

An Analysis of the implication of the ICC mandate on the consolidation of Democracy in the DRC

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DECLARATION

I, Mbikavu Emmanuel Mutombo, hereby declare that the work contained in this thesis is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

Signed Mbikavu Mutombo Emmanuel, 17 /May/ 2012.

ABSTRACT

In the Democratic Republic of Congo the transition from dictatorship to democracy took place at the cost of violence that resulted in more than three million civilian deaths and caused a trail of heinous crimes committed by all sides to the conflict. Beside the existence of required indicators, the healthy functioning of democracy also requires the existence of a viable, vibrant opposition to incumbents to hold them accountable for their omissions and commissions, and also to act as a watchdog to ensure that the incumbent does not relapse into dictatorial practices. In 1998 the International Criminal Court (ICC) was created to formally end the persistence of the culture of impunity for individuals accused of crimes of concern to the international community. This case study examines the impact of the ICC on democracy in the DRC from Liberal Institutionalism perspective. I find that the ICC processes as observed so far, display elements of bias against the opposition and in favor of incumbent and which impacts negatively on early and fragile political processes as it offers incumbents with the opportunity to reinvent the crackdown on opposition by using the court for political goals. The thesis closes by arguing that the ICC processes inhibit the consolidation of early political processes.

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Chronology of Key events in the DRC 1990-2011

1990 - Mobutu agrees to end the ban on multiparty politics and appoints a transitional government, but retains substantial powers.

1991 - Following riots in Kinshasa by unpaid soldiers, Mobutu agrees to a coalition government with opposition leaders, but retains control of the security apparatus and important ministries.

1993 - Rival pro- and anti-Mobutu governments created.

1994 - Mobutu agrees to the appointment of Kengo Wa Dondo, an advocate of austerity and free-market reforms, as prime minister.

1996-97 - Tutsi rebels capture much of eastern Zaire while Mobutu is abroad for medical treatment.

Aftermath of Mobutu

1997 May - Tutsi and other anti-Mobutu rebels, aided principally by Rwanda, capture the capital, Kinshasa; Zaire is renamed the Democratic Republic of Congo; Laurent-Desire Kabila installed as president.

1998 August - Rebels backed by Rwanda and Uganda rise up against Kabila and advance on Kinshasa. Zimbabwe, Namibia send troops to repel them. Angolan troops also side with Kabila. The rebels take control of much of the east of DR Congo.

1999 - Rifts emerge between Congolese Liberation Movement (MLC) rebels supported by Uganda and Rally for Congolese Democracy (RCD) rebels backed by Rwanda.

Lusaka peace accord signed

1999 July - The six African countries involved in the war sign a ceasefire accord in Lusaka. The following month the MLC and RCD rebel groups sign the accord.

2000 - UN Security Council authorizes a 5,500-strong UN force to monitor the ceasefire but fighting continues between rebels and government forces, and between Rwandan and Ugandan forces.

2001 January - President Laurent Kabila is shot dead by a bodyguard. Joseph Kabila succeeds his father.

2001 February – President Joseph Kabila meets Rwandan President Paul Kagame in Washington. Rwanda, Uganda and the rebels agree to a UN pullout plan. Uganda, Rwanda begin pulling troops back from the frontline.

2001 May - US refugee agency says the war has killed 2.5 million people, directly or indirectly, since August 1998. Later, a UN panel says the warring parties are deliberately prolonging the conflict to plunder gold, diamonds, timber and coltan, used in the making of mobile phones.

2002 January - Eruption of Mount Nyiragongo devastates much of the city of Goma.

Search for peace

2002 April - Peace talks in South Africa: Kinshasa signs a power-sharing deal with Ugandan-backed rebels, under which the MLC leader would be premier. Rwandan-backed RCD rebels reject the deal.

2002 July - Presidents of DR Congo and Rwanda sign a peace deal under which Rwanda will withdraw troops from the east and DR Congo will disarm and arrest Rwandan Hutu gunmen blamed for the killing of the Tutsi minority in Rwanda's 1994 genocide.

2002 September - Presidents of DR Congo and Uganda sign peace accord under which Ugandan troops will leave DR Congo.

2002 September/October - Uganda, Rwanda say they have withdrawn most of their forces from the east. UN-sponsored power-sharing talks begin in South Africa.

2002 December - Peace deal signed in South Africa between Kinshasa government and main rebel groups. Under the deal rebels and opposition members are to be given portfolios in an interim government.

Interim government

2003 April - President Kabila signs a transitional constitution, under which an interim government will rule pending elections.

2003 May - Last Ugandan troops leave eastern DR Congo.

2003 June - French soldiers arrive in Bunia, spearheading a UN-mandated rapid-reaction force.

President Kabila names a transitional government to lead until elections in two years time. Leaders of main former rebel groups are sworn in as vice-presidents in July.

2003 August - Interim parliament inaugurated.

2004 March - Gunmen attack military bases in Kinshasa in an apparent coup attempt.

2004 June - Reported coup attempt by rebel guards is said to have been neutralized.

2004 December - Fighting in the east between the Congolese army and renegade soldiers from a former pro-Rwanda rebel group. Rwanda denies being behind the mutiny.

2005 March - UN peacekeepers say they have killed more than 50 militia members in an offensive, days after nine Bangladeshi soldiers serving with the UN are killed in the north-east.

New constitution

2005 May - New constitution, with text agreed by former warring factions, is adopted by parliament.

2005 September - Uganda warns that its troops may re-enter DR Congo after a group of Ugandan Lord's Resistance Army rebels enter via Sudan.

2005 November - A first wave of soldiers from the former Zairean army returns after almost eight years of exile in the neighboring Republic of Congo.

2005 December - Voters back a new constitution, already approved by parliament, paving the way for elections in 2006.

International Court of Justice rules that Uganda must compensate DR Congo for rights abuses and the plundering of resources in the five years up to 2003.

2006 February - New constitution comes into force; new national flag is adopted.

2006 March - Warlord Thomas Lubanga becomes first war crimes suspect to face charges at the International Criminal Court in The Hague. He is accused of forcing children into active combat.

2006 May - Thousands are displaced in the north-east as the army and UN peacekeepers step up their drive to disarm irregular forces ahead of the elections.

Free elections

2006 July - Presidential and parliamentary polls are held - the first free elections in four decades. With no clear winner in the presidential vote, incumbent leader Joseph Kabila and opposition candidate Jean-Pierre Bemba prepare to contest a run-off poll on 29 October. Forces loyal to the two candidates clash in the capital.

2006 November - Joseph Kabila is declared winner of October's run-off presidential election. The poll has the general approval of international monitors.

2006 December - Forces of renegade General Laurent Nkunda and the UN-backed army clash in North Kivu province, prompting some 50,000 people to flee. The UN Security Council expresses concern about the fighting.

2007 March - Government troops and forces loyal to opposition leader Jean-Pierre Bemba clash in Kinshasa.

2007 April - DR Congo, Rwanda and Burundi relaunch the regional economic bloc Great lakes Countries Economic Community, known under its French acronym CEPGL.

2007 April - Jean-Pierre Bemba leaves for Portugal, ending a three-week political stalemate in Kinshasa, during which he sheltered in the South African embassy.

2007 May - The UN investigates allegations of gold and arms trafficking by UN peacekeepers in Ituri region.

2007 June - War could break out again in the east, warns the Archbishop of Bukavu, Monsignor Francois-Xavier Maroy.

2007 June - Radio Okapi broadcaster Serge Maheshe is shot dead in Bukavu, the third journalist killed in the country since 2005.

2007 August - Uganda and DRC agree to try defuse a border dispute.
Aid agencies report a big increase in refugees fleeing instability in North Kivu which is blamed on dissident general Nkunda.

2007 September - Major outbreak of the deadly Ebola virus.

2008 January - The government and rebel militia, including renegade Gen Nkunda, sign a peace pact aimed at ending years of conflict in the east.

Renewed clashes

2008 April - Army troops clash with Rwandan Hutu militias with whom they were formerly allied in eastern Congo, leaving thousands of people displaced.

2008 August - Heavy clashes erupt in the east of the country between army troops and fighters loyal to rebel leader Laurent Nkunda.

2008 October - Rebel forces capture major army base of Rumangabo; the Congolese government accuses Rwanda of backing General Nkunda, a claim Rwanda denies.

Thousands of people, including Congolese troops, flee as clashes in eastern DR Congo intensify. Chaos grips the provincial capital Goma as rebel forces advance. UN peacekeepers engage the rebels in an attempt to support Congolese troops.

2008 November - Campaign by Tutsi rebel leader Laurent Nkunda to consolidate control over east prompts new wave of refugees.

UN Security Council approves temporary increase of troops to bolster the strained UN peacekeeping effort.

2008 December - Uganda, South Sudan and DR Congo launch joint assault on Ugandan Lord's Resistance Army bases in north-east DR Congo. Hundreds of civilians are killed in backlash attacks.

2009 January - Launch of joint DR Congo-Rwandan military operation against Tutsi rebels led by Laurent Nkunda. Campaign lasts five weeks.

Nkunda is displaced by Bosco Ntaganda and arrested in Rwanda.

2009 February - Medecins San Frontiers accuses UN peacekeepers of failing to protect civilians from LRA rebels.

2009 April - Hutu militia re-emerge after end of joint DR Congo-Rwanda campaign in east, prompting thousands to flee.

2009 May - Kabila approves law-giving amnesty to armed groups as part of deal meant to end fighting in east.

2009 June - International Criminal Court orders ex-vice president Jean-Pierre Bemba to stand trial on charges of war crimes for his troops' actions in Central African Republic between 2002 and 2003.

Series of mutinies by soldiers in the east complaining they haven't been paid.

2009 July - Swiss court rules that frozen assets of ex-president Mobutu Sese Seko be returned to his family.

2009 August - US Secretary of State Hillary Clinton visits Goma, promises \$17 million aid for victims of sexual violence.

Head of MONUC Alan Doss declares five months of joint army-UN operations against Rwandan rebels - "Kimia 2" - to have been "largely positive".

2009 September - UN High Commissioner for Human Rights Navi Pillay suspects October-November 2008 violence in North Kivu may amount to war crimes committed by both the army and CNDP militia.

2009 November - Germany arrests two alleged FDLR leaders on suspicion of war crimes in eastern DR Congo.

2009 December - UN extends mandate of MONUC for shortened five months, as a step to full withdrawal by mid-2010.

2010 May - Government steps up pressure for UN peacekeepers to quit before elections in 2011. UN's top humanitarian official John Holmes warns against premature departure.

2010 June - Prominent human rights advocate Floribert Chebeya found dead a day after being summoned to meet the chief of police.

Celebrations mark 50 years of independence.

2010 July - \$8 billion debt relief deal approved by World Bank and IMF.

New electoral commission launched to prepare for 2011 elections.

2010 July-August - Mass rapes reported in North Kivu province. UN envoy Margot Wallstrom blames both rebels and army.

2010 June-August - Operation Rwenzori against Ugandan ADF-NALU rebels prompts 90,000 to flee in North Kivu province.

2010 October - UN report into killing of Hutus in DR Congo between 1993 and 2003 says they may constitute "crimes of genocide". It implicates Rwanda, Uganda, Burundi, Zimbabwe and Angola.

2010 November - UN agencies report widespread rapes during mass expulsion of illegal migrants from Angola to DRC.

UN report accuses networks within army of promoting violence in east to profit from mining, smuggling and poaching.

Ex-DRC vice-president Jean-Pierre Bemba goes on trial at International Criminal Court accused of letting his troops rape and kill in Central African Republic between 2002 and 2003.

Paris Club of creditor countries scraps half of DRC's debt.

2011 January - Constitution changed, which some say boost President Kabila's election chances.

2011 February - Court sentences Lt-Col Kibibi Mutware to 20 years in jail in a mass rape case in eastern Congo. This is the first conviction of a commanding officer for rape in eastern DRC.

2011 May - Rwandan Hutu rebel Ignace Murwanashyaka goes on trial in Germany for alleged crimes against humanity in DRC.

2011 June - Gunmen carry out mass rape of 170 women near the eastern town of Fizi, North Kivu province, according to UN.

2011 July - Col Nyiragire Kulimushi, who is accused of ordering the mass rape of women in eastern DR Congo, surrenders to authorities.

2011 July - Voter registration for November elections marred by demonstrations by opposition supporters alleging irregularities.

2011 September - Mai Mai militia leader Gideon Kyungu Mutanga escapes during a mass prison break-out by almost 1,000 inmates.

2011 November - Presidential and parliamentary elections. Mr Kabila gains another term. The vote is criticized abroad and the opposition disputes the result.

Map of the Democratic Republic of Congo

Acronyms and abbreviations

AFDL	Alliance de Forces Démocratiques pour la Libération du Congo
AMP	Alliance de la Majorité Présidentielle
BBC	British Broadcasting Corporation
DRC	Democratic Republic of Congo
CNDP	Congrès National pour la Défense du Peuple
IEC	Independent Electoral Commission
INEC	Independent National Electoral Commission
EUI	Economic Unit's Index
FARDC	Forces Armées de la République Démocratique du Congo
FDLR	Forces Démocratique de Libération du Rwanda
FNI	Front des Nationalistes et Intégrationnistes
ICC	International Criminal Court
ICD	Inter-Congolese Dialogue
LRA	Lord's Resistance Army
MLC	Mouvement pour la Libération du Congo
MPR	Mouvement Populaire de la Révolution
MONUC	United Nations Organization Mission in the DRC
PPRD	Parti pour la Reconstruction et le Développement du Congo
RCD-G	RCD-Goma
RCD-ML	Rassemblement Congolais pour la Démocratie Kisangani-Mouvement de Libération
RCD-N	RCD-National
RFI	Radio France Internationale
UDPS	Union pour la Démocratie et le Progrès Social
UN	United Nations