

# MONUC AND THE CHALLENGES OF PEACE IMPLEMENTATION IN THE DRC

## A PARTICIPANT'S PERSPECTIVE

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### Introduction

In brief, the progress made so far within the DRC transition process and the renewed determination shown by international actors give grounds for cautious optimism. However, building peace in the DRC will entail facing two major challenges:

- a) starting to rebuild state institutions on a sound basis within the political and time constraints posed by the transition, and
- b) ensuring that the transition process in Kinshasa effectively translates into the restoration of peace at the local level, namely in Ituri district and the provinces of South and North Kivu.

### The Peace Process in Kinshasa

As emphasised by the UN's Secretary-General's Special-Representative to the DRC, Ambassador William Swing, the peace process in the DRC has now arrived at the 'Kinshasa Phase' after having passed through the Lusaka and Pretoria phases between 1998 and 2003. The establishment of a transitional government on 1 July 2003 has opened the peace implementation phase, although the military situation in eastern Congo does not, as yet, allow us to speak of a post-conflict situation. Nevertheless, signs of gradual normalisation and reunification are already visible, and there are credible reasons to trust and support the transition process.

### Sources of Optimism

First, *war fatigue* leads the overwhelming majority of Congolese to profoundly yearn for an end to the horridly deadly conflict. Second, the sense of *Congolese identity* as inherited by Patrice Lumumba prevented secessionist tendencies to

emerge during the conflict and may prove a powerful force for state-building. The third parameter is made by the *elite's interests*: while Congolese leaders and members of the transitional institutions might not be trusted for their sense of public interest, they seem to have found a number of (material) advantages in the transition process. According to some witnesses, former foes might have even begun to realise that they can work together within governmental structures, and the leadership of President Joseph Kabila seems to be accepted by the four vice-presidents. Finally, the signing of the Final Act on 2 April 2003 and the installation of the transitional government on 1 July gave the international community the confidence to seriously commit itself to the peace process. *This unprecedented international commitment* is illustrated by several factors: the new mandate and means granted by the Security Council to MONUC under resolution 1493; the decision of the prosecutor of the international criminal court to focus on the situation in Ituri as a top priority matter; the willingness of the international financial institutions to virtually clean DRC's foreign debt. Yet, this commitment is nothing but the minimum requirement to face the challenges lying ahead.

## Managing the Transition

The objectives of the transition are to initiate the process of institution-building and to lead to the formation of a democratically-elected government. Given the current composition of the transitional institutions, the question is raised, however, as to the phasing of these objectives. Which one, if any, should be prioritised on the other or, put differently, when should the elections better be held? There are two main views in competition:

- *Do not call for elections before key conditions are met.* Proponents of this view warn against the risk that elections might serve, once again, as an exit strategy for the international community and may be held before proper conditions are met, i.e. before the citizenship issue is addressed in a fair and transparent manner; the disarmament process of all armed groups is completed; alleged war criminals and predators are prosecuted and sidelined; and finally, the Congolese state has re-established its authority throughout the territory. If these conditions are not met, the risk exists that the electoral process may eventually benefit former war leaders/profiteers and/or that some factions dissatisfied with the election results re-start hostilities. It may be recalled here that the control of the central government was a key objective of all the belligerents.
- *Do not expect rebuilding the Congo with the current leaders.* On the other hand, other analysts stress that the current members of interim institutions have neither legitimacy nor popular support but were appointed during peace

negotiations and are only driven by personal interests. Many of them, it is argued, took part in the inter-Congolese dialogue only to recover the power positions they enjoyed under Mobutu's reign. Other appointees should be disqualified for government positions due to their human rights record. Tellingly enough, those politicians incorporated in the interim institutions now advocate that the transition period be extended. However, they are unlikely to prove reliable partners to build strong, legitimate and democratic institutions. Therefore, while the power sharing agreement was the price of peace, current appointees should not be given the time and opportunity to benefit from the transition, e.g. by using donor assistance to secure their positions, prepare for elections and re-create patronage networks. Otherwise, Mobutu's patrimonial system will surface again and the transition will fail. Hence, according to this view elections should be held soon in order to renew the elite.

As a conclusion, the international community is faced with the daunting task of rebuilding democratic institutions with current leaders unlikely to help the process but likely to benefit from it. Similarly, the population should now benefit from the dividends of peace while avoiding the transition leaders to be unduly credited for that. Finding the appropriate balance will require that international actors invest heavily in institution-building while monitoring closely the ways and means donor assistance is used, and choosing carefully their counterparts while neutralising potential spoilers and profiteers.

## Peace vs. Justice

In line with the principled position that 'there is no peace without justice', it is widely considered that perpetrators of gross human rights abuses should be prosecuted in order to put an end to impunity, break the vicious cycle of attacks and reprisals, and foster meaningful reconciliation. However, the quest for justice raises two major difficulties.

First there is a *capacity problem*. At present, the national judicial system is characterised by its lack of independence and very limited technical capacity. To put it bluntly, no staff member related to the administration of justice (police, judiciary, detention facilities, etc.) is remunerated. As a result, some form of transitional justice mechanisms will have to be devised. Options are as follows:

- a) In accordance with the transition constitution, a Truth & Reconciliation Commission is being established. However, the (subjective) selection of its members, its wide mandate (back to 1960) and the timing of its creation (while some fighting continues on the ground) already provide grounds for criticism;

- b) The prosecutor of the International Criminal Court has indicated its office will focus on the situation in Ituri as a matter of priority and has started the process of launching an investigation. However, no trial is expected in the short term. In addition, the ICC does not enjoy Chapter VII authority and is not competent for crimes committed before 1 July 2002.
- c) In order to complement both the Congolese judicial system and the international court, a special jurisdiction (mixed court) could be created, which would investigate crimes committed between 1996 (or 1998) and 2002. In spite of the current 'tribunal fatigue', the establishment of such a special court, which was recommended earlier by the UN special rapporteur for Human Rights in the DRC, would be amply justified by the scale of atrocities committed during the Congo war.

Second, there is a *political problem*. How to fight immunity in a country where a number of alleged war criminals have been assigned power positions? How to dispense justice without jeopardising peace? Although the perpetrators of human rights abuses do not qualify for government positions, how, when and on the basis of what should these individuals be excluded from the political contest? It was suggested that an international commission of enquiry on war crimes in the DRC be set up, whose conclusions would be used to disqualify for elections suspected perpetrators of abuses. However, such a commission would likely face political and time constraints, and should not constitute a breach to the principle 'innocent until proven guilty'. Therefore, while the power sharing agreement was an inducement necessary to have the warlords stop the fighting, the transition process may not easily lead to their political marginalisation. On the contrary, such a marginalisation may trigger the resumption of hostilities in the event that alleged criminals return to the bush or try to remobilize their supporters in order to escape justice. At the same time, however, none of the Congolese warlords enjoys any solid public support, which may eventually facilitate their political marginalisation.

When searching for answers to the difficult questions raised by the tension between peace and justice, the following considerations should be kept in mind:

- a) International actors should pay the greatest attention to the political and military appointments currently being made as state institutions may eventually be infected with war criminals. International actors should identify and support moderate elements and sideline hardliners;
- b) Electoral rules should be carefully drafted and disclosed in a timely manner in order on the one hand, to prohibit alleged war criminals from contesting elections and on the other, to avoid that such a prohibition backfires;
- c) Before being brought to justice, alleged war criminals should be politically and militarily neutralised and not given power positions;

- d) Individuals should only be brought to justice as a result of a rigorous investigation and indictment process.

## The New MONUC

As a consequence of the summer 2003 crisis in the eastern Congo, particularly in Ituri, the UN Mission in the Democratic Republic of Congo (MONUC) was finally granted by the United Nations Security Council the mandate and means commensurate with the requirements of the situation on the ground. Resolution 1493 adopted unanimously on 28 July 2003 (despite US initial reluctance) authorised MONUC to use 'all necessary means' to fulfill its mandate and raised its military strength to 10,800 personnel. At the same, its mission was significantly expanded. The 'new MONUC', as it is called, is expected to play a key role in the transition process, not the least because it is mandated by the Security Council to coordinate all the activities of the UN system in the DRC and to facilitate the work of other national and international actors.

### *Implications of the Chapter VII mandate*

To a certain extent, it is thanks to the French Government that MONUC was eventually granted a Chapter VII mandate. Well aware that the sending of an emergency force in Ituri was not agreed upon by all the belligerent parties, the French Government had indeed demanded from the Security Council that the IEMF it volunteered to lead be equipped with a Chapter VII mandate. Later on, while the consent of all Ituri's factions was still lacking, the Security Council gave the same powers to MONUC in order not to create an imbalance with the IEMF from which the UN Mission had to take over. Since such a mandate could not be geographically limited to the Ituri district only, MONUC as a whole was finally made a Chapter VII operation. What will this mandate change in practice? In fact, the previous rules of engagement did not need a major change in the sense that MONUC will not interpose between the parties, nor enforce peace (although it has already resorted to force on occasions). But the new mandate has introduced a tangible change in mindset and led the UN Mission members to re-interpret their role and rules of engagement in a more proactive manner. MONUC troops are now determined to transform their mission from a static deployment to a responsive, mobile and influencing operation. In short, they no longer feel fearful of the 'mission creep' syndrome but seem committed to live up to the expectations raised by the 'new MONUC' and to make in effect a difference on the ground.

### *Deployment*

MONUC's involvement in eastern Congo escalated drastically with the introduction of Task Force 1 (based in Kindu) and the Indian Aviation Unit into the theatre of operations. In 'sector 5', a key area of responsibility made of the Kivus and Maniema, MONUC is now fully deployed. It should be stressed, however, that while it was increased by the Security Council, the authorised troop strength remains fairly limited in comparison with the size of the Congo, particularly in view of the fact that out of 10,800 troops, only about 5,000 can be assigned with military infantry tasks. Ideally, two additional battalions would be needed to enable MONUC to fulfill its mandate in suitable conditions. If not, some observers suggest that MONUC should withdraw from the north-west of the country, and concentrate the bulk of its troops in eastern Congo.

### *Mission*

MONUC's mission was revised in January-April 2003 to support the political process of the transition, i.e. to support the Kinshasa-based transitional government and to contribute to stabilising the eastern region (see below part II and III). With regard to the Kinshasa process, MONUC was instrumental in setting up a multi-layered security model in the capital composed of: a) a Neutral Force of UN contingents that provides a deterrent presence in the capital; b) a Close Protection Corps of bodyguards for the transition leaders; and, c) an Integrated Police Unit which constitutes the embryonic form of the future Congolese police (and for which donor support is urgently needed). These various elements are coordinated by a Joint Security Operation Center (JSOC). While addressing the security requirements, MONUC has furthermore undertook to accompany the democracy-building process by joining its efforts through its electoral assistance unit to the preparations of the elections and by contributing to re-establishing the Rule of Law. In the latter regard, MONUC will support the establishment of a national human rights observatory; coordinate, via the Rule of Law task force, the reform of the security sector; and provide police training and develop criminal justice capacity in eastern Congo.

## **The Peace Process in the Kivus**

While the fighting on the ground has lessened since the entry into force of the Bujumbura ceasefire agreement, the situation in the North and South Kivu remains volatile. Paradoxically, the Kinshasa process may not bring immediate stability in the east but lead to further fragmentation, thereby fuelling local

conflict dynamics. The key question is how the Kinshasa process will impact at the local level on two of the main actors in the provinces, namely the RCD-Goma and the Mayi Mayi.

## **Conflict Dynamics in the Kivu Provinces**

### *RCD-Goma*

As a heterogeneous 'rassemblement', RCD-Goma has always experienced internal splits. With the establishment of the transitional government, further divisions are likely to emerge between the leaders who have moved to Kinshasa and those who have stayed behind in the Kivus. Within the latter, two groups have already been identified: the majority of RCD-G members supports the transition but feels at the same time neglected and insecure; a minority, based in Goma, would have preferred a different solution than the power sharing agreement and may be trying to gain support for an armed opposition to the transition government. Thus, a third rebellion might ultimately erupt again in eastern Congo, although such a scenario would require an external sponsorship that Rwanda may not afford to provide without facing international opprobrium.

### *The Mayi Mayi*

The Mayi Mayi are in fact more united than it is usually suggested. Most of their semi-independent commanders refer to one of three generals: Padiri, Dunia and Masunzu. However, here again it is sometimes felt that the peace dividends are not equally shared. While General Padiri was appointed 'Commandant de Région Militaire' within the unified command structure, certain Mayi Mayi leaders complain that they were not granted any position in the Congolese army in spite of the loyalty they have shown over the years to President Kabila. For the sake of stability in the Kivus, it is essential that all Mayi Mayi leaders be either incorporated in the army, or demobilised or granted a political position.

Considering the mixed if not hostile feelings inspired by the transition government among RCD-Goma ranks, as well as the need to foster reconciliation between RCD-Goma and the Mayi-Mayi, it is recommended that mixed missions be formed of former RCD-Goma militants, Mayi Mayi combatants and 'Kabilist' politicians. These missions would promote the transition process on the ground, listen to the claims, and take concrete steps towards the unification of the army and the administration. In that regard, the former Kabila com-

ponent should not obstruct reconciliation attempts between RCD-Goma and the Mayi Mayi as it has lately done.

## The New Roles of MONUC

Promoting peace and security in the east entails many different tasks for MONUC such as enforcing the arms embargo, mediating local conflicts, ensuring effective DDRRR/DDR, and promoting the normalisation of regional relations:

- *Enforcing the arms embargo* instituted by the UN Security Council under resolution 1493(2003) is probably the most difficult task assigned to MONUC in sector 5, given its resources and the vastness and inaccessibility of the area. However, in line with its new approach, MONUC tries to fulfill this task in a systematic and proactive manner, covering as many entry points as possible, combining ground and air patrols, and occasionally resorting to the deterring effect of attack helicopters.
- MONUC also engages in *local conflict resolution efforts* at two levels: first, at the tactical level, MONUC monitors and verifies the Bujumbura ceasefire agreement; second, at the political level, MONUC takes initiatives to ease tensions between the Mayi-Mayi and RCD-K-ML (Lubero area), the Mayi Mayi and RCD-Goma (Bukavu area), and RCD-Goma and Interahamwe (Goma area). While it is too early to assess the impact of these initiatives, it seems undeniable that the transition process in Kinshasa must be complemented by mediation efforts between belligerent factions at the local level.
- MONUC takes advantage of its full deployment in sector 5 to establish a presence in areas never visited before. Such *high visibility* operations are aiming to create confidence among the population and to develop conditions conducive to large scale DDRRR.

## Disarming the Foreign Combatants (DDRRR)

The disarmament and repatriation of non-Congolese combatants remain key objectives of MONUC. However, DDRRR still is a chicken-and-egg problem: no DDRRR process is possible without stability, but no stability is within reach without DDRRR. In addition, DDRRR is a domain in which MONUC has not fundamentally changed its approach in spite of the poor results (but sustained criticisms) it has brought. In brief, MONUC sticks to voluntary DDRRR while expecting the politico-military context to prove eventually more conducive.

MONUC estimates there are 15,000-20,000 foreign combatants in eastern Congo with up to 30,000 dependents. Although there may also be significant numbers of Ugandan ADF fighters and 3,000-4,000 Burundese FDD, the great

majority of foreign combatants are Rwandans fighting under the banner of the *Force démocratiques de libération du Rwanda (FDLR)*.

### *MONUC's approach*

Since the beginning, the DDRRR process was designed on the key, but wrong, assumption that foreign armed groups would agree to disarm and demobilise. While this assumption has hardly been confirmed, MONUC sticks to the voluntary-based process for three main reasons. First, the only alternative option, forcible disarmament, was discarded for being too risky, too costly and anyhow no less unrealistic given the absence of troop contributors for such a mission. Second, MONUC has concluded from the experience it had with Rwandan combatants cantoned in Kamina camp that the FDLR's ranks actually wish to return to Rwanda but are prevented to do so by hard-line leaders. Third, MONUC considers that the new context created by the establishment of the transition government, the deployment of Task Force 1, the relative calm and stability in the Kivus (while previous DDRRR plans were disrupted by RCD-G's spring offensive) and the large electoral victory of President Kagame will eventually be more conducive to DDRRRR operations. Indeed, generally considered the best fighters, the Rwandan combatants tend to be sought after by belligerent parties and will remain embroiled in one side or another as long as fighting persists in the DRC. But they will be less attractive when conflict eases and more likely to be interested in joining DDRRR programmes when the return to normalcy is accompanied by an increase in economic and social standards. MONUC therefore believes that with peace, armed groups who survive will only be as isolated bandit groups with no political significance.

### *MONUC's limitations*

The optimistic scenario described above is challenged by other observers, who warn that the longer FDLR stay in the forest, the less they are likely to leave. They also stress that Kagame's overwhelming victory does not exactly constitute a pull factor for his long-standing foes from abroad, but rather a push factor for FPR's opponents from within. As a result, the problem of Rwandan rebels in the DRC will not be solved by itself and MONUC should pursue a more proactive policy. For instance, it is argued that the UN mission should increase its contacts with FDLR leaders and seek, if needed, the collaboration of local organisations that do have access to them. However, because some of the FDLR fighters, if only a minority of them, were amongst the perpetrators of the Rwandan genocide, MONUC refuses to consider the FDLR either has a party or a partner in the DDRRR process and to engage in discussions on any

political pretensions this group might have in Rwanda. In addition, the UN Mission could not act as a conduit between FDLR and the Government of Rwanda without facing serious difficulties with the latter. Hence, when in contact with FDLR members, MONUC can only encourage desertions and discuss technical modalities of DDRRR.

The problem of Rwandan Hutu rebels in the DRC might nonetheless be easier to solve if the FDLR and the Rwandan government could come to a political accommodation. While MONUC cannot play any mediation role in that regard, other actors acting on a bilateral basis may be in a better position to approach Kigali. In that respect, South Africa might have a key role to play in DDRRR by exerting pressure on President Kabila to cease supporting the FDLR, and perhaps also by mediating between the FDLR and Rwanda. This role is worth stressing in view of the disagreement that exists between the Congolese Government and the UN Secretariat on the one hand and the Government of South Africa on the other, on the relevance of the TPVM now and in the future.

In a last resort, the DRC government itself might try to solve this problem. Indeed, while MONUC's approach is purely and resolutely voluntary, the DRC transitional or future elected government is not bound by that requirement but has the right, as a sovereign state, to deal forcefully with foreign armed fighters illegally operating on its territory. The Congolese government may be induced to do so if it disposes of a unified army, controls its borders and desires to have good relations with its neighbours.

## **Disarming the Congolese Combatants (DDR)**

The disarmament of Congolese combatants has been put on MONUC's agenda only since UN Security Council resolution 1483 was approved. As a consequence, this process is at a very incipient stage and stumbles over several obstacles: a) there are no government structures in eastern Congo to which the Congolese combatants might be handed over; b) the socio-economic situation in the Kivus and Maniema is not conducive to reintegration of former combatants and no formal DDR programme exists as yet; c) despite agreement at top level on unified command structure, forces on the ground still need to be integrated into a single army; d) MONUC has not yet deployed into Mayi Mayi territory. Yet, since the beginning of August, over 40 Mayi Mayi combatants were disarmed.

## The Peace Process in Ituri

In April 2003, a few days before the crisis in Ituri escalated dramatically, there were only eight UN observers present in the district. Although a contingent of Uruguayan troops bravely resisted the chaos of the first days of May 2003, the fact is MONUC was unable to respond adequately to the vacuum created by the withdrawal of Ugandan troops. Two sets of explanations can be put forward. First, it seems the UN Secretariat was actually caught off guard: the UN mission was focusing on DDRRR and the deployment of Task Force 2 in Kisangani and did not expect it would have to respond to the Hema/Lendu conflict. Secondly, no proper coordination between the UN and Ugandan authorities proved possible: while the former tried to convince Kampala to withdraw UPDF troops only gradually, the latter demanded in return that the need for Ugandan military presence in Ituri be politically and formally acknowledged. The UN refusal led to the precipitous UPDF's withdrawal.

Finally, France accepted to lead the Interim Emergency Multinational Force approved on 30 May by the Security Council (resolution 1484) and to contribute with most of the troops. It seems that, among other considerations, the French Government was convinced by Jean-Marie Guehenno, Under-Secretary General for peacekeeping operations, that an embryonic form of political process could be supported through the Ituri Interim Administration (IIA).

### *Assessment of IEMF*

The IEMF is generally credited for a number of key *achievements*. The Force a) provided a much needed stopgap to the UN, which allowed MONUC to prepare and establish a robust brigade in Ituri; b) re-established security in Bunia by responding effectively to UPC's provocations and by weakening its military capabilities; c) allowed the various boards composing the IIA to resume work and enabled a cycle of meetings to be held between all armed groups in Bunia in June and July.

However, the IEMF mission also had its *shortcomings*: a) due to the time and space limits imposed by its mandate, the IEMF was not able to extend its stabilising action beyond Bunia where fighting and killings of civilians have continued unabated; b) the IEMF has greatly weakened the UPC, but without being able to neutralize its Lendu enemies; as a result, enfeebled Hema communities north of Bunia have been brutally attacked by Lendu militias; c) given the time limitation, the demilitarisation of Bunia aimed to create a 'weapons-invisible' zone rather than a 'weapons-free' zone and was carried out only partially. MONUC's Uruguayan and Bangladeshi contingents are now finishing up the job by carrying out systematic house searches.

## **MONUC's Ituri Brigade**

The international community is now striving to mend for having neglected the terrible situation in Ituri during the last five years. MONUC Ituri Brigade has been entrusted with the same Chapter VII mandate as Operation Artemis. Furthermore, composed of almost 4,800 troops and endowed with heavy armament and combat helicopters, the Ituri Brigade is a much more powerful force than the IEMF itself. MONUC seems finally determined to create the conditions for the restoration of a lasting peace in the 'bloodiest corner of the DRC' and has designed to that end a multi-layered intervention strategy.

### *Political strategy*

MONUC has realised that it has to use both carrot and stick to achieve compliance, and especially to neutralise the extremists. The UN will continue supporting and advising the IIA, but also to facilitate dialogue initiatives between Hema and Lendu communities and, last but not least, monitor closely the role and influence of neighbouring countries.

### **Military strategy**

MONUC troops enjoy a considerably extended range of action and seem determined to prevent and repress any breach to the cessation of hostilities. The Ituri Brigade will also carry out the implementation of the arms embargo but should be provided the satellite surveillance and air monitoring means needed in that respect. Arms flows through land supply lines will have to be monitored and investigated too. MONUC will be actively involved in DDR but urgently needs the support of development and humanitarian agencies to provide incentives and facilitate the return to civilian life. DDR should be carried out as soon as possible in order to reduce the possibilities for neighbouring countries to interfere again.

### *Development aid*

Development aid projects should be quickly designed and implemented since it is when business and production resume that the most productive layers of the population separate from the extremists. Priority should also be given to projects that may potentially foster reconciliation.

## *Human Rights*

MONUC's human rights activities were given a new impetus by the decision of the ICC Chief Prosecutor to consider Ituri one of his top priorities. While local armed groups' leaders are said to genuinely fear the Court's jurisdiction, international and national actors will soon have to address the dilemma of either co-opting warlords into the political peace process or scaring them back to the bush with the threat of international prosecution.

## *Law and Order*

The Ituri civil war is progressively transforming into a situation of banditry and widespread insecurity. Yet, MONUC Ituri Brigade has no specific mandate to carry out policing activities. With the help of donor assistance, the three components of the law and order system – the police, the judiciary, and detention facilities – will have soon to be rebuilt.

Finally, the conflict in Ituri cannot be solved without addressing the key issue of land rights and land property that counts among its main causes as a result of the coexistence of both customary and market-based mechanisms of land acquisition. In other words, although they were manipulated by greedy leaders and neighbours, genuine grievances do exist in Ituri.

## **Conclusion**

Two prerequisites are needed for resolving the conflict in the DRC:

- a) The sovereignty of the transitional government should be established over the entire territory, which entails introducing the rule of law and setting up enforcement capacities. That objective is within reach provided the various leaders/components of the transition are committed to this goal.
- b) Bilateral relations between the DRC and its neighbours should be normalised. In eastern Congo in particular, the DRC transitional government needs the co-operation or at the least the abstention of neighbouring states, in order to establish its authority over the full territory of the country. However, for many observers, neighbours can be expected to continue meddling and jockeying.

In both cases, the international community should play a leading (and not only accompanying) role in the transition in order to compel Congolese leaders towards the first objective and prevent neighbors from interfering in the process. Only such a sustained and solid commitment from international actors may ensure the success of the transition.

## Notes

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