

REFLECTIONS ON THE CRISIS IN EASTERN CONGO

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Résumé

La crise qui sévit dans l'Est du Congo ne cesse de nous interpellier. La compréhension de ce drame est d'autant plus difficile que les responsabilités sont partagées, que les acteurs, internes et externes, sont multiples, que les alliances se scellent et se dissolvent au gré des circonstances, que les conflits, où coalescent le foncier, l'ethnie, et la politique, s'imbriquent les uns dans les autres à la manière des poupées russes. À partir d'observations glanées sur le terrain, cette réflexion pose un regard rétrospectif sur les convulsions qui traversent une grande partie du Kivu. Si l'on regrette que la dimension humanitaire de la crise ne mobilise davantage l'attention des media, le manque d'État mériterait une analyse plus soutenue de la part des observateurs. Ceci est vrai aussi de l'impact de l'histoire récente sur les relations interethniques. Ces prises en compte de facteurs historiques et institutionnels nous aident à mieux saisir un certain nombre de phénomènes, allant des violations massives des droits de l'homme à la difficile cohabitation entre Banyamulenge et Congolais soi-disant « autochtones », de l'effondrement du processus de paix « Amani » à l'impuissance de la MONUC à protéger les populations civiles. Les trop modestes résultats enregistrés par l'intervention conjointe des armées du Rwanda et de la RDC soulignent, s'il en était besoin, le délabrement des FARDC, alors que celle-ci devrait servir de pivot à la reconstruction de l'État.

1. INTRODUCTION

Touted at first as a pivotal event in the road to peace in eastern Congo, the hopes raised by the Goma Conference on Peace and Security, in January 2008, quickly evaporated after the resumption of hostilities later that year. As the crisis smoldered through the summer and fall, the temptation to return to the familiar grounds of my early field work proved hard to resist. What follows is a retrospective look at the more problematic issues that impressed themselves upon me during this impromptu field trip; the aim, in a nutshell, is to bring into view the principal forces and actors behind the ever-shifting state of the play among armed factions, and what it all means for those caught in the cross-fire.

Looking back to the many memorable moments experience during this three-week safari through eastern Congo – starting in Uvira, at the northern tip of Lake Tanganyika, and continuing on to Bukavu and Goma, and back to Uvira – three stand out as metaphors for the deepening crisis in eastern Congo.

One is a conversation with a young man from Uvira, working for the UNHCR, whom I met while standing in line at a local bank: as I casually mentioned how much I learned from a recent exchange with a couple of Banyamulenge community leaders in Uvira, he quickly corrected me: “You mean the so-called ‘Banyamulenge’, who of course are Rwandans.” His peremptory tone made clear to me that any attempt to challenge his position would be a waste of time. For him and many others, ethnic Tutsi, including the

¹ This paper could not have been written without the help of numerous friends, colleagues and former students, many of them Congolese. To all of them I wish to express my sincere gratitude.

Banyamulenge of South Kivu whose ancestors have lived in the Congo for generations, are undeserving of the status of citizens: they are Rwandan nationals.

Another relates to my visit to the Speaker's office of the provincial assembly of South Kivu, in Bukavu, in hopes of obtaining data on the deputies' social profile. On that occasion, and much to my astonishment, I learned from the clerk in charge of the archives that although the deputies had been in office for nearly two years, all along drawing substantial salaries (\$2,500 monthly, plus perquisites), not a single piece of legislation had been passed. The reason for this unhappy state of affairs, I was told, lies in the deputies' lack of familiarity with the rules of parliamentary democracy ("they simply don't know the rules of the game"). Further probing yielded this qualifying remark: rather than point to their low learning curve, or lack of interest in the exercise of their legislative duties, their poor performance is part of the legacy of Mobutu's thirty-year dictatorship.

My visit to Panzi hospital, a few kilometers away from Bukavu, sticks to my mind as a particularly moving episode. At first I was told that the personnel was on strike, after a group of protesters forced their way into the building where a notorious thug – presumably guilty of armed robbery – was being treated for his wounds. Nonetheless, I was able eventually to persuade one of nurses to let me into the raped women's ward. Known as *le pavillon des femmes violées* it is a somber testimony to the country's rape problem, the worst in the world. There, scores of victims of sexual abuse, some in their early teens, are trying to recover from their horrendous physical and emotional wounds. Some are resting under the shade of a wooded area nearby, others are sitting in their hospital beds. All wore a vacuous, haggard look on their faces, as if in search of their moral bearings. They are the lucky ones. Thousands of others are nowhere to be seen. Just how many died, how many survived is impossible to say.

Together these images capture some of the key dimensions of the Congo's agony. The denial of citizenship rights to the Tutsi minority, though central to an understanding of the violence ravaging eastern Congo, is by no means the only relevant factor.

Succinctly put, the crisis in eastern Congo is a crisis of identity – what communities belong within the boundaries of the Democratic Republic of the Congo (DRC)? – compounded by a huge institutional void and a humanitarian catastrophe of unparalleled proportions. All of which helps explain the failure of the Goma conference to live up to its stated objectives, and the subsequent collapse of the much-touted Amani peace process – of which more in a moment.

2. A HUMANITARIAN CRISIS OF HUGE PROPORTIONS

It is a commentary on the public indifference surrounding the Congo crisis that in spite of its far greater death-toll it receives only a fraction of the

media attention devoted to Darfur.² While there are ample grounds for public revulsion over the tragedy in Western Sudan, it does not come anywhere near the scale of the human losses suffered by the DRC. According to a survey conducted by the International Rescue Committee (IRC), between August 1998, when the second Congo war began, and January 2008, an estimated 5.4 million died of war-related causes, including hunger, disease and sheer physical exhaustion. Approximately half of the dead were children under the age of 5. This means an average of 45,000 deaths each month. Since then another million may have succumbed of the same lethal side-effects of civil strife. Significantly, less than one per cent of these losses are identified as battle field casualties, a telling commentary about the deadly consequences of factional violence among civilians.

In North Kivu alone 1.2 million internally displaced persons (IDPs) have been forced out of their homes by the war. Since the resumption of hostilities in early October, an additional 200,000 IDPs are said to have fled their traditional homelands in and around Masisi and Rutshuru. Many of them are beyond the reach of humanitarian NGOs, facing starvation. But if the delivery of emergency aid to IDPs deserves urgent attention, the longer term problems of rehabilitation, social reinsertion and ethnic reconciliation are no less daunting.

In both North and South Kivu rape has become the weapon of choice of militias.³ The figures I came across for South Kivu indicate a total of 44,000 women raped since 2004, including 27,000 in 2006; for North Kivu 28,000 cases were reported in 2006. In Shabunda, according to Congolose human rights groups, seven out of ten women have been raped.⁴ One UN official described the extent and intensity of sexual abuses in that part of the Congo as “worse than anywhere else in the world.”⁵ The region is said to account for 75 per cent of all the cases treated by Médecins Sans Frontières (MSM) worldwide.⁶

A 2007 Human Rights Watch (HRW) report shows in graphic detail that responsibility for such crimes is widely shared among the main protagonists.⁷ These are Kabila’s rabble army, the *Forces Armées de la République Démocratique du Congo* (FARDC); the remnants of Rwanda’s

² For notable exceptions see POLGREEN, L., “Fear of New War As Clashes Erupt on Congo’s Edge”, *New York Times*, December 13, 2007, p. 1, p. 20, and more recently GETTELMAN, J., “Rape Victims’ Words Help Jolt Congo Into Change”, *New York Times*, October 18, 2008, p. 1, p. 7.

³ For a more elaborate discussion of this theme, see MOUFFLET, V., “Le paradigme du viol comme arme de guerre à l’Est de la République Démocratique du Congo”, *Afrique contemporaine*, 2008-3, n° 227, pp. 119-133.

⁴ MCGREAL, Chr., “Congo’s endless war against women”, *The Guardian Weekly*, Dec. 12, 2008, p. 10.

⁵ John HOLMES, UN under-secretary general for humanitarian affairs, quoted by BERTHEMET, T., “Au Kivu, la barbarie à visage humain”, *Le Figaro*, 11 novembre 2007.

⁶ *Ibid.*

⁷ HRW, *Renewed Crisis in North Kivu*, October 2007, vol. 19, no. 17 (A), pp. 34-42.

Hutu génocidaires and their Congolese recruits, the *Forces Démocratiques pour la Libération du Rwanda* (FDLR); Rwanda's proxy in North Kivu, *Conseil National pour la Défense du Peuple* (CNDP), until recently headed by General Laurent Nkunda, to which must be added a flurry of local militias, the Mai-Mai, consisting of ethnic warlords whose loyalties are frequently shifting from one side to the other. The most brutal rapes, according to doctors interviewed by International Crisis Group (ICG), appear to have been committed by FDLR, only surpassed in terms of numbers by FARDC soldiers, who are said to have perpetrated 40 per cent of all human rights violations during the second half of 2006, including summary executions, beatings and rape.⁸

All armies have to contend with rapist elements in their midst – including the Allied armies in WWII, whose record of sexual abuse in Sicily and Italy in 1943 and 1944 leaves one gasping.⁹ What makes the case of eastern Congo unlike most others, with the possible exception of Liberia and Sierra Leone, is the frequency and sheer perversity of sexual violence. My visit to Panzi hospital, near Bukavu, brought me face to face with the unspeakable, an experience I shall never forget. Victims of rape include girls in their early teens as well as infants, like that three-year old girl admitted to the Heal Africa hospital in Goma, her body horribly mutilated.¹⁰ Some have endured excruciating pain, their genital organs torn. “Many of these rapes”, writes Jeffrey Gettleman, “have been marked by a level of brutality that is shocking even by the twisted standards of a place riven by civil war and haunted by warlords and drug-crazed child soldiers.”¹¹ The rapist's aim is not just to inflict

⁸ *Ibid.*, p. 42-43, and ICG, *Congo: Bringing Peace to North Kivu*, Africa Report No. 133, 31 October 2007, p. 28.

⁹ As told by Rick Atkinson, in one province of “liberated” Italy (Frosinone), Italian authorities tallied “seven hundred crimes of ‘carnal violence’; in one locality (Ceccano) “approximately 75 women ranging in age from 13 to 75 years had been raped; one woman claimed to have been raped 17 times... Norman Lewis, the British intelligence officer and author, investigated various allegations and found ‘wholesale rape’ in many villages”. Moroccan troops, the so-called Goumiers or Goums, were among the worst. In the face of such abuses, one chaplain wrote “our men are sick at heart, and are commenting that they would rather shoot the Moroccan Goums than the Germans... Another chaplain cited specifics: a fifteen year old girl raped by eighteen soldiers; a twenty-seven year old raped by three soldiers; a twenty-eight-year-old raped by five.” ATKINSON, R., *The Day of Battle: The War in Sicily and Italy, 1943-1944*, New York, Henry Holt and Company, 2007, p. 557. In France, according to Alice Kaplan, 180 US soldiers were charged with rape, of whom 130 were African Americans, against a total of 904 for the whole of Europe. “Even if the numbers were much higher”, she adds, “they do not compare with a terrible legacy of World War II-era rapes, often officially sanctioned, including the rape of the women of Nanking by the Japanese, rapes by Nazi soldiers throughout the German sphere of occupation, the rape of Italian women by the French army during its campaign to liberate Italy, and hundreds of thousands of rapes by the Red Army across Eastern Europe and Germany”: KAPLAN, A., *The Interpreter*, London and New York, Free Press, 2002, p. 154, 156.

¹⁰ BERTHEMET, T., *op. cit.*

¹¹ GETTELMAN, J., *op. cit.*, p. 1. For a remarkable documentary on the perpetrators and victims of rape in eastern Congo, see the gut-wrenching film by Lisa Jackson, “The Greatest Silence: Rape in the Congo” (a Women Make Movies release, New York, www.wmm.com).

suffering, but to shame the victim, to insult her honor and dignity and thus disqualify her from the sphere of civilized society. Shame reaches out to the entire family and beyond. In such extraordinary circumstances, and despite the limited progress registered in bringing punishment to the rapists¹², the prospects for lasting reconciliation appear extremely dim.

What is reasonably clear is that combating rape, however urgently needed, is not enough to conjure peace. Sexual abuse is only the most shocking symptom of more deep-seated problems.

3. THE COSTS OF INSTITUTIONAL DEFICIT

The state in the DRC is a fictional construct. This is largely true as well of the provincial institutions, many of which are simply not capable of performing the tasks devolved upon them. Most critically, they lack the capacity for resolving conflict. Absent an efficient and neutral constabulary, a reliable police force, a functioning judiciary, a legislative assembly which legislates and an executive which enforces the law, conflict resolution is left to the whims of the groups in conflict, with or without the assistance of external actors. The ill-fated Amani program, designed to set in motion the peace process in North Kivu, is illustrative of just how counter-productive such peace initiatives can be in the absence of viable institutions to put them into effect.

The absence of a functional state system translates into a huge institutional void, where warring factions are free to carve out fiefdoms of their own. Though expected to serve as neutral instruments at the service of the state, the army and police evade its control and are themselves rife with factional rivalries, to the point where entire units occasionally break away under the command of renegade officers and set themselves up as armed militias.

Access to the country's mineral wealth is a sine qua non of their political survival. This is true not only of those army units that refused to disband after their incorporation into the FARDC, but the ubiquitous Mai-Mai, and the Hutu-led FDLR, now in the process of being disarmed. As Lydia Polgreen observed, "the unfinished battles over the Rwandan genocide play out on Congolese soil among armed groups fueled by lucrative mines like the one in Bisie and by other mines controlled by the Hutu militias that carried out the genocide."¹³ The extensive plundering of the Congo's mineral wealth is both the cause and the consequence of extreme weakness of the state. The proliferation of factions is not only a commentary on the limited reach of the state beyond the provincial capitals; it also explains the inability of the

¹² Gettelman reports that European aid agencies "are spending tens of millions of dollars building new court houses and prisons... mobile courts are holding rape trials in villages deep in the forest;" in Bukavu "the American Bar Association opened a legal clinic in January, specifically to help rape victims bring their cases to court". *Ibid.*

¹³ POLGREEN, L., "Congo Riches Plundered by Renegade Troops", *New York Times*, November 16, 2008, p. 20.

Congolese government to cash in on the revenue that could be otherwise generated by the sale of mining rights to foreign companies. As long as mining activities remain in the hands of local militias there is little the government can do to turn its mineral resources into financial wealth.¹⁴

Institutional weakness is in large part traceable to the clientelist legacy of the Mobutist state. Now as before access to the state means access to wealth. Political loyalty rather than competence is what counts. The consequences are inscribed in the pervasive corruption reported at the highest levels; the mismatch between the social profile of provincial ministers and their official responsibilities; the repeated attempts of the Kinshasa authorities to buy off opponents, including warlords, renegade generals, and notorious human rights offenders, with predictably mixed results.

One of the most egregious cases of corruption in South Kivu occurred shortly after the 2006 elections, when the time came for provincial legislators to elect the governor. The candidate who won the majority of the votes, Célestin Chibalonza, is remembered both for the brevity of his tenure and his corrupt behavior. Held responsible for diverting tens of thousands of dollars to reward his supporters he was forced to hand in his resignation after eight months in office. Oddly, this happened shortly after having been acquitted to wrongdoing by the Supreme Court of Kinshasa.

Sheer incompetence is a major source of institutional paralysis. An extreme example is the president of the provincial assembly of South Kivu, whose illiteracy makes it impossible for him to even read a speech in public. Asked how a confirmed illiterate could be elected to such high office, one respondent replied: "As a wealthy trader from Uvira he was able to bribe his way to the top, while at the same time meeting the requirements of *dosage ethnique*."

Putting the wrong man to the wrong place is the defining trait of some key ministerial appointments. The cases of Prosper Birhakaheka and Georges Shanyagu Sadiki – respectively in charge of the ministries of Health, Social and Humanitarian Affairs, Gender, Family and Child of South Kivu, and Justice, Political Affairs and Relations with the Provincial Assembly – are not untypical: until their appointment as provincial ministers both were professors of history at the University of Bukavu. While both are ardent supporters of the ruling party neither one can claim special competence in health issues or judicial matters (not to mention the additional responsibilities covered by their respective ministries). One could also mention the case of Jerome Balegamira,

¹⁴ This catch-22 situation is nicely captured in the story told by Lydia Polgreen: "A company called Mining and Processing Congo bought the rights to search for tin ore at the (Bisie) mine in 2006. But the militia has effectively barred the company, which is owned by a consortium of South African and British investors, shooting at its helicopter and chasing its representatives from the premises. When the company started working on a road to link the mine to the main road, local officials blocked the route. When it began working on a campsite for its geologists to begin prospecting, soldiers opened fire on the workers, injuring several, company officials said". *Ibid.*, p. 20.

a former medical doctor, now in charge of the ministry of Infrastructures and Public Works. Although there can be little question that health, justice and infrastructures are crucially important policy issues, along with social and humanitarian affairs and political affairs, one wonders what kind of logic (other than opportunism) presided over their nominations.

Opportunism is a key characteristic of Kabila's modus operandi. As we shall see, it accounts for his recent change of course in allowing the Rwandan army to disarm the Congo-based génocidaires. And it also explains his policy of "recuperation" in trying to enlist the support of former warlords and renegade officers. All have been richly rewarded with promotions – majors to the rank of colonel and colonels to that of general, causing one observer to remark that the FARDC is an army of colonels and generals. Examples abound of rebels-to-colonels (or generals) stories. General Gabriel Amisi (aka Tango Fort), once a key figure of the pro-Rwanda rebel movement *Rassemblement Congolais pour la Démocratie* (RCD) – and known to have taken an active part, along with Nkunda, in massive human rights violations in Kisangani in 2002¹⁵ – is now the Chief of Staff of Kabila's army. Another notorious RCD defector is Colonel Pacifique Masunzu, a Munyamulenge who earned his spurs while holding at bay the Rwandan army in the Itombwe high plateau area of South Kivu, back in 2003, and is now interim commander of the Tenth Military Region in Bukavu. The commander of the Eighth Military Region (Goma) is none other than a well-known Mai-Mai warlord from Bunyakiri, Colonel Padiiri. Another Mai-Mai, Colonel Sami, is in charge of the 86th Brigade in Walikale, and said to be involved in juicy business operations with the FDLR. The military commander in Rutshuru – a strategic spot – is the highly influential but notoriously incompetent and erratic (some call him "delusional") Colonel Delphin Kahimbi, who once served in Kabila's *Alliance des Forces Démocratiques pour la Libération du Congo* (AFDL), the Rwanda-backed anti-Mobutist rebellion. Kahimbi's limitations as a commanding officer came in full view during the resounding defeat inflicted on the FARDC by Nkunda's warriors in Rumangabo on October 12, only one in a series of setbacks recently suffered by Kabila's troops.

The rallying of so many turncoats did little to discourage claimants to their succession. As more rebel commanders switched sides, others rose up to replace them. One reason is the expectation that they too, in due course, could use "recuperation" as an avenue of upward mobility. In the meantime access to the region's vast mineral wealth remains a major inducement to join the fray. The war over resources is what stimulates the proliferation of armed groups, and the extreme weakness of the state is what allows these groups to operate with impunity, committing in the process countless human violations.

The result has been an ever more fragmented political arena. Now as before aspiring strongmen manipulate local conflicts to their advantage; in the

¹⁵ For further details, see HUMAN RIGHTS WATCH (HRW), *War Crimes in Kisangani: The Response of Rwanda-Backed Rebels to the May 2002 Mutiny*, Vol. 14, No. 6, August 2002.

words of one informant, they create insecurity to promote a reshuffling of the cards. South Kivu is where a flurry of new warlords are looming on the horizon, competing for recognition and access to minerals: Yakutumba, a Bembe, has emerged as the leading Mai-Mai rebel in Fizi; in Uvira the old Zabuloni, a veteran of the 1964 rebellion, has replaced Dunia as the local Fulero Mai-Mai; the vacuum left by Masunzu in Itombwe has been filled by two leading Banyamulenge personalities, Makanika and Bisogo, the latter claiming the leadership of a newly created Banyamulenge party, the *Forces Républicaines Fédéralistes* (FRF).

Reflecting on the dangerously fissured Kivu arena a close Congolese observer lamented “the resurgence of intra-ethnic conflicts, the birth of new armed factions, rivalries among traditional chefferies (*groupements*), rising tensions between pastoralists and agriculturalists, the imposition by warlords of new administrative structures”, all of which, he said, add up to a “regression” compared to the period preceding the elections.¹⁶

Regression takes many forms, however. While fragmentation is widespread, ethnic polarization is another major characteristic of the crisis in North Kivu.

4. CONTESTED IDENTITIES

The common thread that runs through the history of the Kivu region brings into sharp focus the question of identity: are Rwandophones – i.e. speakers of Kinyarwanda – legitimate members of the Congolese nation? And since Hutu and Tutsi both speak Kinyarwanda, how does ethnicity affect one’s claim to citizenship?

Language is not the most reliable identity marker. Until the Rwanda genocide, it was central to the distinction between Banyarwanda and “native” Congolese; “Rwandophonie” again emerged as a major source of Hutu-Tutsi solidarity during the tenure of North Kivu governor Eugène Serufuli (2004-2006), himself a Hutu. In the Congo as elsewhere in the continent representations of ‘the other’ have been subject to constant redefinitions and re-ordering, but nowhere with such astonishing fluidity as in the Kivu region, where language, body maps, regional ties, migration patterns are competing for recognition as criteria for “belonging”.

Not cultural givens but historical events are the key to the question as to why one cultural trait – be it language, ethnicity or body map – happens to prevail over the other at any given time. This is not the place for a detailed excursion into the colonial and post-colonial past, except to note that history is itself a major source of contestation. Whether it is denied, reinterpreted or simply forgotten, historical evidence is an important reference point in defining the contours of conflict. Interestingly, while ethnic Tutsi are frequently ostracized by ‘native’ Congolese, this is seldom true of those Hutu,

¹⁶ Interview with S. M., Bukavu, September 17, 2008.

interahamwe as well as civilians, who came in as refugees after the Rwanda genocide. As allies of Kabila père during the second Congo war (1998-2003), their strong stand against Rwanda's incursions exonerates them of the onus of foreignness.

As I was reminded by my chance encounter with this young man from Uvira, for many Congolese intra-Tutsi differences – as between the Tutsi-Banyamulenge of South Kivu and the Tutsi of North Kivu – are irrelevant; they are all “Rwandans”, no matter how divergent their historical trajectories. Even though they are sometimes lumped together as “ethnic Tutsi”, they stand as distinctive aggregates. Unlike the majority of ethnic Tutsi in North Kivu, the Banyamulenge lived in the Itombwe plateau long before the advent of colonization. Furthermore, for geopolitical and historical reasons, the Banyamulenge have shown a propensity to fragment that has no equivalent among ethnic Tutsi of North Kivu. Nor is there any parallel among the latter for the strong distrust of Rwanda displayed by a number of Banyamulenge who, to this day, claim to have been consistently “instrumentalized” by the Kigali authorities to serve their own short-term strategic objectives.

Irrespective of their differences, both groups have been the target of systematic violence during the dying days of the Mobutu regime. As a consequence both have emerged as Rwanda's most trustworthy allies in the years following the genocide, spearheading the anti-Mobutist rebellion in 1996, and again in 1998 when many Banyamulenge joined the RDC during the Rwanda-backed anti-Kabila crusade. This last episode, coupled with Kagame's role in sponsoring the birth of the pro-Banyamulenge RDC, were key elements behind the rise of anti-Tutsi sentiment among self-styled *autochtones*. And with the attack – and temporary take-over – of Bukavu by Mutebutsi (a Munyamulenge) and Nkunda (a Tutsi native of North Kivu) in May 2004, accompanied by rape, plunder, and countless summary executions, anti-Tutsi feelings quickly morphed into rage. After the recapture of the city, a week later, hundreds, and possibly thousands of Banyamulenge residents of Bukavu and neighboring rural areas would pay with their lives the aberrant behavior of a handful of Tutsi commanders.

These are important facts to bear in mind if we are to grasp the widespread resentment of the “native” Congolese towards ethnic Tutsi in general, and more specifically towards the man who until recently posed as their self-proclaimed protector, General Laurent Nkunda. Seen by his enemies as Rwanda's proxy in North Kivu, the CNDP leader owed his popularity among Tutsi to his unambiguous stance on minority rights – including the rights of Twa! – and his demonstrated ability to attract international media attention.¹⁷ Furthermore, his capacity to effectively use force against his

¹⁷ See for example, KRISTOF, N. D., “Dinner With a Warlord”, where Nkunda is depicted as “a smart and charismatic man with a university education who treated us to several hours of lively conversation”, *New York Times*, June 30, 2007.

enemies is seen by most Tutsi as a vital security guarantee at a time when their political future has never looked so bleak.

The 2006 provincial elections effectively denied the Tutsi access to political representation. This is made clear by their exclusion from all positions of authority at the provincial level.¹⁸ There is not a single Tutsi in the provincial assembly of North Kivu, and only one in the provincial government (Pierrot Kabanda, Minister of Planning and Budget); the same is true of South Kivu, except for the presence of two Banyamulenge in the provincial government (Sebineza, Vice-Minister for Higher Education, and Ngomerakiza, Minister of Agriculture). Denied access to legitimate channels of participation, they needed little prodding to turn to Nkunda for protection. Further enhancing the attractiveness of the CNDP is the post-electoral decline of the RDC and Serufuli's *Tous Pour le Développement* (TPD), the two major vehicles through which the Banyamulenge and ethnic Tutsi pressed their claims in the years preceding the elections.

Until Kagame forced him out of the CNDP chairmanship in February 2009, and placed under house arrest in Kigali, Nkunda's immediate goal was to protect the rights of the Tutsi minority, meaning not only their right to life in the face of what he saw as an impending genocide – the spurious pretext invoked to capture Bukavu in 2004 – but their right to access the rich pastureland of Masisi and Rutshuru against the claims of other indigenous minorities. Already a fair number of Tutsi pastoralists who lived as refugees in Rwanda have returned to Masisi, along with their herds. His long term goal, however, was to carve out for himself a substantial sphere of influence in North Kivu, so as to bring back to their traditional homeland all of the 50,000 ethnic Tutsi currently living in Rwanda, the principal recruiting grounds for his combatants.

Since the publication of the UN report of the Group of Experts on the Democratic Republic of the Congo in December 2008 considerable light has been shed on the nature and scale of Rwandan assistance to the CNDP – ranging from political, logistical and military support and recruitment of soldiers (including child soldiers) to financial and business links, investments in land and cattle in CNDP-controlled areas as well as mineral-export companies acting as fronts for CNDP interests.¹⁹ The experts' wide-ranging inquest into the nexus of interests between Rwanda and the CNDP was a source of embarrassment for Kagame, and probably clinched his decision to arrest his erstwhile client in Gisenyi on January 21. Already late last year Nkunda's threat to overthrow the Kinshasa government proved to be an unnerving experience for Kagame, who now found it increasingly difficult to

¹⁸ By contrast Tutsi are well represented in the FARDC, with a total of 9 generals, and some hold senior positions in the central government and parastatals; furthermore, in Goma business interests are largely in Tutsi hands, and the wealthiest property owner, Victor Ngezayo, is a Tutsi.

¹⁹ UN SECURITY COUNCIL, *Final Report of the Group of Experts on the Democratic Republic of the Congo*, 12 December 2008, S/2008/773.

handle, let alone defend his “loose cannon.” Whatever the case may be the removal of Nkunda from the political scene of North Kivu – and his replacement by “Terminator” Bosco Ntaganda, whose record as a perpetrator of human rights violations is even worse than Nkunda’s – signals a major turning point in relations between Kigali and Kinshasa. Although much remains unclear about the deal leading to the removal of Nkunda and the arrival of some 7,000 Rwanda Defense Forces (RDF) soldiers to North Kivu, ostensibly to conduct joint operations with the FARDC to disarm the FDLR – code-named operation “*Umoja Wetu*”, or “Our Unity” – this latest twist will not be last in the ever-fluctuating factional alignments in eastern Congo.

For all the progress accomplished under *Umoja Wetu*, when one considers how much remains to be done to retrain and restructure the Congolese army, to complete the disarmament of the FDLR, to breathe a new life into the Amani initiative (assuming it can be resurrected), the lull in the fighting appears a long way away from a durable peace.

5. THE COLLAPSE OF AMANI

On September 25, 2008, Kabila’s Minister of the Interior succinctly described the essence of the Amani peace process: “disengagement, separation, regroupment, then demobilization or reintegration!”²⁰ Notwithstanding a few difficulties, he added, the results are globally positive. Even as he spoke, however, it had become painfully evident that Amani was on the ropes.

Amani – “peace” in Swahili – refers to the machinery put in place to implement the commitments made by the participants to the Goma conference (January 6-26, 2008), officially known as the Conference on Peace, Security and Development in the Provinces of North and South Kivu. Through this so-called *acte d’engagement*, they agreed to work towards (a) a cease-fire through the whole of North Kivu, (b) the disengagement of the combatants and the creation of demilitarized zones as a first step towards the disarmament and reintegration of the troops, (c) the return of the IDPs and refugees, (d) an amnesty law for acts of violence other than genocide, war crimes and crimes against humanity.

The conference began with 600 but as the word got around that each participant would receive a \$135 per diem, attendance rose to 1,500, including delegates from some 30-odd “grassroots communities” and as many armed groups.²¹ The listing of such groups in the opening sentence of the *acte d’engagement* lends a touch of the surreal to the proceedings: “We, FRF, Groupe Yakutumba, Groupe Zabuloni, Mai-Mai Kirichiko, Pareco SK, Raia Mutomboki, Mai-Mai Nyikiriba, Mai-Mai Kapopo, Mai-Mai Mahoro, Mai-Mai Shikito, Mudundu 40, Simba Mai-Mai, Mai-Mai Shabunda, ... make the

²⁰ “On désengage, on sépare, on regroupe et on démobilise ou on réintègre !”, Radio Mandeleo, Bukavu, Sept. 25, 2008.

²¹ See *Amani Leo, Actes d’Engagement, publiés par la cellule de communication de la Conférence*, Goma, February 2008, p. 5.

following commitments...". One wonders what to make of the commitments of such ephemeral groupings, many of which appear to have materialized out of thin air in order to cash in the per diems. In any event, in view of its size it is easy to see why procedural matters consumed much of the agenda, and why in the end the really important issues were handled through a small group of movers and shakers, among whom Nkunda, Vital Kamerhe, President of the National Assembly, Malu-Malu, Head of the Electoral Commission, Alan Doss, Special Representative of the UN Secretary General, Tim Shortly, representing the US, and Roland Van Der Geer, on behalf of the European Union.

Responsibility for implementing these noble objectives was entrusted to an extraordinarily complicated scaffolding of committees and sub-committees, which together formed the mainstay of the Amani program. Thus, to assist the key decision-making body (*Commission Technique Mixte Paix et Sécurité*) two sub-committees were set up in each of the two provinces (*Sous-Commission Militaire Mixte*, and the *Sous-Commission Humanitaire et Sociale*). Each gave birth to two committees (*Comité Provincial Militaire*, and *Comité Provincial Humanitaire et Social*) which in turn spawned a number of smaller bodies, known as cells (*cellules*): *Cellule de Désengagement et Cessation des Hostilités*, *Cellule de Désarmement, Démobilisation et Réinsertion (DDR)*, *Cellule Restoration de l'Autorité de l'État*, for the first of these committees, and *Cellule des Déplacés Internes*, *Cellule des Réfugiés*, *Cellule d'Appui Politique*, *Cellule Administrative et Juridique* for the second. Overseeing the work of this top-heavy bureaucracy was the *Comité de Pilotage*, consisting of representatives of all the relevant government ministries, assisted by the *Facilitation Internationale*, serving in an advisory capacity and made up of US and EU delegates. Hundreds of participants were involved, drawn in part from the provincial and central bureaucracies and the international community as well as from civil society organizations (*communautés de base*) and representatives of armed groups. Both received monthly salaries of approximately \$2,000 as well as free meals. The total cost of the enterprise, and who picked up the tab, are anybody's guess.

It is hard to imagine that anything constructive could have emerged out of this ponderous machinery. Furthermore, the fluidity of the situation on the ground only bears a distant relationship to the neat, phased scenarios envisaged in the peace process – disengagement, separation, regroupment, demobilization. Who violated the cease-fire, where and when is not always clear. The cease-fire has been violated as many times by the CNDP as it has by the FARD, and some of the major military engagements, as happened on August 28 2008, have been preceded by countless mutual provocations. Although the CNDP bears much of the responsibility for the violence that has ravaged North Kivu, the record of the Congolese army is hardly more edifying. As reported by one informant, on the few occasions where the FARDC emerged triumphant, they celebrated their victories by plundering the property of civilians.

What the peace deal failed to take into account is the disconnection between its blueprint for peace and the context of civil war. Where there are no front lines, where the fighting almost never stops, where troops and their commanders evade the control of a central authority, where plunder and rape are part of the combatants' behavioral code, and causing hundreds of thousands of civilians to run for their lives, there is something almost surreal in the gap between intention and reality.

Umoja Wetu is in effect a replica of the November 2007 Nairobi accord between the governments of Rwanda and the Congo – providing for joint military operations against the FDLR and the reintegration of Nkunda's forces into the FARDC. The situation a year later left few doubts about the military superiority of the CNDP, the ignominious routing of the FARDC, and the resultant threat posed to the region by Nkunda's metamorphosis. As 2008 drew to a close the failure of Amani made one point unequivocally clear: unless Kagame agreed to take an active role in the negotiating process there would be no peace. This is where US pressure, along with the UN Security Council report, played a determining role in persuading Kagame to redraw the parameters of conflict. All of which helps explain the decision of the US State Department, through its Deputy Secretary for African Affairs, Jendayi Fraser, to bring maximum pressure on Kagame and Kabila to come to an agreement: in return for removing Nkunda from the scene, Kabila would agree to the Rwanda Defense Forces (RDF) joining hands with the FARDC in disarming the FDLR.²²

The results have been mixed. With the repatriation of an estimated 1,500 FDLR combatants, principally from the Masisi and Rutshuru areas in North Kivu, *Umoja Wetu* came to an end on February 28, thus leaving thousands of others awaiting (or resisting) disarmament. In retrospect, the assessment offered by *The Economist*, pointing to the downside of the operation, seems almost prophetic: “the fear is that the FDLR, far from being smashed, will emerge from the jungle more vengeful and desperate than ever. Without their mineral revenues, the remaining guerillas will have to survive by attacking civilians for food and money. The Congolese army is too weak and the UN force too small to protect the villagers properly. At its worst, the FDLR could mutate into another lethal force like Uganda's Lord's Resistance Army (LRA), a fanatical rebel group that terrorizes and lives off people along the Congo's northern border”.²³ At its best, however, they could follow in the

²² MEUNIER, M., MICHEL, N., “Les mystères de Kinshasa : Le guerre secrète des Américains”, *Jeune Afrique*, n° 2510, 15-21 février 2009, p. 29.

²³ *The Economist*, March 7, 2009, “A jungle alliance that may just endure”, p. 56-57. A friend, writing from Kindu (Maniema) on April 3, 2008, volunteered this less than upbeat commentary: “The governor told me there were 3,000 troops in Kindu now, waiting to be transported to the area around Shabunda to fight the rebels there. There are now FDLR contingents in the Maniema province for the first time in many years. Appears as though the joint operation with Rwanda helped to push them more to the west, and they are now in the forest bordering North and South Kivu and Maniema”. Between late January and early April 2009 Human Rights Watch (HRW) reported that “at least 90 women and girls were raped” by Rwandan rebel forces, government

footsteps of the 1,500 returnees in hopes that they might be exonerated from their past misdeeds.

6. MONUC: WHAT OF R2P?

What about the MONUC, so often criticized for its inaction yet seldom given credit for what it does – like providing crucial assistance in the FDLR repatriation process? The issue is too complex to be dealt with adequately in this paper. Suffice it to note that its record is far from unblemished. When one considers the magnitude of the humanitarian crisis one is impelled to wonder why the MONUC failed so egregiously to live up to its mandate to protect human lives, the famous R2P.²⁴ Difficult as it is at times to distinguish between victims and aggressors, on more than a few occasions it deliberately failed to live up to its mandate.

Its performance was nowhere more shameful than in Kiwanja, where it did nothing to prevent the killing of 150 people by the CNDP on November 4-5, even though it had a 120-strong peace-keeping force only half a mile away. Along with Rutshuru, Kiwanja was considered by the MONUC as a “high priority protection zone”, and yet, as one HRW report put it, “the peace-keepers did not protect the towns from a rebel take-over or halt the destruction of displacement camps. Nor did they stop the mass killing of civilians in Kiwanja where they had an important field base”.²⁵ The conclusion drawn by the same report is that “MONUC urgently requires additional troops with rapid response capabilities to enhance protection of civilians and prevent future killings and rape”.²⁶ More troops, however, will not solve the problem of who should be protected against whom in a deeply fractured environment: to do so, according to some MONUC officials, would mean taking sides and thus compromise its neutrality; to this must be added its concern that by turning against Congolese offenders, be it the FARDC or the Mai-Mai, it would incur the wrath of the host community.

For some analysts the MONUC’s poor performance must be seen in a larger perspective, caught as it is in a dual process of “congolization” and “bureaucratization”. This is the argument set forth by Thierry Vircoulon in a hard-hitting assessment: the MONUC, he writes, has been “contaminated by the corruption and impunity inherent in its environment, while at the same time suffering from the characteristics of a heavy bureaucracy projected in a war

army soldiers and their allies; according to the same report, the FDLR “are deliberately killing and raping Congolese civilians as apparent punishment for the military operations against them”. HRW, “DR Congo: Brutal Rapes by Rebels and Army”, April 8, 2009.

²⁴ Gareth Evans, who did more than anyone else to give respectability and visibility to R2P, explains its promise and limitations: EVANS, G., *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, Brookings Institution Press, 2008).

²⁵ HUMAN RIGHTS WATCH, *Killings in Kiwanja: The UN’s Inability to Protect Civilians*, December 2008, p. 2.

²⁶ *Ibid.*, p. 28.

zone”.²⁷ As he goes on to demonstrate, many of the more distasteful traits sometimes attributed to Congolese elites, ranging from sex-scandals to trafficking in gold and diamonds and other forms of corruption, have also tarnished the image of the MONUC – not untypically, no meaningful sanctions ensued. In support of his contention consider the following accusations leveled at the Indian and Pakistani contingents: “the illegal buying of gold from the FDLR; the use of a UN helicopter to fly into the Virunga national park to exchange ammunition for ivory; trading UN rations for gold; the purchase of drugs from rebels; and a general failure to support the disarmament of the group”.²⁸

Where the MONUC’s record leaves most to be desired is in its failure not just to suppress violence but the roots of violence. As has been argued convincingly by Séverine Autesserre, considerably more attention should be given to the many complex local issues that lie in the background of rural unrest. To quote, “distinctively local agendas motivate a large part of the ongoing violence in the Congo, yet diplomats, UN officials, and journalists have focused almost exclusively on the regional and national problems.”²⁹ What has evaded the grasp of MONUC officials is “the critical fact that today local conflicts are driving the broader conflicts, not the other way around”.³⁰ Owing in no small part to this myopic view of the dynamics of conflict little has been done to effectively come to terms with the grass-roots issues behind inter-group violence. (There are, however, notable exceptions, as I was able to observe in Uvira: the head of the MONUC in this lakeside city is a dynamic young Belgian political scientist who probably knows more about local issues than anyone I met during my trip. The question is whether his meticulous reporting is reflected in the policy guidelines issued at higher levels.)

Last but not least, the MONUC has an image problem: for many observers, including Congolese, the MONUC is everywhere except where it should be – at the front lines. The MONUC’s visibility is inscribed in its shiny fleet of 4x4 vehicles, resplendently white against Goma’s black volcanic landscape, driven by neatly dressed officials with one hand on the wheel and the other on their cell phones. For the poverty-stricken residents of Goma’s slums there is something offensive about this spectacle, all the more so when seen against the backdrop of the immense sufferings visited upon civilians. In a

²⁷ VIRCOULON, Th., *Réformer le “peace-making” en République démocratique du Congo: Quand les processus de paix deviennent des systèmes d’action internationaux*, Institut français des relations internationales, programme Afrique subsaharienne, February 2009, p. 9.

²⁸ ESCOBALES, R., “UN peacekeepers ‘traded guns with rebels’”, *The Guardian Weekly*, February 2, 2008, p. 6.

²⁹ AUTESSERRE, S., “The Trouble With the Congo: How Local Disputes Fuel Regional Conflict”, *Foreign Affairs*, May/June 2008, p. 104. The argument is more fully developed in her doctoral dissertation, *Failing the Congo* (Cambridge University Press, forthcoming), in which much of the blame is put on a “dominant international peace-building culture... (consisting) of a set of ideologies, rules, rituals, assumptions, definitions, paradigms and standard operating procedures... (which) established the parameters of acceptable action”, p. 16.

³⁰ “The Trouble with the Congo”, p. 102.

tract circulating in Bukavu last September, “the students of South Kivu” stated their grievances against a variety of local actors, including the MONUC, which they accused among other things of being “complicit in the war against Nkunda.”³¹ Despite its accusatory tone, the statement captures the hostility directed against the MONUC by many segments of Congolese public opinion. To restore the MONUC’s reputation will require more than a mere disavowal of the many strictures articulated by its critics.

7. CONCLUDING THOUGHTS

The crisis in eastern Congo has implications that go beyond the case at hand. If anything it brings into sharp focus the many shortcomings of the 2006 elections in ushering peace and reconciliation. The electoral process, as some have argued, momentarily froze pre-existing conflicts, but failed to resolve them. In fact, the problem goes much deeper. Closer scrutiny of the post-electoral chessboard shows that it has generated new conflicts while at the same time substantially raising levels of corruption and bringing into full light the horrendous costs of the growing institutional vacuum.

The conflict over minority rights is nothing new in Kivu region; what is unprecedented in the depth of the *allochtones-autochtones* confrontation in the wake of an election that resulted in the political exclusion of the Banyamulenge/Tutsi minority. The phenomenon, as noted earlier, is directly traceable to the vitriolic campaign of the ruling party and its regional allies, thus giving the CNDP a popularity it never had before.

But as much as the racist overtones of the government-controlled media, corruption contributed in no small way to the twisted outcome of the legislative and gubernatorial races. This was true not only of the Kivu but of other provinces as well, notably in the Bas-Congo region where corruption reached alarming proportions. It is estimated that on the average the cost of a vote for the election of a provincial governor ranged between \$ 1,000 and \$ 10,000; which apparently did not prevent some unsuccessful candidates to publicly insist on getting their money back.³²

In protest against corruption and electoral manipulation some opposition movements did not hesitate to have recourse to violence, and where this happened (as in Matadi, Luozi and other localities in Bas Congo in late 2007 and early 2008)³³ the indiscriminate use of counter-violence by the police and the army only increased popular frustration and anger. As noted earlier, it was principally in North Kivu that the performance of Kabila’s army proved utterly counterproductive in checking the military challenge posed by

³¹ “Ne Jamais Trahir le Congo”, Collège provincial des étudiants du Sud Kivu, Bukavu, 17 septembre 2008, p. 3.

³² INTERNATIONAL CRISIS GROUP (ICG), *Congo: Consolidating the Peace*, Africa Report No. 128, 5 July 2007, p. 10.

³³ See MONUC HUMAN RIGHTS DIVISION, *Rapport spécial, Enquête spéciale sur les événements de février et mars 2008 au Bas-Congo*, May 2008, pp. 30.

armed militias, but the 'rabble' quality of the army also speaks to the fragility of democratic transitions where state institutions are weak or inexistent.

State debility is the chief impediment to peace. The very limited penetration of the state into the interior of the country means that factions and militias serve as surrogate state institutions, along with civil society organizations, churches and international humanitarian NGOs. In such conditions the peace process becomes a never-ending exercise in mediating among armed groups. Mediating is one thing; conflict resolution is an altogether different matter. Peace-keeping efforts have been largely concentrated on dealing with the surface manifestations of conflict (more often than not through maximally inclusive peace conferences); the time has come to reckon with the roots of violence. These, as has been convincingly demonstrated,³⁴ are not to be found in a top-down Amani-like process, but in the many grassroots problems centering on access to land and mineral resources, to dispensaries and schools, on the resettlement of IDPs, chieftaincy issues, ethnic and clan disputes, and so forth. A radical shift of its agenda is thus required if the international community is effectively to live up to its mandate.

Gainesville, May 2009

³⁴ See AUTESSERRE, S., *Failing the Congo*, *op. cit.*