement of civilians and the destroying of the little infrastructure in existence. Furthermore, conflicts perpetuate the negative image of Africa as the 'dark continent' and by extension prevent external investments which are necessary for unblocking the continent's riches. It is South African leaders' conviction that South Africa can only develop in a stable and peaceful continent. Focusing on resolving African conflicts is in the best interest of the country. This is what is at the core of South Africa's African agenda (South African Institute of International Affairs 2008, Habid 2009). There is the political will and commitment to engage in conflict resolution within the country's leadership. Besides, the country is better resourced than most countries on the continent. This has raised expectations both from the continent and globally of South Africa playing a major role in resolving continental conflicts.

The second influence has been South Africa's Convention for a Democratic South Africa (CODESA) process, which is seen as a mirror for conflict resolution on the continent. The two main elements of the CODESA negotiations were inclusiveness and compromise. However, the South African CODESA experience is not replicable anywhere on the continent as the conditions

that made the negotiated settlement possible do not exist elsewhere (Shillinger 2009, Solomon 2010). What made the negotiations in South Africa to succeed was, among other things, the continuous existence of a strong state. But in much of the rest of the continent we have weak, fragile and collapsed states. In South Africa there is the existence of a major mass movement with extensive internal support, legitimacy and external quasi unanimous recognition (that is the African National Congress - ANC). Elsewhere on the continent we have a multitude of splinter groups, spoilers and free riders. The principle protagonist in South Africa, were the ANC and the National Party (NP) government. This allowed for the application of the principle of sufficient consensus which basically meant agreement between the two main parties. Furthermore, there was a clear divide of the conflict, a racial divide between blacks and whites. Elsewhere on the continent, the conflicts represent a combination of ethnic, economic and political factors. There is also the fact that the negotiations in South Africa were internally driven. The international community respected the internal process in part because of the continued existence of a strong state and in part because of the importance of South Africa to the international community. Elsewhere on the continent the negotiations are externally driven with conflicting regional and international interests. Negotiations are often started while the internal groups are still looking for a military solution.

In considering South Africa's role in the resolution of conflicts on the continent under its three presidents, Mandela (1994-1999), Mbeki (1999-2008) and Zuma (since 2009), one has to keep the two elements noted above in mind. In the following pages I examine Mandela's mediation in Burundi, Mbeki's involvement in the Democratic Republic of Congo (DRC), Cote d'Ivoire and Zimbabwe, and Zuma's involvement in Burundi, Zimbabwe, Cote d'Ivoire and Libya.

Mandela and Conflict Mediation in Burundi[1]

It is important to start this section by giving a brief history of the conflict in Burundi. While the Hutu-Tutsi conflict in Burundi can be traced back to the struggles for political control that resulted in massacres in the 1960s, the conflict to which Mandela was called upon to mediate started in October 1993 with the killing of the first Hutu president, who was elected under the 1992 constitution. His successor also tragically died in April 1994 when the plane he was travelling in with the President of Rwanda was shot down over Kigali. These incidents sparked a violent power struggle in Burundi that resulted in a new power-sharing arrangement known as the Convention of Government in October 1994. This guaranteed the Tutsi-led opposition a 45 percent share of the government. This completely annihilated the Hutu's 1993 election victory

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1 For a more detailed treatment of Mandela's role in Burundi see Bentley and Southall (2005), and International Crisis Group (ICG 2000a). The ICG has 27 reports and Briefs on Burundi. These can be found at: http://www.crisisgroup.org.

and set aside the 1992 constitution. In response the Hutu formed the National Council for the Defence of Democracy (CNDD) and began to fight the all Tutsi army (Weissman 1998). Thus by the beginning of 1995 Burundi was engulfed in an open civil war. The army took power in July 1996.

Between 1994 and 1996 the Organization of African Unity (OAU) and the United Nations' (UN) attention was focused on Rwanda following the 1994 genocide and the existence of large numbers of refugees encamped in Zaire across the border. Little attention was paid to what was unfolding in Burundi. Besides, a Tutsi takeover in Rwanda bolstered the Tutsi resolve in Burundi to reverse the 1993 Hutu electoral success. It was only in March 1996 that the OAU leaders appointed a facilitator for the all-party negotiations in Burundi. The person appointed was Julius Nyerere, the former president of Tanzania. There were, however, conflicting regional and international interests in Burundi that were to hamper Nyerere's efforts at mediation.

A regional summit, consisting of the Presidents of Tanzania, Rwanda, Uganda, Kenya and Ethiopia, was hastily convened to deal with the 1996 coup in Burundi. The summit, which came to be known as the Regional Initiative for Burundi, imposed economic sanctions on the new regime in Bujumbura and called on the new government to restore the National Assembly, reinstate political parties and begin immediately unconditional negotiations with all parties to the conflict both inside and outside the country. The sanctions, however, were strongly opposed by the European Union (EU) and the United States of America (USA), who strongly believed in working with the so-called moderate leaders. Buyoya, the new president was regarded by the EU and the USA as a moderate and hence worthy of support. This undermined the regional efforts and resulted in the internal promulgation of a transitional constitution in 1998 thus legitimizing the coup and Buyoya's presidency. The power-sharing arrangements that were made under the new constitution were hailed by the EU and the USA as "representing a new consensus on the transformation of the state institutions, creating a new style democracy and a true just society" (Van Erk 1998). These arrangements, however, complicated the mediation process as they increased the number of groups that had to be accommodated in the negotiations.

The 1993 election results had clearly shown the dominance of two major parties in Burundi – National Union for Progress (UPRONA) and Front for Democracy in Burundi (FRODEBU) representing the ethnic divide in the country. In all the internal wrangles for control, these remained the key parties in the formation of the Convention of Government in October 1994, and the partnership arrangements that were agreed upon in 1998. But when it came to external mediation 19 parties presented themselves for negotiations. The Tutsi group was represented by what came to be known as the G10: The Party for National Recovery (PARENA), the Party for the Reconciliation of the People (PRP), Party for Social Democracy (PSD), Burundian African Alliance for Salvation (ABASA), INKIZO (the Shield), Rally for Democracy and Economic Social Development (RADDES), Alliance of the Valiants (AV-INTWARI), National Alliance for Law and Economic Development (ANADDE), UPRONA and the Government. The Hutu were represented by the G7, known generally as the Forces for Democratic Change: Front for Democracy in Burundi (FRODEBU), National Council for the Defence of Democracy (CNDD),

People's Party (PP), Party for the Reconciliation of the People (RPB), Party for the Liberation of the Hutu People (PALIPEHUTU), and Front for National Liberation (FLORINA). Two Hutu groups refused to participate in the negotiations – Party for the Liberation of Hutu People – National Liberation Forces (PALIPEHUTU-FNL) and National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD). To this group was added a long list of external participants. These included the UN, represented by the UN Secretary General's Representative for Burundi; the USA initially represented by former president Carter and later by Richard Borgosian and Howard Wolpe; the OAU facilitator, Julius Nyerere and later Mandela; and representatives of the European Union, Belgium and Sweden. This made it almost impossible to reach any agreement. It is no wonder that by the time of Nyerere's death in 1999 very little progress had been made in the Arusha Burundi negotiations (Abdallah 2000).

It was within this complex picture that Nelson Mandela took over as mediator for Burundi in January 2000. The expectation was that Mandela would use his political and iconic stature to force the parties to negotiate and adhere to the deadlines set for reaching an agreement, and to garner international support for the negotiations. Mandela did indeed succeed in gaining international support for the mediation process by raising financial resources and hosting a highly publicized Burundi Peace Summit in Arusha in February 2000. Six African presidents were involved for three days in the negotiations, and the president of the USA made a televised appeal to the Burundi leaders. This breathed new life into the negotiations. Mandela did also succeed in pressuring the parties to sign the Arusha Agreements in August 2000[2]. He went as far as threatening to quit three times if the negotiators did not accept his proposals. In the end, as noted by the International Crisis Group's December report on Burundi (ICG 2000a), the negotiators did sign the accord as a mark of respect to Mandela. There were, however, numerous reservations from various parties. There was a general understanding that the accord did not foreclose the negotiations. Discussions were expected to go on and indeed did go on to accommodate the reservations raised by many signatories. Signing the accord for many parties was a mark for international recognition and future participation in the transitional government. This was very important for many of the small parties.

One of the sticky issues for which Mandela was again to be involved was the transitional leadership. Mandela proposed a split of the three years transition into two equal periods of 18 months. The first would be led by Buyoya as president with a Hutu vice president – Domitian Ndayizeye, and the second by a Hutu president and a Tutsi vice president to be selected at the time. This came to be known as the Pretoria Agreement of 10 July 2001 between the two main parties of FRODEBU and UPRONA. It was endorsed by the Heads of State of the Regional Initiative for Burundi and by the other signatories to the Arusha Accord on 23 July 2001. This

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2 The text of the Arusha Agreements can be found in the United States Institute for Peace, Peace Agreements Digital Collection (see references below).

then set the date for the formation of a transitional government as 1 November 2001.

A much bigger problem was the fact that the Arusha Accord excluded the main armed groups. The Accord was signed without a cease fire. For Mandela, as noted in the ICG report on Burundi (2000a) the signing of the accord even without a cease fire would provide a new momentum for the peace process and would act as pressure on the rebels to join the peace process. It took, however, three years of hard negotiations to bring the rebels into the fold. Fortunately this task did not fall on Mandela's shoulders but on Mbeki, who had taken over as President of South Africa in 1999 and to Zuma who as vice president of South Africa took over the mediation process in 2001. The implementation of the Burundi Arusha Accord would not have been possible without the continued engagement of the South African government that not only provided troops to ensure a peaceful transition (two battalions) but also continued to shoulder the costs for the negotiations of a ceasefire agreement between the governments and the armed groups.

Mbeki and the Mediation Process in the DRC, Cote d'Ivoire and Zimbabwe
DRC/Zaire[3]

South Africa's early involvement in the DRC was in early 1997, when it attempted to broker a deal between Mobutu and Kabila aboard the SAS Outenigua. There was on the part of South Africa a misreading of what has come to be known as the First Congo War. The attempted mediation between Mobutu and Kabila ignored the fact that the war in the DRC represented an invasion of the country by Rwanda and its allies Uganda and Burundi with some support from Angola. Kabila's AFDL (Alliance of Democratic Forces for the Liberation of Congo) was brought together by Rwanda and its allies to act as a front for its invasion of Zaire. The Alliance brought together four disparate movements: The Democratic People's Alliance (DPA) consisting mainly of Zairean Tutsi – the Banyamulenge who were fighting for their right to citizenship and led by Deogratias Bugera; the Revolutionary Movement for the Liberation of Zaire led by Anselme Masasu Nindanga; The National Resistance Council for Democracy led by Andre Kisare Ngandu from Kasai who became the first leader and commander of the AFDL forces and; the People's Revolutionary Party led by Laurent Kabila, who was initially referred to as the spokesman of the alliance and took over the leadership after the mysterious death of Ngandu. The group was held together by the Rwandan alliance and by their common desire to oust Mobutu. It did not, however, have the military capacity to swiftly overrun the country from the east to Kinshasa.

South Africa equally ignored the fact that Mobutu's army had already been defeated by the Rwandan alliance, which was not ready to give up its victory for a government of national unity

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3 Mobutu renamed the Belgian Congo (or Congo-Kinshasa) Zaire. When Kabila took over in 1997 he renamed the country the Democratic Republic of the Congo – DRC.

with Mobutu. Equally ignored was the fact that Mobutu's internal support had been on the wane since the convening of the Conference Nationale Souvraine in March 1991. Unfortunately, the multiplicity of internal parties and their animosity had allowed Mobutu to hang on to power. The arrival of Rwandan refugees into eastern Zaire had brought renewed external support for Mobutu allowing him to postpone the elections from 1994 to 1997. Thus what allowed the invasion to succeed was the weakened support for Mobutu and the existence of a power vacuum in Kinshasa. This allowed Kabila to declare himself president on 16 May 1997 with broad executive, legislative and judicial powers pending the adoption of a new constitution in October 1998, a referendum by December 1998, and legislative and presidential elections by April 1999. None of this was to take place as the Second Congo War started a year later.

The military defeat of Mobutu brought Kabila to power, but it did not result in an effective control of the country or the establishment of a popularly supported government in Kinshasa. In fact, on coming to power Kabila completely ignored the internal opposition to Mobutu. Mobutu's soldiers were replaced by Rwandan soldiers in Kinshasa, and the Rwandan commanders were installed in the villas of the fleeing Mobutuists and drove around Kinshasa as conquerors. This sparked anti-Tutsi and anti-Rwanda sentiments in the capital and made Kabila appear as a Rwandan puppet or prisoner with Rwandan soldiers guarding him. This threatened Kabila's survival as president and he reacted by calling on all foreign troops to leave the country on 27 July 1998. This was immediately followed by the departure from Kinshasa to Goma by Kabila's three Tutsi associates: Bazima Karaha, Minister of Foreign Affairs; Deogratias Bugera, Minister for Presidential Affairs and former general secretary of the AFDL; and Moise Nyarugabo, Kabila's presidential secretary. On 2 August a second rebellion was launched in Goma and Bukavu with the sole aim of removing Kabila from power. A new movement was quickly created – the Congolese Rally for Democracy (RCD) on 16 August 1998. This brought together the DRC Tutsi, the old Mobutuists under the leadership of Alex Tambwe and Emil Ilunga, and other anti-Kabila forces under the tutelage of the Rwandan Alliance. This sparked off what has come to be known as Africa's First World War as Angola, Namibia, Zimbabwe, Chad and Sudan came to the aid of Kabila.

The foregoing was presented to serve as background to the conflict in the DRC. By 1999 the war had reached a stalemate and had slowly become a predatory war for the country's vast resources turning rebel leaders into warlords and external armies into resource extraction forces (ICG 2000b[4]; UN Security Council Panel of Experts Report 2001). It was under these conditions that the Lusaka Ceasefire Agreement was signed on 10 July 1999 by the six countries involved in the DRC and by the rebel groups in August 1999.

There was very little movement towards the implementation of the Lusaka Ceasefire Agreement, in particular the aspect that called for a national dialogue between the government of

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4 The ICG has 35 reports and briefs on the DRC that go back to 1998.

the DRC, the RCD and MLC (Movement for the Liberation of the Congo), as well as the unarmed opposition (Article 3.9). It was not until December 1999 that a facilitator was finally agreed on by all the parties and subsequently appointed by the OAU. Sir Kitumile Masire, the former president of Botswana became the facilitator for the DRC. However there was very little progress until the assassination of Laurent Kabila on January 16, 2001 and his replacement by his son Joseph Kabila. The young Kabila accepted the deployment of MONUC (United Nations Organization Mission in the Democratic Republic of the Congo) forces in government controlled areas and recognized the AU facilitator for the Inter-Congolese Dialogue. This resulted in the passing of Security Council Resolution 1341 in February 2001 which demanded the withdrawal of foreign forces and urged the parties to the Lusaka Ceasefire Agreement to adopt a precise plan and schedule by May 2001. It is at this juncture that South Africa and Mbeki in particular re-entered the mediation process in the DRC conflict.

The conflict in the DRC had been complicated by the varying regional and international interests. On the one hand were the security concerns of Rwanda and Uganda which they often presented as the main reasons for their continued engagement in the DRC. It was therefore clear that to achieve any movement in resolving the conflict in the DRC one had first to deal with the mending of relations between the DRC and its hostile neighbours. Mbeki was able to broker an agreement between the DRC and Rwanda – the Pretoria Agreement of 2002 which led to the withdrawal of Rwandan troops from the country. Angola helped to broker an agreement between the DRC and Uganda – the Luanda Accord of 2002 that led to the withdrawal of Ugandan forces from the country. With the two main backers of the rebels appeased it was possible to go ahead with the Inter-Congolese Dialogue. On the other hand were the global interests with various countries having their special representatives for the DRC or the Great Lakes. These included, among others, the USA, France, the EU and Belgium. South Africa and Mbeki in particular had to deal with the interests of these actors as the Inter-Congolese Dialogue unfolded.

One critical element of the Inter-Congolese Dialogue was the mobilization of funds to implement it. South Africa's offer to meet 50 percent of the envisaged costs opened the way for Western donors to make their contributions to the Sun City meetings of the Inter-Congolese Dialogue in 2002 that, in December, finally produced the Global and Inclusive Agreement on Transition in the DRC, better known as the Pretoria Agreement. Mbeki had to directly intervene in the dialogue to break some of the deadlocks. One of the major deadlocks was on power-sharing arrangements in the transitional government and in particular the issue of the presidency of the transitional government. Mbeki did succeed in convincing the negotiators to retain the incumbent president Joseph Kabila. His main concern was to prevent a power vacuum as the process of transition began. With the incumbent in place there would be a more smooth transition.

Having secured an agreement for the formation of a transitional government in the DRC, South Africa had to become a kind of midwife by providing overall support for the implementation process of the Pretoria Agreement. It thus became a member of the follow up committee that included the USA, UK, France, Belgium, the EU and Angola. Together they

helped the parties in the DRC to reach a Transitional Government Agreement in April 2003 and an Agreement on Military Integration in July 2003. It also became involved in the organization of the elections by providing logistical and technical support through its Independent Electoral Commission. This included the provision of 128 electoral experts and 118 observers. By the end of 2003 the South African government had spent 819.6 million rand on the DRC (Khadiagala 2009).

While peace has not completely returned to the eastern parts of the DRC, South Africa and Mbeki in particular did help to bring to an end Africa's First World War. The only reward for all these efforts was the creation of a Bi-National Commission in 2004 under which several agreements were concluded. Among these agreements are those dealing with defence, health, economic cooperation and investments, public administration and diplomatic consultation.

Cote d'Ivoire[5]

Cote d'Ivoire under President Houphouet Boigny (1960-1993) was one of the most prosperous countries in the former French West Africa. This prosperity attracted immigration from neighbouring countries, including Burkina Faso and Mali. The population of Cote d'Ivoire thus grew from 3 million in 1980 to 17 million in 2000. As long as the economic situation remained vibrant, few appeared concerned about the immigration, but with the economic crunch and forced structural adjustments, it became a very sensitive political issue. President Conan Bedie who succeeded Boigny under the nationalistic rallying call of "Ivoirite" enacted an electoral code which stipulated that in order to be elected president a person had to be born in Cote d'Ivoire of parents who were themselves born in the country. The law was specifically intended to prevent former Prime Minister Ouattara from the north from contesting the presidential elections. Bedie was ousted in a coup in 1999 and the former army chief, Robert Guei became president. But Guei was forced to organize elections immediately which he lost to Laurent Gbagbo. Once elected, Gbagbo tried to retrench a large number of soldiers from the Ivorian army. This sparked an attempted coup in September 2002 by a group of 800 soldiers who were scheduled to be demobilized. While the coup failed, an armed conflict ensued and the soldiers succeeded in dividing the country. The Force Nouvelle rebels gained control of the predominantly Muslim north, while the Christian-dominated south remained under government control. The failed coup and the division of the country reignited the issue of citizenship and eligibility for presidency as well as the issue of land reform which was closely linked to citizenship.

The Economic Community of West African States (ECOWAS) intervened immediately by calling an extraordinary summit of heads of state in Ghana and by organizing a peacekeeping force for Cote d'Ivoire. They were, however, unable to force an agreement between the opposing

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5 The ICG has been covering the Ivorian Crisis since 2003 and has produced 14 reports and briefs on the country that provide a useful context and coverage of the crisis.

groups. France, with over 16,000 nationals in the country, intervened and scheduled a round table of Ivorian political forces in France in January 2003. The outcome of the round table was the Linas-Marcoussis Agreement of 24 January 2003. This agreement called for, among other things, the formation of a National Reconciliation Government under a neutral prime minister, changes in the nationality laws and the organization of elections in 2005. The implementation of the agreement stalled because of government resistance, and, despite numerous attempts by ECOWAS at implementation of subsequent agreements (Accra II and Accra III), there appeared to be no progress at all. In fact, the situation continued to get worse. In early November 2004 the Ivorian air force bombed Bongora, Boko and Bouake in the north. The bombing of Bouake resulted in the death of 8 French soldiers and the wounding of 38 others. The French retaliated immediately by completely destroying the Ivorian air force. This infuriated the government and its supporters stormed the streets of Abidjan forcing foreigners (mostly French nationals) to be evacuated. It was in this hostile situation that president Mbeki was persuaded and appointed by the AU to act as mediator in the Ivorian conflict. Mbeki was appointed in part because of his success in the recent mediation in the DRC, but also in part because of his distance from the conflict which would allow him to bring some neutrality to the mediation process following the bickering within the ECOWAS over Cote d'Ivoire (Lecoutre 2009).

While the appointment of Mbeki brought fresh momentum to the stalled negotiations between the Force Nouvelle and the government that included Mbeki's visit to Cote d'Ivoire and several meetings in Pretoria between the two antagonists, very little progress was made. A number of factors have been cited in explaining the lack of progress on the part of Mbeki. The first (and perhaps the most critical) was his approach to the conflict. Akindas (2009) accuses Mbeki of having taken a legalistic approach to the resolution of the conflict with his preoccupation of restoring a legal and constitutional order at any cost, even without treating the injustices at the heart of the demands by which the rebel movement were justifying their use of arms. He was thus overly preoccupied with the restoration of state authority, which in essence meant the restoration of Gbagbo's authority over the entire country. Mbeki was thus seen by the rebels as being biased and in favor of Gbagbo. Lecoutre (2009), on the other hand, attributes Mbeki's failure in Cote d'Ivoire to his ignoring of the regional leaders, ECOWAS in particular, in his mediation process. Furthermore, Mbeki was accused of being anti-French, which led him to interpret the conflict in anti-colonial terms. But without the ECOWAS and the French supporting the negotiations being undertaken by Mbeki, no progress could be made. Mbeki himself came to realize that and withdrew from his mediation role after just ten months in August 2005.

Zimbabwe[6]

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6 For a good background on the conflict in Zimbabwe see Sachikonye (2011); Campagnon (2011); and ICG 2001 (the ICG has 27 other reports and briefs on Zimbabwe that go back to 2000).

The current crisis in Zimbabwe can be traced back to the February 2000 constitutional referendum which sought among other things to: Allow for land expropriation without compensation (unless paid for by Britain); increase the powers of the president and; extend Mugabe's tenure for another 12 years. A new movement was formed in 1999 – the Movement for Democratic Change (MDC) – to challenge the new draft constitution. The campaign by the MDC succeeded in defeating the draft constitution. This defeat, however, prompted the violent invasion of white farms by the war veterans which was not challenged by the state. The Zimbabwe African National Union – Patriotic Front (ZANU-PF) defeat in the constitutional referendum was followed by a very impressive showing in the June parliamentary elections by the MDC. It obtained 46 percent of the votes and 57 of the 120 elected seats. ZANU-PF obtained 48 percent of the votes and 62 seats. But since the president has the power to appoint an extra 30 parliamentarians, the ZANU-PF majority in parliament was unassailable.

The results of the constitutional referendum and parliamentary elections in 2000 provided for the first time a credible challenge to ZANU-PF, which had been in power since 1980. It increased among the population, in particular the urban dwellers, the desire for change. The ground was thus set for a presidential challenge against Mugabe in the 2002 presidential elections. The Mugabe regime, to ensure victory, used all means at its disposal including intimidation, torture, rape, manipulation of the voters' registry and the revival of emergency legislation. Mugabe emerged victorious and his re-election was warmly welcomed by many African leaders. The Western world, however, saw the elections as not being free and fair and responded by imposing personal sanctions against members of Zimbabwe's ruling elites, cutting off aid and closing their embassies. The Commonwealth suspended Zimbabwe for twelve months and it could only be readmitted if it carried out electoral reforms, repealed oppressive laws, entered into party talks with the MDC and engaged with the United Nations Development Programme (UNDP) on land redistribution.

It was at this point that Mbeki's mediation began. This was first as a member of the Commonwealth triad (Australia, Nigeria and South Africa) that was set up to deal with the crisis in Zimbabwe. Mbeki viewed land resettlement as the core of Zimbabwe's political and economic problems and tried as much as he could to convince the UK, USA and other Western countries that if the land issue could be resolved by providing funding for compensation of the acquired white farms things could go back to normal. Mbeki was also of the opinion that the search for a political solution in Zimbabwe should be left to the African Union and the Southern African Development Community (SADC), and this should not include regime change or the ousting of Mugabe that was now being called for by the Western countries. Furthermore, Mbeki was opposed to the sanctions that were being imposed on Zimbabwe's leadership. The main concern for Mbeki and the leaders of the neighbouring countries was to prevent state collapse in Zimbabwe, as this would have negative consequences on the region. The preferred solution for these leaders was for a power-sharing arrangement between the ZANU-PF and MDC which would allow the accommodation of some of the opposition's demands. This, however, was not possible in a situation of great power imbalance between the two parties. On the one hand, the

MDC still hoped to win through the ballot box and get rid of Mugabe for good. On the other hand, Mugabe, fully backed by the military, thought he could stifle the opposition by a show of force. It was within this context that the political crisis in Zimbabwe continued to evolve. The situation was made worse by the continuing meltdown of the economy which resulted in 70 percent unemployment by 2003, with 70 percent of the population living below the poverty line (Geldenhuys 2004).

The next set of clashes between the two parties came with the 2005 parliamentary elections which resulted in a very impressive showing for the MDC despite the machinations of the government. The response to the election results was operation murambatsyina (whose translation is operation drive out the filth). The stated purpose of the operation was to get rid of illegal and informal settlements and houses in the urban areas. The operation, however, appears to have been prompted by the urban support for the MDC. It was thus a form of retaliation on the urban population that had supported the opposition. The operation resulted in more than 700,000 people being left homeless and some being deported to the rural areas. This only served to increase the economic meltdown and the suffering of the people. This was, however, a foretaste of what was to come in the 2008 presidential elections. Tsvangirai of the MDC won the first round of the presidential elections with 47 percent of the votes against Mugabe's 43 percent. This, according to the Zimbabwe constitution, called for a second round of voting. In the period before the second vote there were unprecedented levels of harassment, killing and torture of people suspected of being a member or supporter of the MDC. The violence against MDC supporters escalated to such an extent that the Tsvangirai opted out of the contest leaving Mugabe to retain the presidency. The violence was condemned from all quarters and there was heightened pressure for regime change. This then set the stage for a new mediation process in response to the Zimbabwean political crisis. Mbeki was mandated by the SADC summit in Tanzania to act as mediator between the MDC and ZANU-PF.

What tilted the balance in this second mediation process was on the one hand the closure of the electoral route for the MDC to oust Mugabe. This resulted in growing tensions and struggles within the MDC. The outcome was a split of the MDC into MDC-Tsvangirai and MDC-Mutambara. On the other hand it became increasingly clear to Mugabe and ZANU-PF that continued violence had not delivered the results and was becoming detrimental to the party. Besides, it was clear that the economic meltdown had reached alarming proportions. The only solution for the economic collapse was to accommodate the opposition. It was this changed scenario that allowed Mbeki to coax the antagonists to an agreement in September 2008, popularly known as the Global Political Agreement. This opened the way for the formation of a Government of National Unity which Mbeki had been pushing for all along. Unfortunately, Mbeki's fortunes in South Africa took a dive and he was removed from power to be replaced by Kgalema Motlante as interim president until the elections in 2009 which brought Jacob Zuma to power. It then fell on Zuma to ensure the implementation of the Global Political Agreement for Zimbabwe.

Zuma and Conflict Resolution in Africa

Zuma has twice had the unenviable task of sorting out the incomplete agreements left by his predecessors. The first was in Burundi where he took over from Mandela. Mandela, who had given up the presidency of South Africa was begged by the dying Julius Nyerere to continue the mediation process in Burundi. But once the Arusha Agreements had been signed in August 2000, Mandela, given his age and health, could not supervise the implementation process of the Accords. Zuma, then South Africa's Vice President, with the full backing of the South African State[7], took over from Mandela. He had then to resolve the outstanding issues of the Arusha Agreements signed under Mandela's mediation. The most difficult task that Zuma had to deal with was to bring the Burundi armed groups that had refused to participate in the negotiations into the transitional arrangements. It took two years of hard negotiations and mediation before the Rebel Forces for the Defence of Democracy (FDD) reached an agreement with the Burundi Transitional Government on two main outstanding issues that dealt with power-sharing arrangements. Two protocols were signed in Pretoria in October and November 2003 between the Transitional Government and the FDD: The Protocol on Political Defence and Security Power Sharing in Burundi (8 October 2003), and the Protocol on Outstanding Political Defence and Security Power Sharing in Burundi (2 November 2003). These protocols were sealed at the Regional Summit for Burundi on 16 November 2003 at which the CNDD-FDD and the Transitional Government for Burundi signed the Global Ceasefire Agreement. With the main armed group incorporated into the transitional government a new stage was reached in the resolution of the Burundi conflict. It took, however, more months of hard negotiations before the remaining armed group FNL (Agathon Rwasa) was brought into the fold. This finally paved the way for the elections in Burundi in 2005.

The second was in Zimbabwe. Once more Zuma was called upon to continue the mediation in Zimbabwe once President Mbeki had been removed from office by the ANC. Zuma had to oversee the implementation of the Global Political Agreement signed under Mbeki by the ZANU-PF government and the two MDC opposition factions. As in the case of Burundi, a number of outstanding issues had been left out of the agreement. The outstanding issues included the allocation of ambassadors, the Attorney General, The Reserve Bank Governor, the Provincial Governors, the swearing in of Roy Bennett as Deputy Agriculture Minister from the MDC-Tsvangirai, and the more pressing issues of a new constitution and elections. However, the most contentious of all the outstanding issues, which has remained unresolved to date, was the reform of the intelligence and security establishments that have remained the main backers of Mugabe and who have gone to the extent of declaring that they would not support the election of a president who had no background in the liberation movement (Zimbabwean 2011). This was a direct reference to Tsvangirai who was now the Prime Minister in the Government of National

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7 This went to the extent of providing a protection force to guard the Burundi leaders returning from exile.

Unity. In the case of Zimbabwe, Zuma had to continue Mbeki's non-confrontational approach (Landsberg 2010). This was in part because of the support ZANU-PF enjoys within the ANC and other liberation movements within the SADC. These include the support from the ruling parties in Angola, Mozambique and Namibia. This has resulted in complaints from the opposition groups in Zimbabwe that Zuma has not devoted enough time to resolve the outstanding issues. This is partially true since Zuma has left most of the negotiations to the mediation team for Zimbabwe under his overall control. This is completely different from Mbeki, who was very often directly involved in the mediation process.

Zuma has had to respond to two other major conflicts: Cote d'Ivoire and Libya. In Cote d'Ivoire the conflict was centred on the results of the elections of October/November 2010. This was expected to bring an end to the long conflict that had split the country into two. The Electoral Commission and the UN representative announced that Alassare Ouattara had won the second round with 54.1 percent of the votes, against the 45.9 percent by Laurent Gbagbo the incumbent president. The Constitutional Council on the other hand declared Gbagbo the winner with 51.4 percent against Ouattara's 48.5 percent. The double results led to each being sworn in as President of Cote d'Ivoire. The ECOWAS responded by suspending Cote d'Ivoire from the organization and the AU did the same. The international community led by the UN and France recognized Ouattara and called upon Gbagbo to give up power. Emmissaries from ECOWAS (presidents of Cape Verde, Sierra Leone and Benin) were sent to persuade Gbagbo to relinquish power but to no avail. Similarly, the AU sent Thabo Mbeki and later Raila Odinga to find a solution but nothing came out of it. The only option left was either to forcefully remove Gbagbo or persuade Ouattara to enter into a government of national unity with Gbagbo.

It was in the context of the above impasse that Zuma stated that the calls for forcing out the incumbent were counterproductive and that in the current situation national reconciliation and unity should be emphasised. This was interpreted as support for Gbagbo and a call for a partnership arrangement a la Kenya and Zimbabwe. The statement was, however, in line with the AU norm of seeking settlement to civil wars through inclusive power-sharing arrangements (Dewaal 2012). This norm appears, however, to go against the international demand for justice and prosecution of those responsible for serious crimes. It is this that informed the French intervention on the side of Ouattara and the arrest of Gbagbo and his being sent to the International Criminal Court. The question that remains in many people minds is whether Ouattara can rule without the support of Gbagbo supporters. Did the intervention on the side of Ouattara bring about stability in Cote d'Ivoire?

The Libya conflict is closely linked to what has been termed the 'Arab Spring'. The uprising in North Africa started in Tunisia and quickly spread to Egypt in late 2010. The regimes in both countries quickly collapsed and were replaced by transitional regimes. When the uprising spread to Libya starting in Benghazi in February 2011 there was a false expectation that Gaddafi would follow the Tunisian and Egyptian leaders by giving up power. Gaddafi instead decided to crash the uprising. He showed both the ability and resolve by placing his troops around Benghazi and was already poised to take it when the North Atlantic Treaty Organization (NATO) led by France

and the United Kingdom decided to militarily intervene in the name of humanitarian protection. They invoked UN Resolution 1973 of 17 March 2011. The resolution authorized among other things the undertaking of all necessary measures to implement a no fly zone aimed at protecting civilians from imminent attack and facilitating the delivery of humanitarian assistance.

A number of issues need to be noted regarding NATO intervention in Libya. First, the fact that Resolution 1973 was implemented two days after its passing indicates that it had been pre meditated and prepared for much earlier by NATO. This was something that the African UN Security Members, that included South Africa, had not anticipated. Second, the NATO intervention completely ignored the AU opinion and position of mediating between Gaddafi and the rebels. On 10 March the AU had come up with a Roadmap for Libya. This included a ceasefire and an end to repression of democratic activities, a transition to an inclusive and democratic government, humanitarian relief, protection of African migrant workers and the control of the spread of arms. The five African heads of state who were meeting in Mauritania on 18 March in preparation to go to Libya were caught by surprise the next morning when they were informed that they could not go to Libya because NATO had started bombing Gaddafi's positions. This was a slap in the face for the African heads of state and the AU. Third, NATO's Operation Odyssey Dawn was not just aimed at the protection of civilians but at regime change. It was in part a revenge on Gaddafi who had been a pariah for many years after the Lockerbie plane bombing. Regime change was not part of Resolution 1973. Fourth, NATO's intervention on behalf of the rebels completely altered the situation in Libya, putting the rebels in a position to reject reconciliation with the Gaddafi regime as suggested by the AU (Dewaal 2012). Fifth, the truth of the matter is that instead of civilian protection NATO intervention resulted in massive destruction and death that has come to be explained by the nebulous term 'collateral damage'. Neither has the defeat and death of Gaddafi brought peace or stability to Libya or its neighbours (Kumar 2012). Lastly, NATO intervention has resulted in tensions and disagreements within the AU. The current tensions are now between north Africa (which NATO defined as part of the Arab World) and sub-Saharan Africa; between Francophone Africa (that supported the French and NATO intervention) and Anglophone Africa; and between the big brothers – Nigeria and South Africa. The tensions are still simmering as evidenced by the failure to elect the Chairman of the AU Commission in January 2012.

In the two instances of Cote d'Ivoire and Libya, Zuma and South Africa were powerless in the face of France and its NATO allies. Might in these instances was accepted as right. It was the international interests that dictated what was to be done. This is a worrying development given the continental demand to settle its own problems and conflicts.

Conclusion

South Africa and its three presidents, Mandela, Mbeki and Zuma should be commended for their efforts in helping to resolve African conflicts. Fortunately for Africa, South Africa has both the financial and the military means to do so. But what is more important has been the political will. South Africa has, however, followed a particular pattern in their attempts to resolve African

conflicts. It has always called for an all-inclusive negotiation process. The assumption appears to have been that every group has genuine grievances and have the interest of the country at heart. This has in many instances not been the case, given the existence of many African warlords and those who are bent on remaining in power or taking over power by all means. It has further advocated the creation of a transitional government in which the incumbent remains in place. It has been overly concerned with preserving the state and political order, and with avoiding the creation of a political vacuum. The main task of the transitional government has been to work out a new constitution and to organize the elections. But while this is acceptable in theory, in practice it has often given the incumbent an advantage which has been used to win the elections and stay in power. Lastly, South Africa has constantly called for the formation of a government of national unity and reconciliation. This in some instances allowed warlords and those who have committed crimes against humanity to be accommodated in government and to gain legitimacy. The choice made often reflects the notion that peace is better than justice. This is, of course, a major moral dilemma. In the case of Cote D'Ivoire and Libya, the French and NATO chose justice. This, however, was achieved at a very high human and material cost and did not bring either peace or stability.

A general question which needs to be asked is whether negotiations are the best way to resolve African conflicts. In many instances antagonists have entered into negotiations as a means of buying time rather than reaching an agreement. This is what accounts for the mostly lengthy and costly negotiations. One needs to remember Ugandan President Museveni's dictum – "you fight and negotiate, you negotiate and fight". In short, negotiations are part of the strategy to win the war and take your enemy off guard. This has to be factored into all efforts to resolve African conflicts.

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Biographical Note
Professor Katabaro Miti obtained his Ph.D. (Political Economy) from the University of Toronto in 1980. He has taught at various universities including the University of Dar es Salaam, University of Botswana, University of Venda, Vista University, and is currently at the University of Pretoria.

Acknowledgement

A Vanquished Peace? The Success and Failure of Conflict Mediation in the Democratic Republic of the Congo[1]

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Abstract

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

Introduction

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

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

'The Congo War is with us and it could last for two, four or even ten years'[2]

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

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

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

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

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

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

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

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

An Incomplete Peace, and an Unfinished War

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

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

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

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

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

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

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

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

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

An Uneasy East and the Presence of the FDLR

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

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

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

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

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

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

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

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

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

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

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

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

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

A Spoiler in the Peace Process: Laurent Nkunda

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

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

A Plethora of Peace Agreements, a Dearth of Peaceful Coexistence

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

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

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

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

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

Peace in Pieces: The Goma Agreement's False Sense of Security

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

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

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

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

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

The Enemy of My Enemy: The DRC and Rwanda's Joint Military Operations against the FDLR

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

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

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

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

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

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

Reigning in a Renegade

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

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

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

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

A Defeated Peace, a Defiant War

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

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

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

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

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

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

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

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

MONUSCO: Consolidating (a Non-Existent) Peace

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

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

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

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

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

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

The 2011 Elections: Consolidating Future Conflict Potential?

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

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

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

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

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

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

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

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

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

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

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

A (Renewed) Mutiny against Peace?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

From No War to No Peace… Indefinitely
The numerous destabilizing events following the country's much-vaunted peace process and accompanying peace agreements have confirmed to a great extent that the DRC is heading

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

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

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

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

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

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

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

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Acknowledgement

Institutionalization of Community Mediation Services in Tanzania

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Abstract

This paper discusses the possibility of institutionalising government supported community mediation centres in Tanzania both as a way of improving delivery of justice and as a mechanism for building a culture of peace in the society. The paper argues that institutionalisation of community mediation centres, coupled with their proper and adequate utilisation, will help to alleviate many of the problems facing dispute resolution mechanisms in the society. It identifies excessive case backlog in courts leading to delays in adjudication of cases, congestion of prisons, insufficient legal resources and infrastructures, and the long distance people have to travel to participate in the legal system, as some of the reasons compelling the society to look for other ways to complement the court system. The paper concludes that institutionalising such programs will bring about a change of mindset from the Western thinking of peace through retribution to an African conceptualisation of peace through restoration.

Introduction

This paper calls for the institutionalization of mediation services, in the form of Community Mediation Centres, in Tanzania. The call is grounded on the belief that mediation is the best way to settle most disputes, both civil and criminal disputes as well as family issues. The paper argues that institutionalization of community mediation centres, coupled with their proper and adequate utilization, will help to alleviate many of the problems that ordinary citizens in Tanzania currently face as a result of a lack of appropriate dispute resolution mechanisms in the society. The proposed programme is to operate as a supplement to, and not a replacement of, the existing system.

The paper identifies the following as compelling reasons for the institutionalization of mediation services in Tanzania: Excessive case backlog in courts leading to delays in adjudication of cases; congestion of prisons leading to the unnecessary suffering and even deaths of inmates; insufficient legal resources and infrastructures; the long distances people have to travel to participate in the legal system; and the perceived lack of a fully independent judiciary (Othman 2012: 12). Equally more alarming is the trend of violent reactions by many people to different disputes and crises that seems to be developing among many Tanzanians, which could

be interpreted as a frustrated manifestation of public discontent with the criminal justice system and its law enforcement institutions (13).

The paper calls upon the government of Tanzania to take up the challenge to initiate and support the program through authorization, funding, and enforcement of mediated agreements. The government should play a significant role in the training of mediators, creating public awareness, and encouraging the use of the program as well as establishing a system for case referrals from the courts to mediation centres. It is recommended that the government give full financial support to this program for at least the first three to five years.

The Problem

Throughout Tanzania, there is increasing concern over the way in which justice is delivered to the people. This is particularly so with respect to the responsiveness of those institutions (the police, the courts, the Department of Criminal Investigation, and the Directorate of Public Prosecution) charged with resolving, or assisting in the resolution of, disputes that arise in the course of daily life. Such matters may individually appear to be of a relatively small magnitude but, taken collectively, they carry enormous social consequences. It is essential therefore that proper mechanisms be provided by the society through which such disputes can be effectively resolved if Tanzania is to maintain its civility and its tradition of brotherhood.

Traditional African thought, of which Tanzania is a part, places great emphasis on rehabilitating, rather than punishing, offenders. It reinforces sensibilities on the issue of forgiveness. The African community at any level, whether a street, village or a larger community, regards itself as one large family. Each person is a brother or sister of the other. They share their joys and sorrows. The guiding belief is that the dignity of one is linked to the dignity of the other. Because of this, African jurisprudence is restorative rather than retributive. Community mediation services would serve as both a way of reviving the African brotherhood tradition as well as a mechanism of inculcating a culture of peacemaking in the society.

The proposal is primarily aimed at communities in urban areas where the society is more heterogeneous and, to some extent, culturally cosmopolitan. The effect of foreign intervention, first by colonization and now by globalization, is much greater in urban areas than in rural settings. People living in rural areas, mostly homogeneous, still utilize traditional methods of conflict resolution. They resolve most of their conflicts amicably through the intervention of elders, and through traditional leaders' healing and reconciliation rituals.

There seems to be a realization among many Tanzanians that the courts, due to a number of reasons, are having difficulties in handling efficiently and effectively most of the cases that are brought before them. In the case of crime, the situation is alarming. Tanzania is experiencing a gradual wave of criminal acts like theft. A high unemployment rate and a lack of meaningful alternative social activities for the young generation have led many youths to indulge in both petty and serious criminal offenses. According to the Principal Commissioner of Tanzania Prison Services, the growing number of inmates corresponds with the complexities of unemployment challenges. Some inmates are reported to have said that persistent poverty had pushed them into

committing crimes such as theft, cheating in minor transaction deals and others (Kimati 2011). The increase in the crime rate has seen a congestion of inmates in prisons. Challenges, including lack of space, poor (or lack of) provision of food, and the lack of other social services, have been prominent. These have in turn resulted in the failure of health and sometimes loss lives of inmates from diseases such as tuberculosis, cholera, meningitis, and even AIDS (LRC 1994, Saffari 1999). Also alarming has been the proliferation of sexual harassment of young inmates by the ruthless more seasoned ones.

The problem of congested prisons was also noted by the Legal Reform Commission (LRC) back in 1994. It reported that:

> the increasing number of prisoners adversely affects the security, food services, full boarding facilities and medicines estimated for a specific population of prisoners. The ultimate result is a general denial of basic human rights of a prisoner as set out in the UN Convention of Treatment of Offenders and Prisoners and our own Municipal laws and regulations. The continuous denial of human rights to prisoners becomes a political question in the long run as prisoners are under the responsibility of the Government and the Prisons Department is an arm of the Executive (LRC 1994: 55).

The Commission also noted the risk of contraction of contiguous diseases. In most of the prisons, congestion of prisoners is so serious that the inmates do not have enough living space. It observed, for example, "that in Arusha in mid 1986 there were 76 prisoners which is 500% over congestion. By July 1st, 1991 the situation had worsened for there were 2110 prisoners in Arusha Prisons instead of required prisons capacity for 318 prisoners which is 605% over congestion", and that "A situation like this causes spread of diseases like tuberculosis (TB) cholera, scabies, and diarrhoea" (LRC 1994: 55). There are some prisoners who have even died in prison because of diseases contracted while in prisons.

Most of the accused persons are not represented by lawyers. This significantly reduces their chances of getting out on bail. Moreover, there is undue delay in the handling of criminal matters. Some cases may take up to one year before going for a court hearing. Also, according to Saffari (1999), about 50 percent of appeals, from the subordinate to the high court, are allowed. This means that half of the accused persons are being wrongly convicted. And, unfortunately, Tanzanian law does not provide for compensation in such unjustifiable convictions.

In 1998 the Canadian Bar Association (CBA) came to East Africa (Kenya, Uganda and Tanzania) with the aim of helping these countries to strengthen their rule of law and increase access to justice. The CBA identified some of the challenges facing all three countries as poverty, the long distance people have to travel to participate in the legal system, insufficient legal resources and infrastructure, and the lack of a fully independent judiciary (Department of Justice Canada 2002). The needs for alternative dispute resolution (ADR), judicial reporting, and access to decisions were identified. Excessive case backlog was also seen as a problem. As the culture of ADR is not developed in these countries, the CBA found that about 90 percent of cases go to trial. The CBA conducted studies in the three major cities of Dar es Salaam, Kampala, and

Nairobi and their environs, areas in which traditional African methods of resolving conflicts are no longer prevalent.

ADR programs can play a positive role in the support of judicial reform in African and other developing countries. They can reduce the cost and time required to resolve disputes. In addition, ADR programs can be established beyond the court-annexed and community-based programs. They can also be used for specialized needs such as mediating land disputes.

The Existing Disputes Resolution Mechanisms

The state of affairs described in the CBA report continues to be a fair representation of the current situation in Tanzania. Most of the cases, especially criminal disputes, go to trial because people tend to report their disputes, no matter how petty (like one insulting the other or stealing a shirt) to police stations. The police have never tried any other method of handling those cases except putting the accused in custody and then taking them to trial. This has been the most prevalent reason for congested prisons and case backlog. Estimates for inmates who have been accused of petty criminal offenses make up 40-50 percent of all the remand prisoners, that is, those kept in custody waiting for trial (Kimati 2011; MoHA 2012).

(a) **Criminal Disputes**

It is often said that justice delayed is justice denied. Yet there is overwhelming evidence of delays in the criminal process in almost all jurisdictions in the world, including Tanzania. Large and developed societies like the USA and UK as well as small and developing countries like Sierra Leone and Vanuatu are faced with this challenge (Paterson 2008; CARL 2005; HSE undated). Delay of justice may affect the prosecution, the defence, or both, depending on the circumstances of the cases involved. The concern of this paper is geared towards the accused (both convicted and unconvicted prisoners), particularly those involved with petty offenses, who languish in poorly maintained and serviced congested jails in Tanzania. However, this does not mean that the justice of the victims of the criminal offences is not also a concern.

All international instruments require that criminal processes must be determined within reasonable time. But the reality on the ground is very different. Generally, a criminal process has two main phases. The first begins with the arrest of prospective suspect and his/her formal appearance before a court of law or a legally recognized authority. In this phase, both international instruments and some domestic legislation require that the suspect must be 'promptly' brought before such bodies. The second phase is the commencement and conclusion of the trial itself. At this phase, the issue of 'reasonable time' to deal with the process comes up as a requirement. Some criminal cases may go for a third phase, the appeal. The same criteria of promptness and reasonable time are required to be applied to the appeal stage.

The constitution of the United Republic of Tanzania is silent about a speedy criminal process. Instead, the parties (should) rely on the Criminal Procedure Act of 1985. Section 32 (i) of the said Act requires, among other things, that, "…where such a person is detained in custody he shall be brought before a court as soon as practicable." But in practical terms this section of the

Act does not compel police officers to do so, resulting in long periods of custody before an accused person is taken to court. In his research, Saffari (undated) found that, of the 77 inmates he interviewed at four main prisons, 60 had spent more than 48 hours, eight had spent more than 14 days, and another eight had spent more than 21 days in prison, from the time they were arraigned to the time they were taken for trial. In fact, one inmate had spent one month while two others spent two months each in custody.

When the case enters the trial stage, the present law allows the prosecution to adjourn a case only for an aggregate of sixty days. But there is no time limit within which the prosecution must close the case. And unsubstantiated adjournments or those based on flimsy ground, have now become serious problem in Tanzania (Saffari undated; Othman 2012). According to Saffari, all case files that he had examined in his research, revealed that there was no instance in which a case was heard on the first occasion that the accused appeared before a court. There was an adjournment in every case and all the adjournments were made upon applications of the prosecutors. In certain cases, there were as many as 15 to 22 such adjournments before a case finally called witnesses to testify. In a number of cases, the prosecutors admitted to having filed only 'holding charges' even in simple cases such as selling meat above the maximum price or resisting lawful arrest (Saffari undated). It is not unreasonable to interpret this as a reflection of an attitude of gross indifference on the part of the magistrate in terms of facilitating a speedy process of justice and individual liberty.

The prosecution may take as long as it wishes to finish a case, depending on the complexity of the case and the ability of the person who conducts it. According to Saffari, in one [unspecified petty offense] case in 1982, the accused was acquitted for want of prosecution after adjournments continued for more than a year, largely due to the loss of the police file. Delays in criminal cases are caused by a number of reasons, but reference is also often made to laxity on the part of prosecutors, advocates, and magistrates who are not adequately remunerated.

These problems of delay and/or taking people to court for petty offences would be addressed in large part by mediation services. These constitute the major impetus for this call for the institutionalization of community mediation services in Tanzania.

(b) **Civil Disputes**
Civil cases have also suffered delays in Tanzania's court system, as both large and small claims are increasingly being taken to court for lack of a better way of handling such disputes. This has led some plaintiffs to decide to give up on the cases, given the value of the claims and the costs involved in follow up visits, lawyer fees, and other inconveniences. Delays in cases place the parties in limbo, leaving them uncertain and anxious about what is to follow. It also deprives them of the freedom to travel, work, or enjoy leisure time. The psychological 'trauma' associated with this wait can be considerable. In a case personally witnessed by the author, an inheritance claim remained in court for more than ten years until the accused passed away (and was therefore withdrawn/closed). The plaintiff, while being quite disturbed by the situation, had not wanted to give up, for fear of reverse litigation.

(c) Family Disputes

Informed estimates suggest that a large proportion of family disputes (those related with matrimonial problems or child custody) are resolved at the family level by members of the respective families, involving parents, relatives and/or friends. The remaining cases utilize conciliation and arbitration services provided by institutions like the Conciliation Commission in the Ministry of Health and Social Welfare, and some religious organizations, like the Muslim Council of Tanzania (BAKWATA), the Council for Islamic Institutions and Associations (BARAZA KUU), and Churches. Some non-governmental organizations like the Legal and Human Rights Centre (LHRC), Women Legal Aid Centre (WLAC), and Tanzania Women Lawyers Association (TAWLA) have also sporadically tried to either mediate or arbitrate some cases that are brought to them. Mediation has not been their major activity. They mainly provide legal aid to poor women. These services are very limited and are only available in urban areas.

Concerns about the Existing Situation

One of the major concerns about the existing dispute resolution mechanisms in Tanzania is their inadequacy and inefficiency. The majority of the people living in the periphery of cities and towns in the country find it very difficult, if not impossible, to get access to those services because of the costs (financial and time) involved, given that people have to travel long distances to do so. One variation of this challenge in access to justice – proximity – may be again be vividly illustrated by a resident from the Kigoma Region. For a litigant in Kibondo to appeal against a decision of the District Court of Kibondo, he would have to file his appeal at the High Court at Tabora, situated some 674 kilometers away. The filing fee is Tz Shs 4,000; his bus return fare 75,000 (Othman 2012: 10).

   Moreover, all cases that are taken to courts of law face the problem of undue delays (LRC 1994; Saffari 1999; Othman 2012). It is irrefutable that the judiciary continues to be confronted with an inordinate delay in the dispensation of justice. It is burdened with an accumulating and recurrent caseload and a huge backlog. The expeditious resolution of disputes is one of the fundamental requirements of any effective and efficient system of justice delivery. Justice delayed is justice denied (Othman). Most of the accused persons for criminal offenses, who end up in custody, encounter physical suffering due to poor conditions of the prisons. The idea, therefore, is to enable the disadvantaged majority to have access to institutionalized dispute resolution mechanisms by establishing community mediation centres in different neighbourhoods. This will also enable people to have other avenues for dispute resolution, which will reduce their reliance on courts of law.

   Speaking of the shortage of human resources within the Judiciary and its effect on the delivery of justice, the Chief Justice of Tanzania, Honourable Othman had this to say:

   at the Primary Court level there are 732 magistrates presiding over 1,105 Primary Courts. The Judge
   Population ratio in Tanzania is less than 2 Judges per 1 million inhabitants, while that in Western

Europe is 50 to 1 million people. Without an allocation of new cases, some High Court Judges today have been assigned a 5 years caseload to determine. Of the 1105 Primary Courts, only 628 have Primary Court Magistrates permanently stationed. Some 346 Primary Courts are served by 'seasonal' or 'visiting' Magistrates. The Primary Court Magistrate stationed in Kigoma town is also responsible for dispensing justice at the Kalya and Uvinza Primary Courts, respectively situated, some 160 kilometres and 116 kilometres away. This human resource deficit has serious justice delivery consequences (Othman 2012: 9 -10).

Mediation: An Overview

The concept of mediation has inspired many treatises on its premise, promise, and practice, as well as its problems and praises. It has also inspired many debates about the usefulness or appropriateness of the different types of mediation. Many have analyzed, for instance, facilitative versus settlement mediation as well as well as mandatory versus voluntary mediation. Now that many courts in the USA, Canada, Australia, and even countries of East Africa (Kenya, Uganda and Tanzania) have introduced court-annexed mediation, analysts have questioned the very issue of court-connected mediation. There is rich and expansive literature derived from the treatises and debates cutting across different disciplines, with law, psychology, and sociology taking the lead (Goldberg et al. 1999: 7).

Mediation is based on the belief that a third party (neutral/impartial or not) can often assist two (or even more) 'fussing' parties in finding consensual resolution to their dispute. According to Howieson (2003: 2), mediation is "an ancient non-legal dispute resolution process used to re-orient the parties toward each other, not by imposing rules on them, but by helping them to achieve a new and shared perception of their relationship, a perception that will redirect their attitudes and dispositions toward one another." In this context, mediation is traditionally understood as an informal and private dispute resolution procedure. However, it is now used in a variety of ways by the formal legal system, mostly to achieve early settlements in civil disputes. Civil court mediation is based on the belief that disputes can be resolved more speedily, inexpensively, and efficiently through mediation, as opposed to trial.

Proponents of mediation believe that mediation can remedy many of the ills of the adversarial trial system, namely, costs, delay, formality, restricted scope of claims and remedies, lack of consensual agreement, and party control of the process and outcome (Goldberg et al. 1999, Howieson 2003). There is also a strong belief that by avoiding the 'win or lose' situation of adjudication procedures, a mediation process would be more satisfying to disputants. Most of the mediation research done to date shows that, generally, mediation does remedy some of those faults of the adversarial system, and that in general, disputants are more satisfied with mediation than with adversarial procedures (Goldberg; Howieson).

Commentators have expressed hope that expanded use of informal methods will result in resolutions more suited to the parties' needs, the reduction of reliance on laws and lawyers, a rebirth of local communities, the transformation of long-term relationships, and relief for non-parties affected by conflict, such as children of divorcing couples (Goldberg et al. 1999: 7).

Advocates of alternative dispute resolution (ADR) have praised mediation as a "means to serve different interests" (7). On a deeper level, mediation is also seen as a process that has "the ability to transform disputants into psychologically and morally aware individuals" (Howieson 2003: 3). It empowers the parties by giving them a sense of their own value, strength, and capacity to handle life's problems, and can evoke "in individuals an acknowledgement and empathy for the situation and problems of others" (3). Mediation "promises disputants the opportunity to participate actively and directly in the process of resolving their dispute, to control the substantive norms guiding their discussion and decision-making, to create options for settlement and to control the final outcome of the dispute resolution process" (3)

Not all of these are necessarily of primary concern to those in Tanzanian society, but most are. It is high time that Tanzanians reduce their reliance on the legal system, which is in many ways is incompatible with the societal traditions of communal life. The Chief Justice has seen this, and believes that the principle of the Constitution is for the judiciary to promote and enhance dispute resolution among contestants of disputes. He sees a major challenge in justice delivery in the country as what he calls the timid use of ADR, in particular mediation and arbitration, to settle disputes.

Worldwide, interest in the potential of ADR in resolving commercial and civil disputes has mushroomed. The disappointing trend here [in Tanzania] is the inverse! ADR is neither second hand justice nor does it exist for the Judiciary's own interest. Mediation delivers less delay. It confers a more empowered outcome to the parties. It is more cost effective than litigation, which breeds more litigation (Othman 2012: 18).

Othman (2012: 19-20) further argues that traditional African societies placed a premium on the amicable resolution of disputes. More often than not, civil litigants are motivated to dispose of their disputes swiftly, even without the trauma of a full blown trial. With proper learned advice from advocates, they would probably be most willing to compromise with the kind of win-win outcome that mediation offers.

Mediation in Tanzania

As noted earlier, alternative dispute resolution mechanisms have not been adequately used in Tanzania despite the limitations and problems of its legal system. The known functioning mediation systems in the country are those based under the Tanzania Commercial Court and the Commission for Mediation and Arbitration (CMA) under the Ministry of Labour, Employment and Youth Development. According to Othman, the latter has shown much success, and there is a willingness to take advantage of mediation services. Without such willingness, he argues, the Commission for Mediation and Arbitration (CMA) would not have been able to successfully mediate 6,904 labour disputes and arbitrate over another 2,772 in the 2010/2011 budget year. At the CMA, by mediation, the labour dispute resolution time has been reduced from 3 years to an average of 25 days (Othman 2012: 19).

The Proposal

The paper proposes institutionalization of mediation services in Tanzania in the form of community mediation centres. The proposal's primary target group is the people living in urban areas who, for a number of reasons, do not have access to proper and adequate dispute resolution mechanisms.

The Overall Objectives of the Proposed System Include:

(a) To establish in the community an efficient mechanism for the settlement of minor criminal, civil and family disputes that stresses mediation and conciliation between the parties as an alternative to the existing adjudication process which finds fault with one party;

(b) To reduce the courts' caseloads by redirecting cases which are not appropriate for the adversarial process;

(c) To reduce and to finally alleviate the problem of congested prisons by mediating the parties before the cases are reported to the police, or by having the police direct the cases reported to them to the mediation centres instead of court of law;

(d) To enable the parties involved in a dispute to arrive at fair and lasting solutions, hence creating conditions that will support the emergence of peace and harmony in the long run. This is a way of building a culture of peace in the society;

(e) To serve as a source of information and referral for disputes that could be more appropriately handled by community services or government agencies, other than the courts.

In order for the project to succeed in implementing those objectives, the following conditions must be in place:

(a) Political support: The success of the program depends on the support of all key stakeholders who will be designing, using, and holding accountable the program. The language of nongovernmental organizations categorizes stakeholders as authorization stakeholders (donors, regulators etc.), operational stakeholders (staff and volunteers), and value-oriented stakeholders (the target group or beneficiaries);

(b) Adequate human resources: There should be a significant pool of trained and trainable mediators;

(c) Sustainable funding: Despite the fact that such community based programs are reasonably inexpensive, national efforts require a commitment of long term financial support and other resources;

(d) Support of cultural and institutional norms: Potential users may have difficulty overcoming discomfort based on societal norms. This will be very important as program expands beyond Dar es Salaam. The further the program moves from the large cities, the more it will meet with suspicion regarding 'new' or 'foreign' ideas. Issues such as the

roles of women and men in dispute resolution, or how much information concerning a family dispute is given to an outsider, may differ from group to group. These issues as well as others will need to be addressed before implementation.

Community Mediation

Community mediation procedures are generally characterized by the following features:

(a) The use of trained community volunteers;

(b) Sponsorship by a private non-profit or public agency;

(c) The use of mediators who represent the diversity of the community served;

(d) The provision of direct access of mediation to the public;

(e) The provision of services to the public, regardless of ability to pay;

(f) The promotion of collaborative community relationships;

(g) The encouragement of public awareness;

(h) Intervention during the early stages of the conflict; and

(i) The provision of an alternative to the judicial system at any stage of the conflict (NAFCM undated).

Community Mediation Services can be successful if its roots are found in community concerns to find better ways to resolve conflicts and efforts to improve and complement the legal system. This will ensure their adequate use and sustainability.

Organization of Community Mediation Centres

It is important that the proposed mediation centres are located in places accessible to the members of the respective communities and they should be clearly identified as separate and independent from the formal court system.

A broad range of disputes between individuals and/or groups with ongoing relationships like families, neighbours, landlords and tenants, would be the primary clients of the centres. Cases could come from courts, prosecution (Directorate of Public Prosecution), police agencies, including the Directorate of Criminal Investigation, individuals/parties (self-referrals), as well as other public or private agencies.

Since the centres will seek to establish themselves as alternatives to the existing formal processes, each, based on its specific environment, should actively publicize it services in the community.

Despite the fact that the services provided by the centres are categorized as informal, there should be well-structured procedures to handle the intakes and the whole process. For efficient and effective performance, centres may wish to set up the following:

(a) Written screening criterion that includes sufficient data collections to allow follow-up of clients when necessary;

(b) A briefing process to make sure that the disputants understand the voluntary nature of the process. The parties concerned must be made aware of the benefits associated with the

process. They should similarly be informed of the disadvantages of pursuing the matter(s) in court;

(c) Use of signed agreements as symbols of the disputants' willingness to participate in the settlement process. The disputants will also be required to sign the agreement in the event that the dispute in settled. For cases that fail to reach an agreement, the mediator will have to write a summary of the process and its outcome for the centre's future records, as well as identifying appropriate referral agency, i.e. government agencies, such as the court, or the Ministry of Health and Social Welfare, depending on the nature of the dispute.

The Expected Role of Government and Nature of Support

(a) Funding

Poverty is one of the major challenges facing Tanzania as a country. The majority of its people live below the poverty line. The country is listed one of the Heavily Indebted Poor Countries (HIPC). Both privatization and cost-sharing programs introduced to the country some two decades ago, as part of the conditions of the International Financial Institutions, have had a negative impact on the lives and living standards of the majority of the people, especially the poor. Community mediation programs target the poor, who have difficulties in participating in the existing judicial system, due to various reasons, most notably the costs involved. As making the target group pay for mediation services will discourage use of the services, it is necessary for the government to fully fund the program for a reasonable initial period. At a later stage, the central government, in collaboration with the local government, could work out a system with minimum level of cost-sharing mechanisms to ensure sustainability.

The government stands a better chance to raise most, if not all the funds needed through bilateral arrangements with the countries that have shown interest in reforming and strengthening the judiciary in the country, such as the USA and Canada.

(b) Training

The government should take the main responsibility for training the mediators. This could be done in collaboration with some non-governmental organizations that have such expertise. Prospective mediators should be trained in both basic mediation skills and intensive family training to enable them to also handle family disputes.

(c) Publicity

The government should also play a major role in raising public awareness about the existence of services and the opportunities for their use. Once the services are established, the government should make it a requirement for certain types of cases to use mediation services provided by the community centres. Government radio and television stations should give sufficient airtime for publicity purposes, considering that radio is a powerful tool of publicity in Tanzania. Private radio and television stations could also be approached for assistance.

Conclusion

Community mediation processes stand a better chance than the court system of alleviating conflict resolution problems in Tanzania. While major results may take time to show, community mediation programs, if implemented well, would be immediately be able to alleviate some of the problems. By settling petty criminal offenses and neighbourhood disputes, the programs will be able to reduce the number of those accused in custody awaiting the trial in courts, hence alleviating the problem of congested prisons and the suffering of prospective inmates.

Like all other interventional social programs, community mediation programs should not be seen as a panacea for all the problems facing Tanzania's judicial system. They can, however, play a positive role in the support of judicial (legal) reform in the country. They can reduce the financial and material cost and the time required to resolve disputes, and will increase the access to dispute resolution services, especially for the disadvantaged members of society. More importantly, these programs will help to inculcate a culture of peace in the society through a change of mindset from the Western thinking of peace through retribution (punishment to the offender) to an African conceptualization of peace through restoration (rehabilitation and forgiveness to the offender).

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Biographical Note

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Acknowledgement

Elections and *Democrazy* in the Democratic Republic of the Congo: The Dilemma of Peace, Justice and Impunity

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According to Paul Collier (2009), elections in the poorest countries will not necessarily lead to democracy but rather *democrazy.* "If there are no limits on the power of the winner, the election becomes a matter of life and death … The result is not democracy … democracy does not deliver either accountability or legitimacy" (15, 24). Apart from poverty, a post-conflict environment is another fragile element which can make elections hazardous (83). It would appear that the recent Presidential and legislative elections in the Democratic Republic of the Congo (DRC) in November 2011 turned out to be one such case of such *democrazy*, following in the footsteps of the elections in Kenya in 2007, Zimbabwe in 2008, and Cote d'Ivoire in 2010.

Observing organizations, both international and national, reported major cases of fraud and partiality during the DRC elections. Despite the criticisms, the Electoral Commission (CENI) did not attempt to investigate or explain the irregularities, and announced President Joseph Kabila's victory over the popular opposition party leader Etienne Tshisekedi. President Kabila was sworn in for a second term, witnessed by the Supreme Court. Tshisekedi, who rejected the CENI's poll results and declared himself the "elected president", continues to contest the vote. Attempted negotiations between the two parties produced no results. At least 24 people died from political violence that erupted two days before the elections, and 542 others were arrested by Presidential Guards and security forces (see Human Rights Watch 2011a; 2011b).

This policy brief argues that the elections were negatively influenced by a culture of impunity with regard to gross violations of human rights and international humanitarian law; something that has become a lingering issue in the DRC and the Great Lakes region. Serious human rights violations committed by high ranking government officials and rebel groups are rarely punished (although some non-state belligerents have been indicted by the International Criminal Court). As a consequence, they can easily be used as a tool to assist the candidates in the elections. Efforts aimed at securing legitimacy and accountability have been sidelined, in the interest of achieving 'negative' peace and stability, which results in a vicious cycle.

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[1] This policy brief contains the personal views of the author, and does not represent the views of institutions with which the author is (or has been) affiliated.

History of Impunity in the DRC and Great Lakes Region

According to the United Nations Commission of Human Rights (UNCHR 2005: 6), the definition of impunity is "the impossibility, … of bringing the perpetrators of violations to account … since they are not subject to any inquiry that might lead to their being accused, arrested, tried, and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims." Impunity arises "from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, … by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished" (UNCHR 2005: 7).

Indeed, the DRC has suffered for more than a century of impunity since the era of personal fiefdom of the Belgian King Leopold II, in which Hochschild (1999: 3) affirms that between five to eight million people perished. Even after the Congo's independence in 1960, a long-time armed conflict, extreme poverty and dictatorship continued without cases of prosecution by those in key leadership positions. Two consecutive wars in the late 1990s further complicated the impunity issue with the involvement of various actors from neighbouring countries. Although the war 'officially' ended in 2003, massive displacement and physical and sexual violence remain a common practice. A total of 5.4 million died from conflict from 1998 to 2007 in the DRC, constituting the highest death toll of all conflicts since the end of World War II (IRC 2008) and more than 123,000 people were displaced in the first quarter of 2011 alone (Essa 2011).

The illegal exploitation of natural resources is a major contributing factor to the conflict. Since 2001, the UN Security Council (2001; 2003) has highlighted the relationship between the exploitation of resources, arms trafficking and conflict. Those responsible for these acts, both Congolese and foreigners, were named in the UN's reports. Although the UN Security Council has passed a series of resolutions[2] demanding that the concerned states should conduct investigations, the DRC and its neighbours have failed to act. The UN Mapping Report (OHCHR 2010) revealed that the most serious human rights violations in the DRC between 1993 and 2003 were committed by the DRC and neighbouring governments. The establishment of viable judicial mechanisms was recommended but concrete progress has not been made.

Impunity had a negative impact on the 2011 election. The state has been directly implicated in the majority of the 188 human rights violation cases documented in the eleven months prior to the elections.[3] Most violations targeted members or supporters of popular opposition parties (MONUSCO 2011). The NGO Journaliste En Danger (JED) registered at least 160 cases of assaults on press freedoms, almost half of which took place from October to December 2011. This

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2 UNSC Resolutions 1493 (2003), 1596 (2005), 1533 (2004), 1856 (2008), and 1906 (2009).

3 Of 188 violations, 82 directly involved the Congolese police, and 42 the National Intelligence Agency (MONUSCO 2011, para. 64).

number is worse than the previous elections in 2006 in which 125 cases were reported (JED 2011). Since the 2006 elections, six human rights activists and journalists have been killed.[4]

Unlike the previous elections that were led by the UN, the 2011 elections were organized by CENI, and the entire process was marred by censorship and manipulation. A former political advisor of President Kabila, who is also his cousin, was appointed as CENI's President. The voting system was changed from a two- to a single-round one, lowering the bar for election victory. President Kabila monopolized the public media. Besides this, 'voters' under eighteen years old and double voters were found to be registered in his stronghold provinces (France 24 2011). On the polling day, pre-filled ballot boxes with marked ballot papers were seen at the polling stations, and missing ballot papers were transported to polling stations after the voting closed (Wallis 2011). Moreover, voting results were lost from some of the opposition territories (Boisbouvier 2011: 11).

Political parties and international observers were not allowed to attend the counting process. Armed forces and war-related materials were also deployed in an apparent attempt to intimidate the population in making their choices. The Carter Center (2011), the European Union Electoral Observation Mission (2012), and la Voix des Sans Voix (VSV 2012), criticized the election process for its lack of credibility, transparency and for its irregularities. The Catholic Church, which deployed the largest number of observers across the Catholic-dominant country, strongly accused the government of "treachery, lies and terror" (CENCO 2012). A group of nine senators requested for the immediate resignation of the CENI leadership and reorganization of the elections (Voix du Kasai 2012).

Involvement of Criminals in the Elections

According to DRC Electoral Law 06/006, those responsible for war and genocide crimes or crimes against humanity are not eligible to stand as candidates in elections (Independent Electoral Commission 2006). Nevertheless, in some cases this law was not applied, while in others it was simply a case of no official arrest warrant being issued with regard to certain candidates. Collier (2009: 27) reminds us that in such poor countries as the DRC, elections can be attractive to criminals for personal security reasons, as holding public office can provide immunity from prosecution.

The DRC's 2011 elections included at least two criminal candidates. One presidential candidate, Antipas Mbusa Nyamwisi, is a former rebel leader whose militia carried out a massacre in 2002. His fighters killed along perceived ethnic lines, targeting any person who appeared to be from the Hema and Bira groups, resulting in more than 1,000 deaths (Kron 2011). After the war, Nyamwisi became Congo's Minister of Foreign Affairs in 2007, and Minister of Decentralization and Urban and Regional Cooperation in 2008.

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4 These include Serge Maheshe, Patrick Kikuku, Didace Namujimbo, Wabihu Kasuba, Bruno Koko and Floribert Chebeya (see UN Human Rights Council 2010).

Another candidate for the National Assembly, Sheka, is a leader of a Mai Mai rebel group. The group was involved in the mass rape of 303 women, children, and men in 13 villages in eastern DRC over four consecutive days in 2010 (MONUSCO 2010). This was conducted in collaboration with the Rwandan rebel group, FDLR (Democratic Forces for the Liberation of Rwanda), and combatants led by a former member of Rwandan-backed rebel group CNDP (National Congress for the Defence of the People), as well as the Armed Forces of the DRC (FARDC). At least 200 fighters in total participated in this malicious act, with some sources estimating the number to be 300-400 (MONUSCO 2010; footnote 2). The Mayi Mayi Sheka group has also carried out attacks on mines and forcibly recruits children into their ranks (UN Security Council 2011b). Congolese authorities supported by the UN attempted to arrest Sheka in July 2011 without success (Kron 2011). On the polling day on 28 November 2011, the UN Sanctions Committee added his name to a list of 31 persons of Congolese, Rwandan and Ugandan nationalities, against whom a freeze on personal assets and travel bans apply (UN Security Council 2011b). The effectiveness of the list is highly questionable, however, given the reality of the clandestine and largely unhindered circulation of assets.

The presence of national and foreign armed groups influenced the vote in favour of President Kabila, especially in the east. Bosco Ntaganda, a former leader of the CNDP, used the elections for the enhancement of his own security and wealth. He controlled a key mineral smuggling route to Rwanda, and maintained a senior post in the FARDC in return for backing Kabila's re-election (UN Security Council 2011a: para. 279). Ntaganda travelled often to Rwanda despite the travel ban imposed on him (para. 597). An arrest warrant for Ntaganda was issued by the International Criminal Court (ICC) in 2006 for his systematic use of child soldiers. Yet, the government failed in its legal obligation to hand him over to the ICC as President Kabila regarded him as being critical to the 'peace process' (Human Rights Watch 2010). To make matters worse, Ntaganda was promoted to the position of general in the FARDC in 2009 when the CNDP was integrated into the national army. Since then, he led military operations against the FDLR, supported by the UN peacekeeping forces, causing a high level of causalities among civilians. In 2012, the DRC government reversed its position on the issue of Ntaganda's arrest and he is currently in a state of mutiny against the government.

Conclusion

The DRC elections highlighted the results of chronic impunity in that country and led to the loss of life. They also served to clearly demonstrate the considerable dangers of postponing justice. The mix of a culture of impunity and *democrazy* is a potent one, and while punishment for past atrocities may have the potential to undermine reconciliation, it is also clear that "[i]mpunity ... can be an even more dangerous recipe for sliding back into conflict" (UN Security Council 2004a: para. 55).

President Kabila's doctrine of "peace first, justice later" in reality brings neither justice nor peace. It is highly imperative that international and national institutions and civil society take a more proactive approach in the development of policy in two areas. First, it is necessary to

reconfirm and promote the notion that justice, peace and democracy are not mutually exclusive or contradictory objectives, but rather are mutually reinforcing imperatives (UN Security Council 2004b). Secondly, the decade-long (and as yet unsettled) issue of establishing an international judicial mechanism in the Congo's conflict in order to end the culture of impunity must be made a top priority. Progress made on these issues will significantly raise the chances of the realization of meaningful long-time stability.

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Biographical Note

After serving with the UNHCR in several African countries, and at Utsunomiya University, Yonekawa is currently working as a researcher with Human Rights Watch in Japan. Her main area of research is peacebuilding in the DRC and Rwanda. She holds a M.Sc. in international relations from the University of Cape Town.

Book Review

Reviewed by: Chitja Twala, University of the Free State, South Africa

This volume edited by Hussein Solomon brings to the fore the vibrant intellectual work of a new generation of scholars in the southern part of Africa. The fact that the authors come from different countries helps in making a comparative analysis of the roles opposition political parties play elsewhere in the region and what lessons could be learnt from each country's case study. It is an important contribution to the understanding of opposition political parties in southern Africa and how they battle to become strong.

The countries analysed in this volume include the following: Botswana Lesotho; Mauritius; Mozambique; Namibia; South Africa; Swaziland; Zambia and Zimbabwe. Although the political situation in all the above mentioned countries, the authors argue that to a certain extent there are some similarities in as far as the operation of the opposition political parties is concerned. This provides the reader with an understanding of not only the broad challenges but opportunities confronting the political opposition in Southern Africa. The authors use both political and historical lenses to tell the stories about the problems experienced by the opposition parties in Southern Africa. The diversity of historical and political expression by the authors is apparent because a number of examples are given to indicate the challenges experienced by the opposition political parties in the region.

The volume explores some of the important functions of opposition political parties. In the main, the authors grapple with the following questions: Do opposition political parties play meaningful roles in southern African countries? Can democracy prevail without the existence of strong opposition parties? What is the changing nature of opposition parties within the wider African political and economic context? What is the influence of personalities in the survival of opposition parties in the region?

This fascinating volume is divided into ten chapters written by 14 scholars from the different countries in the region. Hussein Solomon gives a conceptual overview of opposition political parties in Southern Africa. In this chapter, he briefly examines the challenges experienced by these parties and further meticulously highlights the role opposition political parties should be playing in attempts to deepen and strengthen democracy in the region. This thirteen-paged

chapter serves as an introduction and briefly introduces the works of other scholars in this volume.

In chapter two, Balefi Tsie examines the importance of opposition political parties in Botswana and why there is no strong opposition to the ruling Botswana Democratic Party (BNP) since March 1965. Tsie acknowledges that to a certain extent there was an influence of South African politics on the development of political parties in Botswana. This influence led to the formation of the Bechuanaland Peoples Party which failed to unsettle the BNP. The Botswana National Front also failed to do so. Tsie makes an interesting observation that Botswana's opposition parties never resort to violent actions even if they are aware of the cheating taking place during the elections. This is due to the patriotic nature of those parties.

Chapter three is about Lesotho. Francis Makoa argues that opposition political parties are weak in Lesotho because of the lack of funds. In his analysis, he contends that such parties are also weakened by the fact that personalities take the centre stage rather the aspirations of the parties. The lack of influence over policy and law-making makes the Lesotho opposition parties to be weak.

In the fourth chapter, Sheila Bunwaree argues that the influence of the parliamentary opposition in Mauritius remains weak because of the country's electoral system, the funding system and weak voter education. For example, Mauritius does not have any term limits regarding the mandates of parliamentarians and that there is very little direct engagement of civil society with the parliament. Turning to the mobilization of the labour force might bring positive results for the opposition parties in Mauritius.

Fivejoao Pereira, Sandra Manuel and Carlos Shenga jointly agree in chapter five that Mozambique opposition parties endure the problem of personalities. Other weaknesses of opposition political parties include having weak bureaucratic organization; lack of human resources; lack of trust from the citizens; and weak formal links with the citizens. These scholars argue that for these parties to survive and play a significant role in national politics, it is necessary for them to build solid internal structures and vibrant branches, mobilize members, and increase collection of membership fees.

In chapter six, Andre Du Pisani and Bill Lindeke examine opposition political parties in Namibia. Both authors agree that the South West African Peoples Organization (SWAPO) appears to be a powerful ruling party. Mushrooming opposition parties in Namibia have failed to unsettle it. Despite the open and democratic environment that Namibia provides, opposition political parties remain weak. The author highlights the funding of SWAPO by big businesses in the country (in order to access lucrative contracts from the ruling party) as a major reason for this weakness. Another reason is the fact that in Namibia there is a widely held view that the opposition parties pursue sectional and personal interests. This, according to the authors, has negative consequences for such parties.

Dirk Kotze, in chapter seven, starts by portraying the historical background of the political parties in opposition in South Africa since the pre-election period of April 1994. According to the author, in the current (2010) political situation in South Africa, the African National Congress

(ANC) as the ruling party regards the opposition as legitimate representatives of broader society, but reduces them to spokespersons of minority and sector interests. Opposition parties in South Africa are normally assessed in terms of how many parties exist, how strong they are and what are their prospects for defeating the ANC? Less attention is paid to the quality of opposition parties.

In chapter eight both Petros Magagula and Zwelibanzi Masilela examine the controversial state of Swaziland politics. The controversy is around the rule by a monarch wielding political power. This allows traditional rule to occupy the central stage in the country's politics. Whilst opposition political parties cannot legally operate with a ban on political campaigning, such parties do exist and operate. Pressure is mounting on the traditional authority in Swaziland whereby the citizens are demanding a political transformation.

Chapter nine on Zambia portrays the interesting state of the country's political landscape. Jotham Momba argues that, in the main, opposition political parties are suppressed by the police in Zambia. Police harassment is evident against opposition parties' members. This is done to protect the 'legitimacy' of the ruling Movement for Multi-Party Democracy (MMD). Apart from police harassment, the media has also been a critical factor in undermining opposition parties and became mouthpieces for the ruling party. Momba argues that whilst the country's laws allow the formation of opposition parties, the operational atmosphere is not conducive. The political atmosphere determines the nature of opposition parties in Zambia.

In chapter ten, John Makumbe gives an analysis of the Zimbabwean situation with a focus on the Movement for Democratic Change (MDC). He argues that the advent of the MDC made a huge challenge to the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) by criticizing its socio-economic and political policies. In reality the MDC, despite being repressed by the ZANU-PF government assumed the role of being a political watchdog. It demanded transparency and accountability in governance by the ruling ZANU-PF. The leaders of the ruling party went out of their way to starve the opposition party of funding whilst at the same time building patronage networks for their own party, using state resources. This situation was not only unique to Zimbabwe, but it has also happened in almost all southern Africa countries.

This book is written in such a manner that it opens up many areas for further research and concluding notes at the end of each chapter throw more light on the text. The authors deliver readable, penetrating arguments of opposition political parties in Southern Africa.