



# Ending Congo's NIGHTMARE

What the U.S. Can Do to  
Promote Peace in Central Africa

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**Cover Photo:** “Sunset over the Congo River, Kisangani” (courtesy of Peter Rosenblum).

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# Preface

The following report on the prospects for peace in the Democratic Republic of Congo (DRC) was prepared by a delegation of human rights and peacekeeping experts from American non-governmental organizations that visited the DRC from July 25 to August 4, 2003. This visit was conducted with assistance from the International Human Rights Law Group and on-the-ground support from the United Nations Organization Mission in the DRC (MONUC).

The delegation was led by former U.S. Assistant Secretary of State for Democracy, Human Rights and Labor John Shattuck, who is currently CEO of the John F. Kennedy Library Foundation in Boston and author of *Freedom on Fire: Human Rights Wars and America's Response* (2003). The delegation also included Paul Simo, Africa Program Director at the International Human Rights Law Group where, since 1999, he has coordinated projects in the Great Lakes region of Africa that support indigenous civil society groups in monitoring, challenging, and advocating against human rights abuses; and William Durch, Senior Associate at The Henry L. Stimson Center, formerly Project Director for the Panel on U.N. Peace Operations (the “Brahimi Report”), and editor/coauthor of *U.N. Peacekeeping, American Policy, and the Uncivil Wars of the 1990s* (1996).

The delegation set out with three core objectives: *First*, to assess the capability of MONUC to take on a new, more robust role to support the DRC's transition to peace, in particular its prospects for reducing violence and human rights abuses in the eastern part of the country. *Second*, to assess the human rights situation and both the direct and indirect role of outside powers — especially Rwanda and Uganda — in inciting human rights abuses. *Third*, to make recommendations for strengthening the role of the international community, and particularly the United States, in promoting durable peace and security in the Congo.

During its 10-day mission, the delegation visited the capital city, Kinshasa, as well as Bukavu (South Kivu province), Bunia (Ituri district), and Kisangani (Orientale province). It held more than 40 meetings with officials of the new transition government, with the staff and leadership of the U.N. mission in Congo, with a cross-section of international NGOs, and with Congolese civil society groups. (A list of persons met and interviewed is annexed to this report).

# Acknowledgements

The delegation is indebted to the International Human Rights Law Group, which supported planning and organization of the mission, to its DRC Country Director, Emma Atchrimi, and its Office Coordinator for the East, Arsène Kirhero, who provided valuable insights and logistical assistance. The delegation is also grateful for the support and encouragement received from the International Rescue Committee, and for the availability of its DRC Country Director, Werner Vansant.

We wish to express special thanks to the U.N. Secretary General's Special Representative for the DRC, William Lacy Swing, and to other United Nations officials throughout the country, for generously making themselves available for extensive consultation. Representatives of Congolese civil society and local government officials in all four cities were also generous with their time and their insights into Congolese society and politics.

Finally, we express our deep appreciation for the financial support provided by, at short notice, the JOHN MERCK FUND and THE FORD FOUNDATION, without which this mission would have been possible.

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# Executive Summary

A devastating war has raged in Central Africa for almost a decade. The roots of this conflict can be traced back to the 1994 genocide in Rwanda that spilled over into the Congo. Over the years, the conflict has been internationalized, drawing in many countries in the region and precipitating one of the world's worst humanitarian crises. The war has claimed more than four million lives to date, including 800,000 in the Rwanda genocide and more than three million more in the Congo, according to estimates of the International Rescue Committee.<sup>1</sup> A seemingly endless wave of attacks has been directed by governments, insurgent groups, ethnic extremists, and local warlords against each other and against the Congolese civilian population, who have been subjected to every conceivable crime against humanity, including mass killings, mass rapes, ethnic slaughter, forced starvation, village destruction, and the recruitment of armies of child soldiers.

In recent months, hopes have been raised that an internationally sponsored peace process may now have a chance of reducing and ultimately ending the Congo's 10 years of violent conflict. Positive developments have included the willingness of some of the warring factions to put down their arms and come together in a transition government, newly aggressive peacekeeping in the summer of 2003 by a European Union-led multinational force in northeastern Congo, and the deployment of an expanded United Nations peacekeeping operation.

To assess the prospects of ending the violence, a delegation of NGO experts in human rights and peacekeeping visited the DRC in late July and early August 2003. Following is a summary of the delegation's key findings and recommendations for strengthening U.S. and international support for the Congolese peace process.

## Delegation Findings

- The United States now has the opportunity to support human rights, democracy and open markets in central Africa's largest country as a power-sharing political transition tries to take hold. So far, however, the level and quality of U.S. engagement do not reflect these interests or the broader strategic interests of the United States in regional stability.
- There are no geostrategic arguments against increased U.S. engagement in the final resolution of this conflict. There are, however, compelling security reasons for the United States to want to shut down terrorist and criminal networks access to the DRC, as well as moral reasons for helping the Congolese people free themselves from the human rights and humanitarian catastrophe that plagues them.

- The U.N. mission in Congo (MONUC), is undergoing a significant transformation in its military capability, mandate, and geographic focus. These changes aim to consolidate the establishment of a transition government and curb violence that persists in eastern Congo, specifically in Ituri district<sup>2</sup> and the Kivu provinces.<sup>3</sup>
- After four years of arduous negotiations, complicated by the persistence of armed conflict, the Congolese factions at war have established a transition government that constitutes a critical building block toward resolving the conflict in both its national and regional dimensions.
- Congo's transition process is complicated by: widespread impunity for atrocities perpetrated during the war; the continuing violence — and prospect of violence — in Ituri and the Kivu provinces; the flow of arms and military support that sustains militias; and the continuing presence of Congolese and foreign armed groups, primarily in the east.
- The progress achieved thus far in the peace process is the result of substantial international pressure on both Congolese and regional actors. The DRC's transition government is the product of internationally-mediated power-sharing (over political and military institutions) between warring factions. Despite foreign troop withdrawals, the client systems, loyalties, and alliances developed with Congolese rebel factions by Uganda and Rwanda complicate the prospects for peace. Consistent external support of the peace process from major international and regional states will be critical to its success. At present, the International Committee to Support the Transition (CIAT)<sup>4</sup> is working to fulfill this role in the DRC.

## **Principal Recommendations**

- To assist the Congolese government in ending widespread impunity for atrocities, the U.N. Secretary General should establish a Commission of Experts (with Congolese participation) to recommend possible structures to investigate and prosecute war crimes and crimes against humanity in Congo over a specified period of time. The Commission's recommendations, combined with active documentation and preservation of information on war crimes and crimes against humanity, should put all perpetrators on notice that they will be held to account for atrocities.

- To reduce the flow of arms, curb violence, and curtail the role of DRC's neighbors in stoking the fires of conflict, the U.S. should work with other governments:
  1. To improve bilateral relations between the DRC transition government and each of its immediate neighbors;
  2. To monitor and curtail (especially in Ituri and the Kivus) the relationships between the neighboring states and rebel movements or militias in Congo; and
  3. To enforce the U.N. embargo on the flow of arms into the DRC. The U.S. should reinstate its own bilateral arms embargo on Rwanda, one of the sources of arms flows into DRC, and it should condition its bilateral assistance to Rwanda and Uganda on their ceasing to support armed militias in the DRC.
  
- To demobilize and demilitarize Congolese and foreign fighters in DRC, the U.N. mission and the transition government should focus on the political, economic, and social re-integration of the leadership and the rank-and-file of armed groups, without which substantial demobilization is unlikely. Incentives to demobilize should be combined with strict sanctions for on-going recruitment of child soldiers. These may include investigations and prosecution by the International Criminal Court.
  
- To promote accountable governance, the U.S. and other key donors should reinforce technical assistance that builds basic state capacity, and promote reform in the natural resource and mineral sectors. International donors should also support the engagement of Congolese civil society in policy and decision-making processes. They should use the development assistance they provide to leverage greater political space and freedoms that would allow the Congolese people to create *demand-side* pressure for accountable governance.
  
- To provide international pressure for a successful transition, the U.S. and other bilateral donors, as well as the U.N. and multilateral aid agencies, should reinforce the International Committee to Support the Transition with a strategic framework of conditionality for the DRC government and neighboring states. The international community must compel leaders of the transition government to place *political will* behind the transition agenda, and hold Rwanda and Uganda to their commitments to support peace in Congo. A regime of individually-targeted sanctions should be developed and implemented by donor countries against Congolese political leaders and others who violate peace accords or continue participating in the plunder of Congo's resources.

# Introduction

The Democratic Republic of Congo (DRC) is the largest country in Central Africa, stretching from the Atlantic coast to the highlands of the Great Lakes, with more than 50 million inhabitants and nearly a million square miles of territory. It has some of Africa's most valuable deposits of gold, oil, copper, cobalt, uranium, diamonds, and coltan, which, when refined, yields a basic element necessary for the manufacture of many electronic devices. Central Africa's mightiest river system flows through the DRC and has the potential to supply hydropower to the entire continent.

Because of its size, resources and strategic location, a stable DRC is essential to a stable Central Africa. But a DRC in decay, vulnerable to plunder and engulfed by war — as it has been for nearly a decade — is a threat to the entire continent. For decades, in order to promote Cold War “stability” in Central Africa, the United States accommodated the misrule of the DRC by Mobutu Sese Seko, one of Africa's most corrupt dictators. Mobutu's regime stole the country's resources and diverted its foreign loans and grants to private coffers. Compounding the problem of internal decay, the DRC shares borders with nine other states, seven of which (Angola, Burundi, Rwanda, Uganda, Sudan, Central African Republic, and the Republic of Congo) have suffered civil wars in the last decade, the effects of which spilled into the DRC. Such *external* factors, together with DRC's internal political weakness and substantial resource wealth, explain in large measure the internationalized conflicts that have devastated the country in the last seven years.

The DRC is now struggling to find its way out of war, and to make the transition to a stable, democratic, and more prosperous future. Against a backdrop of many other urgent foreign policy crises, this report argues for greater American efforts to support this transition. The United States, its friends and allies need to increase their diplomatic, security and economic support for the region and for the U.N.'s peacekeeping operation in the DRC, including the contribution of a small but symbolically important U.S. civilian or military component. U.S. economic, security and technical assistance to the DRC should be linked to the DRC leadership's adherence to the peace accords they have signed. Similar assistance to the DRC's neighboring states should be linked to their ending the manipulative and self-enriching policies that have sustained the war in the DRC and still support the fighting in its bloodied eastern provinces. Only steady, outside political pressure will give this region a chance for peace.

**Only steady, outside political pressure will give the Central African region a chance for peace.**

# I. U.S. Interests in the DRC

The DRC's dangerous combination of mineral riches and near-anarchy is tailor-made for terrorist exploitation. Smuggling, arms-trafficking and money laundering already thrive in the lawlessness of the region's ongoing conflicts.

To halt the present tragedy and avoid larger strategic consequences, the international community must help the DRC to become a functioning state governed by the rule of law that respects the basic human rights of its citizens. Only such a state will attract the trade and investment that the country needs to build an open, viable, legal market economy to replace the pirate economy that now prevails.

The United States now has the opportunity to support human rights, democracy and open markets in central Africa's largest country as a power-sharing political transition begins to take hold. So far, however, the level and quality of U.S. engagement do not reflect these interests or the broader strategic interests of the United States in regional stability. By doing little to stop the plunder of the country by its neighbors and their warlord surrogates, and by playing a relatively passive role in current efforts by the United Nations to strengthen its peacekeeping operations in the country, the United States fails to serve its own interests in the DRC and the region.

In the age of international terrorism, U.S. *strategic* interests in a stable DRC should be clear. The country's dangerous combination of mineral riches and near-anarchy is tailor-made for terrorist exploitation. Smuggling, arms-trafficking and money laundering already thrive in the lawlessness of the region's ongoing conflicts. Interconnected drug and terrorist networks also could develop in eastern Congo — which has a physical and political environment comparable to Colombia. For now, arms flow mostly to loosely-controlled militias that sustain the climate of anarchy that the smugglers need to survive. These militias commit grotesque atrocities in towns and villages that are out of the view of international media. To halt the present tragedy and avoid larger strategic consequences, the international community must help the DRC to become a functioning state governed by the rule of law that respects the basic human rights of its citizens. Only such a state will attract the trade and investment that the country needs to build an open, viable, legal market economy to replace the pirate economy that now prevails.

There are no geostrategic arguments against increased U.S. engagement in the final resolution of this conflict. There are, however, compelling security reasons for the United States to want to shut down terrorist and criminal networks' access to the DRC, as well as moral reasons for helping the Congolese people free themselves from the human rights and humanitarian catastrophe that plagues them. Only the U.S., working with the international community, can bring effective pressure to bear on the regional actors who have long undermined peace and security in the DRC and bear much of the responsibility for its continuing turmoil.

## II. A Decade of War in Central Africa

The crippled Congolese state that resulted from three decades of graft and tyranny under Mobutu was a critical factor underlying the first war and the second.

The conflict in central Africa has its roots in the Rwanda genocide. In mid-1994, when the leaders of Rwanda's genocidal regime and their militia henchmen fled Rwanda ahead of the advancing forces of the rebel Rwandan Patriotic Front (RPF), thousands of ordinary citizens, fearing reprisals from the RPF, fled with them. This mix of ex-combatants, armed genocidal militias, and refugees — as many as two million persons — assembled in refugee camps in eastern Congo.

The new, RPF-led Rwandan government found that neither an ailing Mobutu regime nor a hesitant international community were willing to separate criminal elements from refugees or to disarm the extremists, who were intent on reentering Rwanda and resuming the genocide. The stage was set for Rwanda to unilaterally remove the security threat that its western neighbor represented. Not only would eastern Congo bear the humanitarian consequences of Rwanda's genocide; it would also become the battlefield for hunting down perpetrators of the genocide. Congo's first war had begun.

The crippled Congolese state that resulted from three decades of graft and tyranny under Mobutu was a critical factor underlying the first war (from 1996 to 1997) and the second (since 1998). Quick to use the rhetoric of change to democratic rule in the early 1990s, Mobutu spent his last seven years in power trying to outsmart a defiant political opposition and frustrate a much clamored-for Sovereign National Conference, squandering in the process his country's first opportunity for transition to democracy. U.S. assistance to his regime ended with the Cold War. Mobutu's systematic siphoning of development assistance, the plundering of gigantic state enterprises in the mineral sector, and spiraling inflation had all resulted in an economic meltdown and abdication by the government of its responsibilities for law enforcement, social services, and securing Congolese territory.

Beginning in the fall of 1996 with the capture of key eastern towns in the Kivu provinces adjacent to Rwanda, a regional coalition to overthrow Mobutu (composed principally of Rwanda, Uganda, and Angola) quickly captured vast swaths of Congolese territory, under the guerrilla leader, Laurent Desire Kabila. Mobutu's army, the *Forces Armées du Zaïre* (FAZ), retreated westward in disarray, crippled by mass desertions. By May 1997, the coalition had successfully taken Kinshasa, placing at its helm a new government led by Kabila.

**In a region in Africa where democratic governments are few and insurgent movements many, the meltdown in the Congo presented both a strategic opportunity and a threat to all the regional governments and insurgent groups.**

**For some of these states, troop deployments were accompanied by an effort to create spheres and networks of influence, which had the effect of increasing political conflict among an increasingly opportunistic Congolese political elite.**

Having ousted Mobutu, this fragile coalition unraveled quickly. In August 1998, Kabila expelled his erstwhile foreign coalition partners. A subsequent mutiny within Kabila's army, and the mutineers' rapid takeover of key cities, precipitated Congo's second war. Kabila called upon Presidents Dos Santos of Angola and Mugabe of Zimbabwe for urgent help. Both countries deployed troops into Congo within two weeks of the start of the rebellion, to defend Kinshasa. Uganda and Rwanda, now opposed to Kabila, each backed the creation of a rebel movement. The *Rassemblement Congolais pour la Démocratie* (RCD-Goma) and the *Mouvement de Libération du Congo* (MLC) would become, respectively, Rwanda's and Uganda's political clients and military allies in Congo. By July 1999, when the Organization of African Unity brokered a ceasefire in Lusaka, Zambia, the DRC had effectively split into three sub-territories controlled by Kabila, the MLC and the RCD-Goma.

In a region in Africa where democratic governments are few and insurgent movements many, the meltdown in the Congo presented both a strategic opportunity and a threat to all the regional governments and insurgent groups. With Congolese state institutions (including law enforcement

and border security) in a state of near collapse at the end of Mobutu's reign, rebel movements from neighboring countries began using the DRC as a rear base for attacks against their home governments, making the DRC a military target for governments in the region. These foreign armed groups included: the Allied Democratic Front (ADF) from Uganda, the Forces for the Defense of Democracy (FDD) and the National Forces for Liberation (FNL) from Burundi, the *Interahamwe*, the former Armed Forces of Rwanda (ex-FAR), the Army for the Liberation of Rwanda (ALIR), and the National Union for the Total Independence of Angola (UNITA). The U.N. estimated that in October 2002, there were between 11,700 and 16,700 fighters from foreign rebel groups present in the DRC. In turn, at the height of the conflict in 2000 and 2001, Uganda, Rwanda, Zimbabwe, Angola, Namibia, and Burundi deployed over 60,000 troops in Congo.

For some of these states, troop deployments were accompanied by an effort to create spheres and networks of influence, which had the effect of increasing political conflict among an increasingly opportunistic Congolese political elite. Uganda and Rwanda in particular, provided strong incentives

for an array of Congolese politicians, businessmen, and soldiers to form or join movements defining themselves as insurgents against the central government in Kinshasa, but with their agendas set by Kimpala or Kigali. Between 1999 and 2003, an endless stream of defections, counter-defections, rebel splinter groups, and new micro-rebellions laid bare the contours of the client system at work in eastern Congo. Uganda's policy was reckless in its simplicity: In exchange for raising a local militia that would defend Uganda's sphere of influence, Congolese warlords would receive military training for their troops, ammunition, and mutually beneficial control of mineral resources, taxes, and customs revenue.

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**The lure of mineral wealth and control of substantial tax and customs revenue from cross-border trade have been key incentives for the warring factions in the DRC.**

Most importantly, warlords received recognition by Uganda of their *de facto* control of an area within the Ugandan sphere of influence. The explosive consequence of this policy was to give bellicose tribal leaders and feuding Congolese politicians the means, motive, and opportunity to grab power. The result was a complex and shifting tapestry of "insurgent" groups operating throughout northeastern DRC, all armed and trained by Uganda, fighting for political and economic power by laying waste to civilian lives and livelihoods and plundering Congo's resources.<sup>5</sup> In short, a severely weakened and conflict-ridden DRC became a target for plunder. The lure of mineral wealth and control of substantial tax and customs revenue from cross-border trade have been key incentives for the warring factions in the DRC.

The Central African copper belt (which runs through DRC's Katanga province, from neighboring Angola and Zambia) contains one-third of the world's reserves of cobalt in addition to one-tenth of the world's copper reserves. The DRC holds approximately 80 percent of the world's reserves of *columbite-tantalite* (coltan), which when refined into metallic tantalum, provides a key component of capacitors in cell phones, laptops, pagers, game consoles, and many other electronic devices for which there is growing global demand. The DRC ranks among the world's largest producers of industrial diamonds (with substantial diamond extraction operation in the Kasais and in Orientale province); it also has substantial gold deposits near its northern border with Uganda (Ituri's Kilomoto mines) and in South Kivu (the Kamiturga-Mobale mines).<sup>6</sup>

An *Expert Panel on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*,<sup>7</sup> appointed by U.N. Secretary General Kofi Annan, concluded in October 2002 that networks of political and military elites closely linked to the governments of DRC,

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Zimbabwe, Uganda, and Rwanda had engaged in systematic plunder of the DRC's natural resources, and had "built a self-financing war economy centered on mineral exploitation."

High-ranking officials within the DRC government obtained illicit gain from transferring state assets to private entities, while senior military officers in the Zimbabwean Defense Force negotiated joint ventures for mineral extraction as payback for Zimbabwe's military backing the DRC government. In eastern Congo senior Rwandan and Ugandan military and political figures reaped proceeds from the illegal mining and sale of coltan, gold, and diamonds. The UN Expert Panel also documented links between these states and criminal groups of arms suppliers, sanctions busters, and money launderers.

Congo's wars have spawned some of the world's worst human rights atrocities. Once-thriving cities and villages have been transformed into war zones, resulting in massive civilian casualties. The International Rescue Committee estimates that since 1998 nearly 3.5 million people have been killed in Congo by war, disease or starvation. In November 2002, the U.N. Secretary General reported that 10 different parties to the armed conflict in DRC continued to use or recruit children under the age of 15 into their armed forces.<sup>8</sup> In the Kivus, armed militias like the Congolese *Mayi-Mayi* and Rwandan *Interahamwe* have abducted children, committed widespread rape and other acts of sexual violence, and used civilian populations as human shields.<sup>9</sup> U.N. investigations revealed that in the fall of 2002, rebel groups in parts of Orientale province (and especially in Ituri district) engaged in systematic rape, looting, summary execution, and acts of cannibalism, often forcing their victims to victimize others. Such atrocities have continued in 2003.

# III. Evolution of the Peace Process

The first indication of a break in the DRC's decade-long war came in July 1999 when the states involved in the fighting and their Congolese allies signed an agreement in Lusaka, Zambia. The parties to the Lusaka Accord agreed to cease hostilities, allow international verification of the cease-fire, and permit the deployment of international peacekeeping forces. The agreement set in motion a peace process built around three objectives:

1. The withdrawal of foreign armies deployed in Congo;
2. The demobilization, disarmament, and repatriation of designated foreign — insurgent — armed groups in Congo; and
3. The organization of an inter-Congolese political dialogue to set up a post-war government.

U.N. Security Council Resolution 1258 of August 6, 1999 authorized the U.N.'s first presence in the DRC in support of Lusaka, composed of 90 U.N. military liaison officers with civilian support personnel. Resolution 1279 of November 30, 1999 established this small mission as the United Nations Organization Mission in Congo (MONUC). This Phase I of MONUC began as an exercise to monitor the cease-fire and disengagement of the belligerents from their offensive positions. Security Council resolution 1291 of February 24, 2000 authorized Phase II of MONUC, with up to 5,537 troops, including 500 military observers and an appropriate number of civilian human rights, humanitarian affairs, public information, child protection, political affairs, medical, and administrative support staff. Although short-staffed, MONUC nonetheless expanded its presence around the country.

On November 9, 2001, Security Council Resolution 1376 approved Phase III of MONUC operations, which would focus on the Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDR) of the foreign armed groups. Implementation of Phase III depended on: the local parties' provision of data about the size and disposition of their forces and those of the foreign armed groups; freedom of movement and secure access for MONUC personnel; and demilitarization of Kisangani, where former allies Uganda and Rwanda maintained an armed standoff. As a result, Phase III was not actually launched until December 2002. Yet the prospect of Phase III facilitated key developments in the peace process; the signing of bilateral agreements between the DRC government and Uganda and Rwanda in July and September 2002, which paved the way for withdrawal of their respective armies from DRC, and the holding of the Inter-Congolese Dialogue (ICD).<sup>10</sup>

The mediator for the ICD designated by the Organization of African Unity, Botswana's Sir Ketumile Masire, brought together the key Congolese belligerents, political parties and civil society for political negotiations in 2002. The ICD addressed power-sharing in a transition government and the creation of a new Congolese army. In December 2002, all the parties signed a power sharing All-Inclusive Agreement which provided for a two-year transitional government of national unity that took office in July 2003.

## IV. Addressing the Ongoing Crisis in the East

Despite the progress achieved to date in de-escalating the Congo crisis from a full-scale regional war, the gains of the peace and transition process could collapse at any time under the weight of the insecurity, impunity, and violence that have continued in eastern Congo (especially in Ituri and the Kivu provinces).

Upon the withdrawal of Ugandan forces in Bunia in early May 2003, the consequences of Uganda's policy of arming rival groups in Ituri became starkly clear; ethnically-constituted, violent militias promptly began fighting to take control of the territory the Ugandans had left.

The humanitarian crisis in Bunia, Ituri's principal city, exemplifies the precarious situation in eastern DRC.<sup>11</sup> Upon the withdrawal of Ugandan forces from Bunia in early May 2003, the consequences of Uganda's policy of arming rival groups in Ituri became starkly clear; ethnically-constituted, violent militias promptly began fighting to take control of the territory the Ugandans had left. Although MONUC was not yet mandated to provide security in Ituri, it redeployed several companies of Uruguayan guard troops to Bunia in April and May. The initial 350 Uruguayan troops attempted to establish secure areas at Bunia airport and MONUC sector headquarters in Bunia proper, both of which were mobbed by people seeking refuge after the first new onslaughts of ethnic violence. More than 20,000 civilians sought protection from MONUC; roughly 11,000 remained at the Bunia airport camp in August 2003.

As rival militias continued their reprisal killings of ethnic Hema, Lendu and Ngiti groups around Bunia, the U.N. Security Council authorized the deployment of a European Union-sponsored, French-led Interim Emergency Multinational Force (IEMF) to stabilize the situation in Bunia while a stronger U.N.-led task force was assembled. Security Council Resolution 1484 of May 30, 2003 mandated the 1,500-strong IEMF to use all means necessary to guarantee security and humanitarian access in Bunia, protect the airport and camps for internally-displaced persons, and contribute to the safety of the civilian population, U.N. personnel, and humanitarian community.

Troops of the IEMF patrolled only within Bunia with the exception of one response to disrupt a militia attack that was spotted by one of the force's helicopters, 20 kilometers outside of town. Elsewhere in Ituri in the summer of 2003, villages continued to be sacked and burned, their populations dispersed, with some held as forced labor or sexual slaves. Most of the IEMF troops were withdrawn on schedule, by September 1, and replaced by MONUC's Ituri Brigade.

The newly expanded MONUC force has been given a broad mandate. Security Council Resolution 1493 of July 28, 2003: increased MONUC's authorized troop strength to 10,800; empowered MONUC under Chapter VII of the U.N. Charter to use all necessary means to carry out its mandate in Ituri and in North and South Kivu; instructed it to create improved security conditions in Ituri and to protect U.N. personnel and facilities, humanitarian workers and the civilian population; imposed an arms embargo on all armed groups operating in Ituri and the Kivus; encouraged MONUC to support the transition government in working toward elections and re-building rule of law institutions in the DRC; and authorized MONUC to support a security system for transition government institutions in Kinshasa.

Interviews by the NGO delegation in Bunia found considerable concern on the part of international civilians (working with both the U.N. and NGOs in the area) that the violent events of May 2003, after Ugandan troops withdrew, would repeat themselves in Ituri when the French withdrew. In the months following the departure of the IEMF, most areas outside the capital Bunia remained insecure, though MONUC's Ituri brigade began conducting operations outside Bunia sooner than most had expected.

Composed of infantry battalions from Bangladesh, Pakistan, and Nepal, and supported by Indian attack helicopters and Bangladeshi and Indonesian engineering units, the Ituri Brigade has launched operations — on the ground, in the air, and over the airwaves — to convince the Ituri militias that the U.N. would use the new force at its disposal swiftly and decisively.

MONUC has declared Bunia to be a weapons-free zone and has begun house-to-house searches for arms. A truckload of militia fighters who entered town and pointed weapons at one of the U.N.'s attack helicopters was itself attacked and driven out of town. Weapons found hidden at the Bunia headquarters of the political wing of one militia (the Hema-dominated UPC) led to the arrest and detention of three of the group's top officials.

Meanwhile, in August and September 2003, MONUC transported the principal Ituri militia leaders to Kinshasa to meet with transitional government ministers. The militia leaders pledged to end fighting and the transition government promised to look for ways to integrate their troops into a new national army and to integrate militia leaders into government institutions. Human rights advocates worry that rewarding Ituri's militia leaders in such fashion could encourage others to blackmail the government into similar largesse.

**If MONUC can succeed in stabilizing Ituri while the security capacity of the Ituri Interim Administration is built up, Ituri might serve as a template for dealing with the arguably harder problems of the Kivus. However, the Kivus have more than double the area, a larger population, and larger, better-armed militias.**

However, there has been no indication in reports from these meetings about offers of amnesty for past war crimes or crimes against humanity, which the violence in Ituri has repeatedly generated over the past year.

If MONUC can succeed in stabilizing Ituri while the security capacity of the Ituri Interim Administration is built up, Ituri might serve as a template for dealing with the arguably harder problems of the Kivus. However, the Kivus have more than double the area, a larger population, and larger, better-armed militias.

International military power in the Kivus must be closely linked to political solutions that are engineered to co-opt faction leaders and provide basic sustenance for their troops (to keep them from pillage) while still threatening reprisal for cease-fire violations, especially attacks on civilians. In addition, pre-emptive amnesty for past crimes must not be granted.

As of early September 2003, several armed groups in the Kivus continued to recruit troops, including child soldiers, and block humanitarian access already rendered difficult by crumbling roads and airstrips. But in a promising development since our visit, one of the principal Mayi Mayi militia leaders in North Kivu, David Padiri Bulenda, was appointed commander of one of the country's ten new national military regions. Mr. Bulenda's representatives in Kinshasa claimed that the Mayi Mayi were transforming themselves into political parties. MONUC also continued working in September and October 2003 to negotiate a formal cease-fire between the RCD-Goma and Mayi-Mayi's militias in the Kivus.

# V. Recommendations for Promoting a Successful Transition in the DRC

## 1. End Impunity and the Violence it Sustains

Killing, destruction, and widespread use of sexual violence continue in several parts of Congo partly because those who commit these heinous crimes face no consequences. Ending impunity should be an obvious, high-priority goal for Congo but, as in other stalemated conflicts, war-ending agreements can bring the leaders of fighting factions into power despite their responsibility for serious war crimes and crimes against humanity. Peace may hinge upon bringing them inside the government in the short term, although ending impunity in the long term may require that they eventually be brought to justice.

The Congolese with whom the NGO delegation met had a sophisticated appreciation of the tension between preserving a hard-won transition toward peace and allowing violence to dictate the country's future. Everywhere our delegation visited we encountered fervent hopes that war criminals would eventually be brought to justice. Several human rights advocates favored gathering and storing evidence now and postponing its use in a court of law for some years, if necessary, so as not to jeopardize the still-fragile institutions of the transition government. The collection of this information could be the responsibility of investigative teams from the U.N. High Commissioner for Human Rights, working closely with the prosecutor's office of the International Criminal Court, as well as Congolese human rights groups that have years of experience in documenting these abuses. Such data-gathering could serve both future international and locally-based prosecutions.

The priorities for the international community should be to stop killings and atrocities in the present, prevent them in the future, and account for them in the past. Halting present violence will require capable forces — national or international — that are able to stand up to the militias and armed gangs that continue operating on the fringes of the transition. That means backing up MONUC in Ituri by developing professionalized, national armed forces and police, and repeating that pattern elsewhere in the country.

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The Congolese people need a framework for justice that sends a signal inside and outside the country that the reign of impunity is ending. The transition government is likely to reach out to the U.N. for assistance in setting up mechanisms to investigate and prosecute the gravest atrocities committed during the war.<sup>12</sup>

Building on the request of the Security Council for the Secretary General's guidance in this area,<sup>13</sup> and recognizing the need for more in-depth analysis of the issue of transitional justice in the DRC, the U.N. Secretary General should establish a Commission of Experts, with Congolese participation, to recommend possible structures to investigate and prosecute war crimes and crimes against humanity in the DRC over a specified period of time. The U.N. has significant expertise in transitional justice. In making its recommendations, the Commission should draw on various models of international support for post-conflict states in combating impunity (such as Sierra Leone, East Timor, and Cambodia).

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The Commission should take a holistic approach to transitional justice; its analysis should address the jurisdiction of the International Criminal Court (for crimes occurring since July 1, 2002), domestic judicial institutions, and the possibility of a hybrid tribunal such as the Special Court for Sierra Leone. It should also consult with those engaged in developing a Truth and Reconciliation Commission, established under the All-Inclusive (Pretoria) Agreement of December 17, 2002. The Commission of Experts could be given a renewable six-month mandate to prepare its recommendations, after extensive consultations in Congo with the transition government, the judiciary, leaders of political groups, civil society, and victims of atrocities.

**An end to impunity will require steady outside pressure, combined with aid conditionality.**

By creating such a Commission, the U.N. would be putting all parties in DRC on notice that the international community will match its talk against impunity with action, responding to the transition government's request for international assistance in combating impunity,<sup>14</sup> and ensuring that there is sufficient consultation and sound assessment of the political and timing questions related to establishing a mechanism for bringing war criminals to justice amidst a peace process.

Creating a Commission of Experts alone will not ensure that the DRC transition government — itself a product of a power-sharing compromise between belligerents whose forces have committed atrocities — will make the ending of impunity a high priority. In August 2003, the government appointed regional commanders of the new national army; among the appointees are officers known to have ordered, instigated, or condoned atrocities.

An end to impunity will require steady outside pressure, combined with aid conditionality that ties assistance to the building of effective, politically independent law enforcement, judicial, and correctional institutions that meet basic international standards including respect for human rights. Donor countries should reward the transition government when it strives to meet those standards and cooperates with national and international mechanisms to check impunity. Such conditionality is in fact required to ensure that building a justice system in Congo is not limited to judicial training, the repainting of courthouses, and the publishing of laws—all necessary but by themselves insufficient steps in revitalizing the justice sector. At the heart of the problem of Congo's under-performing and distrusted civil and military justice systems is the lack of political will to subject power and graft to the rule of law.

## **2. Address the role of Uganda and Rwanda in Eastern DRC and Reduce Arms Flows into the Country**

As described above, DRC's crisis has been exacerbated by political conflicts in neighboring states. Its former rebel movements (now players in the transition process) were overtly supported militarily and politically by neighboring states, particularly Rwanda and Uganda.

Armed insurgents from these countries continue to operate in Congo, and neighboring states have cultivated and sustained a thriving war economy, providing arms and military training to Congolese insurgents. With their common borders, long-standing trade relationships, and cross-border cultural and ethnic similarities, Congo, Rwanda, Uganda, Burundi, and other neighboring states will have to forge positive and stable relations in order to secure peace in the region.

In order to consolidate the transition process and curb violence in the east, the international community must make its policies towards Uganda and Rwanda consistent with the overall objectives of the DRC peace process. It would be counterproductive for donors and key powers to implement a

**Ignoring the DRC crisis in their diplomatic dialogues and relationships with Rwanda and Uganda deprives the U.S. and other influential foreign actors of the potential to leverage these relationships and the development assistance that flows from them to curb the mayhem in eastern Congo.**

**A comprehensive approach that places resolution of the DRC conflict within its regional dimensions should seek to improve bilateral relations between the DRC transition government and its neighbors, monitor relationships between neighboring states and rebel movements they supported, and curtail client relations between these countries and armed groups and militias.**

Congo policy divorced from their policies towards Congo's neighbors. Ignoring the DRC crisis in their diplomatic dialogues and relationships with Rwanda and Uganda deprives the U.S. and other influential foreign actors of the potential to leverage these relationships and the development assistance that flows from them to curb the mayhem in eastern Congo. Several key countries, including the U.S., have been slow in sending unequivocal signs to the DRC's neighbors that they must allow Congo to move towards peace.

Successive U.S. administrations have been less than coherent in directing Uganda and Rwanda to abstain from stoking the fires of conflict in the DRC. While claiming that resolving Congo's crisis was a priority, they have either been hindered by the guilt of inaction during the Rwandan genocide, or unwilling to unmask the real nature of the violence in eastern Congo.

During his recent visit to Africa in July 2003, U.S. President George W. Bush, on a stopover in Uganda, complimented his host, President Yoweri Museveni, for having "done an excellent job . . . in helping to resolve regional disputes". Less than two weeks before the U.S. President's visit to Kampala, however, Museveni was receiving a delegation from Ituri's notorious *Union des Patriotes Congolais* (UPC) faction, which employs drugged children as its fighting force. Reliable international analysts on the ground noted that this signaled that the UPC was reaching out to Uganda for political or military support (having earlier sought such support from Rwanda). Similarly, in the U.K., former Secretary for International Development Clare Short successfully excluded Rwanda's conduct in DRC from the U.K.'s bilateral dialogue with Kigali, and bickered openly with the press for suggesting that Rwanda had a culpable role in the plunder and violence in eastern Congo.

A comprehensive approach that places resolution of the DRC conflict within its regional dimensions should:

1. Seek to improve bilateral relations between the DRC transition government and each of its neighbors (and empower them to deal jointly with issues of mutual concern);
2. Monitor the relationships between the neighboring states and (former) rebel movements they supported; and
3. Curtail client relations between these countries and new or nascent armed groups and militias in Ituri and the Kivus.

To reach the long-term goal of developing joint operational structures (such as joint commissions or task forces) to resolve matters of common concern (such as immigration and refugees, border control, customs and trade, flow of arms, presence and repatriation of insurgents), the DRC government and its Ugandan and Rwandan counterparts should be encouraged to build on the Pretoria (DRC-Rwanda) and Luanda (DRC-Uganda) bilateral agreements. The creation of interim structures to facilitate collaboration on the issues of mutual concern should be rewarded by international donors. The effectiveness of the *International Conference on Peace, Security, Democracy, and Development in the Great Lakes region of Africa*, to be organized under the auspices of the U.N. and the African Union, will be critical in this regard.

It is still too early to determine the impact of the transition process on relationships between Congolese rebel movements that are part of the transition government and their foreign backers. However, most analysts on the ground expect this process to have some impact on these client relationships and alliances, especially the RCD-Goma / Rwanda alliance, which was arguably the strongest. There is a risk of discord or fissures within some of these movements, between their political leadership now in Kinshasa and possible new groups of dissidents or hard-liners who may see the transition process as offering too little power and therefore prefer to accumulate it locally, even at the price of a return to hostilities. The political and military leadership of the RCD-Goma have, in the last year, recruited, armed, and trained thousands of youth in the Kivus. The NGO delegation was informed that this continues in South Kivu, with some of these youth being forcibly recruited children who receive training on the island of Idjwi, in Lake Kivu. Even more worrying is the fact that these troops are technically not part of the RCD-Goma's army and could be mobilized to effect a split within the movement or to create Congo's umpteenth rebel movement.

Most importantly, Uganda and Rwanda must verifiably and unconditionally cease to play host to, provide political or military support to, or allow the flow of weapons to armed groups in Congo. These armed groups have all become adept at manipulating the deteriorating relations between Rwanda and

Uganda to seek political cover, weapons, and other military supplies. Uganda and Rwanda must unequivocally move to sever ties with all the rebel and militia groups operating in Ituri and the Kivus.<sup>15</sup>

In Resolution 1493 of July 28, 2003, the U.N. Security Council took a modest first step to reduce the illegal flow of arms and ammunition into the DRC. Unfortunately the arms embargo that it placed on all armed groups in Congo provides for neither surveillance nor enforcement mechanisms. Nonetheless, MONUC can (with an interpretive stretch of its mandate) seize arms shipments as part of its duty to maintain security, as it did recently with a shipment of arms that came through the Beni airstrip. It is particularly baffling that on July 30, 2003, two days after U.N. Resolution 1493 imposed an arms embargo on groups involved in the conflict in Congo, the United States lifted its own bilateral arms embargo on Rwanda.<sup>16</sup> This decision from the U.S. Department of State makes possible the resumption of arms shipments to Rwanda by U.S. manufacturers, which have been prohibited since 1994. Considering the Rwandan government's military ties to, and support of movements and armed groups present in the DRC, approval of any U.S. sale of arms to Rwanda's army would be inconsistent with this resolution.<sup>17</sup> For this reason, the U.S. arms embargo on Rwanda should be reinstated. Keeping arms away from rebels and militias in the DRC will take active cooperation from all neighboring states, the Congolese government, and the international community.

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### **3. Revamp the Program to Disarm, Demobilize, Repatriate, Resettle, or Reintegrate Combatants**

**DDR is not a *catalyst* of peace but a *product* of peace.**

To demobilize and demilitarize Congolese and foreign fighters in DRC, the U.N. mission and the transition government should focus on the political, economic, and social re-integration of the leadership and the rank-and-file of armed groups, without which substantial demobilization is unlikely. Incentives to demobilize should be combined with strict sanctions for on-going recruitment of child soldiers.

Under the current U.N. demobilization program, unarmed U.N. staff have been trying — at great personal risk — to induce individual fighters to break with their leaders, desert from their armed groups, and put down their weapons voluntarily. However, the leadership of none of

the armed groups involved was committed to demobilizing their troops. This “retail” attrition model therefore produced only modest results, mostly desertions from the Democratic Forces for the Liberation of Rwanda (FDLR) rebel group.<sup>18</sup>

Demobilizing combatants in the absence of a comprehensive peace under which all parties agree to the lay down weapons has been an uphill task for the United Nations. A number of analysts on the ground in DRC argued that the designers of the U.N.’s Program to Disarm, Demobilize, Repatriate, Resettle, or Reintegrate Combatants (DDR) had their causal arrows backward: DDR is not a *catalyst* of peace but a *product* of peace. It may have been politically astute for the U.N. to give high verbal priority in 2002 to disarming foreign armed groups like the FDLR and *Interahamwe*, so as to encourage the pullout of Rwanda’s army from Congo, but the U.N. must have known that it could not make a significant dent in the problem with the DDR program as initially designed.

Furthermore, this limited DDR model may only succeed with foreign groups whose demobilized fighters leave the country and escape the reach of vindictive commanders. Demobilization of Congolese fighters who enter DDR programs through deserting their armed groups is complicated by the risk of reprisals against them or re-recruitment into another armed group.

MONUC is tasked under Resolution 1493 with assisting the transition government in demobilizing Congolese forces. Such demobilization must proceed with the approval and involvement of the leadership of the forces in question; it must be wholesale, not retail, and must occur as a by-product, not a cause, of peace. Barring the persuasive power of superior force, militia commanders’ incentives to stop fighting will, in many cases, involve cutting a deal for participation in transition government institutions — either in a political or a military capacity. Many Congolese with whom we spoke were willing to tolerate such deals as the immediate price of peace, if the human rights investigations discussed earlier also went forward and justice for war criminals remained a future possibility.

**The ICC’s potential jurisdiction over crimes committed in the DRC could — given a strong likelihood of investigations and prosecutions — serve as a deterrent to re-recruitment of child soldiers.**

Demobilization of child soldiers in DRC must also be a priority, and must take into account the social and political environment. If directly repatriated to their families in a situation of ongoing warfare, former child soldiers may be pressed into service again by their old gangs — forcibly and with possibly lethal consequences for them and their families. Conscripting or enlisting children under the age of 15 into armed groups or using them to participate actively in hostilities is punishable as a war crime under Article 8

(2) (e) of the International Criminal Court (ICC) Statute. The ICC’s potential jurisdiction over crimes committed in the DRC could — given a strong likelihood of investigations and prosecutions — serve as a deterrent to re-recruitment of child soldiers.

An interim solution to the re-recruitment problem suggested by several interviewees would send demobilized child soldiers to half-way houses or special facilities outside their home district where the risk of recruitment would be low, where they could restart their education, perhaps receive some level of counseling, and begin to adjust to life without weapons. Counseling may be critical to the readjustment of many former child soldiers who remember little of their pre-war lives and who, in any case, will have been severely traumatized by what they have seen, done, or been forced to do.

Demobilized adult soldiers will also need reintegration assistance, which might take the form of work on rebuilding roads and infrastructure, de-mining, and other public service and community reconstruction projects. In a country with such high unemployment rates as the DRC, there will be serious trade-offs to be made in creating and allocating jobs and reintegration opportunities between ex-combatants on the one hand, and their victims on the other. It seems facile to suggest that the only real solution lies in the direction of economic growth, yet that is the case. Unless Congo’s economic pie expands, immediate job priority for the sake of peace may go to the very people who broke that peace, from the lowest to the highest levels.

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#### **4. Promote Accountable and Competent Governance and Establish a Regulatory Framework for the DRC’s Natural Resource Sector**

**In the foreseeable future, the DRC will continue to grapple with how best to structure an effective national system of governance. Given the country’s size, the challenge lies in governing as close to the local level as possible, consistent with the country’s political and territorial integrity.**

In the NGO delegation’s meetings with civil society representatives around the country, opinions varied as to the impact of centralized versus federalized government. On the one hand, fears were expressed that a federal structure would threaten national integrity. On the other hand, some argue that it was the only approach that could maintain national integrity and the relevance of the central

government. Both sides of this argument cited the eastern provinces and the political influence of Rwanda and Uganda. Supporters of centralism argued that only a strong central government could keep the east from sliding further under outside influence. Supporters of a federal state argued that only a serious devolution of authority to the provincial and local levels could keep the east fused to the larger state; that a centralized regime would continue the tradition of ineffective, long-distance governance, and therefore promote the disenchantment and separation that centralizers fear.

For the foreseeable future, the DRC will continue to grapple with how best to structure an effective national system of governance. Given the country's size, the challenge lies in governing as close to the local level as possible, consistently with the country's political and territorial integrity. Whatever governing structure emerges, Congo desperately needs a competent, less-corrupt administration. The World Bank or the U.N. Development Program could play an important role in providing this support, as could MONUC, if it were empowered and mandated (like the U.N. mission in Afghanistan) to provide such advice. At present, government ministries are in some cases little more than the appointed Minister and his or her immediate staff assistants.

Until a core of administrators can be trained, there will be a need for sustained technical assistance from the international community to produce results at every level of government. Several persons the delegation talked to highlighted a real crisis of competence that hinders the transition government, and not only its executive branch. The 620 members of the transition parliament who deliberate upon and adopt legislation that remedies key causes and consequences of the conflict will lack resources to hire and retain competent professional staffs to support their work on the various legislative committees on which they serve. These MPs cannot rely on substantive support on the issues from their respective political movements or parties, which themselves do not have substantial policy-development capacity. In addition to providing direct technical assistance to government institutions, the donor community should encourage civil society to inform and project ideas into policy-development and legislative processes in the transition.

Entrenched corruption, plunder of state resources, and unaccountable management of tax and customs revenue (all exacerbated by the wars), pose serious threats to the transition government's resource base. Congo urgently needs resources to vet and train new security forces, to train and pay government administrators and judicial personnel, and to build or rehabilitate and equip basic facilities for them. The *U.N. Panel of Experts on Resource Exploitation* has recommended a useful framework for steering Congo away from the illegal exploitation, stripping of state assets, and siphoning of public revenue that have prevented the use of its resources for

socio-economic development. Its four components include: technical capacity-building for state institutions; promoting a legitimate and accountable civil administration; use of donor conditionality; and reform of the natural resource sectors (especially mining and forestry). Implementation of these measures will ensure that the transition government gets control of the country's high-value natural resources, thus generating a larger, transparently-managed revenue stream.

Mineral resource production and distribution must be wrestled from illicit vendors and their protectors. In April 2003, Congo joined the international Kimberley Process Certification Scheme designed to keep conflict diamonds out of international markets, but diamonds (unlike gold and coltan) are the most readily sourceable of Congo's minerals. A control system for the entire mineral sector will therefore require effective inspections at air strips and border crossings and serious penalties, consistently invoked, for violators.

The revenue stream from illegal resource extraction has given military and political elites in neighboring states an interest in continued disorder in the Congo. Military elites routinely secure control of access to mineral extraction sites, monopoly-wielding buyers purchase the commodities, complicit tax and customs officials look the other way for a price, and shady service providers (such as air transporters) spirit them out of the country. The net loser in this chain is the Congolese public treasury. Mixed-cargo regional airlines that operate out of Bunia, Beni, Goma, Kamina, and other airfields in the Congo use medium-range aircraft that can bypass Congo's immediate neighboring states any solution to the hemorrhaging of Congolese resources must be regional in scope, with effective validation of air cargo manifests, inspections of luggage and cargo crossing borders, and monitoring mechanisms in the originating, transit and destination countries.

Reversing Congo's corrupt sub-economy will require international pressure to alter the underlying incentives of those involved, with targeted sanctions and aid conditionality combined with the prospect of greater legitimate trade and development assistance. Donors should also support regional economic integration — another subject to be developed at the U.N. and A.U.-sponsored *International Conference on Peace, Security, Democracy, and Development in the Great Lakes region of Africa*, planning for which is being facilitated by the U.N. Secretary General's Special Representative to the Great Lakes region. Implementation of such concrete measures by the transition government and cooperation within such regional frameworks by the neighboring governments should be conditions for continued international development assistance.

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## 5. Support Civil Society Engagement with the Transition Government

After three decades of misrule and seven years of war dominated by a political and military elite, creating popular ownership of the transition process will be a challenge.

Donor re-engagement with the official sector should accompany continued support to Congo's active civil society, and be used to leverage greater political space and freedoms that enable the Congolese people to demand government accountability.

The ultimate success of Congo's transition must result from a collective effort driven by the transition government and institutions, supported by the international community, and reinforced by all active sectors of Congolese civil society — including its constellation of women's groups, faith-based and church groups, the business community, and NGOs. After three decades of misrule and seven years of war dominated by a political and military elite, creating popular ownership of the transition process will be a challenge. Congo's two year transition, culminating in planned national elections in 2005 or 2006, offers an opportunity to reverse the centralization of political power that excluded Congolese from governance and squandered the country's economic resources.

In the absence of a viable, accountable Congolese government, the international donor community has provided various forms of support to Congolese civil society groups to remedy the humanitarian catastrophe, and advance socio-economic development and democracy. The installation of an inclusive transition government has been seen by the donor community as a watershed moment to re-engage with the official sector.<sup>19</sup> Welcome as it is, re-engagement with the official sector should accompany continued support to Congo's active civil society, which remains a force for political and social development. Assistance to the official sector should be used to leverage greater political space and freedoms that enable the Congolese people to create demand-side pressure for accountable governance.

While in Congo, the NGO delegation was reminded of the instrumental role that civil society groups played in maintaining the pressure and momentum around the peace process to ensure that an inclusive peace was reached. Barely three years ago, the Kinshasa government of Laurent Kabila had brought the peace process to a standstill by questioning: the need for the inter-Congolese political talks facilitated by the Organization for African Unity (OAU); the rationale for the Lusaka peace agreement; and the need for an inclusive dialogue and transition process to bring the belligerents under one roof. Congolese civil society was instrumental in breaking this resistance by clamoring for the Inter-Congolese Dialogue (ICD) and defending it as the only process for gaining legitimate political power. The transition government headed by Joseph Kabila is to some extent a product of this civil society pressure.

The transition government and institutions need substantive expertise and competence in virtually all aspects of governance. Since the peace talks focused so heavily on power-sharing (politically, and within the military), the transition government's program of action in areas such as human rights, justice reform, economic development, health, and education is either non-existent or in an initial stage of development. In addition to implementing resolutions adopted in April 2002 at the Sun City talks of the ICD, as the Constitution requires, the transition government (especially the legislature) has the immense task of debating, adopting, and beginning to implement several dozen key pieces of legislation.

In virtually every area where the government needs to develop a policy or adopt specific legislation — such as army reform or demobilization, revising nationality and citizenship law, or reforming the justice sector — there exists a constituency of active civil society groups that have the potential to become stakeholders and substantive advocates for specific policy approaches based on their decades of experience working on the ground to address these issues.

The resulting exchange between government and the governed will create competitive pressure on the government's policy-making, and will help produce indigenous, demand-side pressure for good governance.

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## 6. Promote Effective and Visible International Support for the Transition within a Framework of Conditionality

Like any government cobbled together after a stalemated armed conflict and comprising all the former belligerents, the transition government reflects only minimal agreement on policy and priorities among the key players. The lack of consensus positions may result in inertia.

Well-targeted donor conditionality can help free the transition process from gridlock, and steer the government towards developing a policy agenda that responds to the root causes of the Congolese conflict (lack of democratization, absence of the rule of law, collapse of state services and failure of regional cooperation frameworks).

A constant refrain in discussions with internationals and Congolese alike is that reaching the political compromises necessary to make progress toward peace has required substantial and sustained outside pressure. Until the individual interests of the leaders of Congo's fractious new government fuse into something approaching a common national interest, that pressure must be sustained to meet the international community's own interest in a stable country.

One tool for offering consolidated political advice and collaborating to increase political pressure is the International Committee to Support the Transition (known by the French acronym, CIAT). CIAT was designed as a confidence-building measure for the Congolese parties who signed the peace agreements. Its members are the diplomatic representatives in DRC of countries that have taken an active role in resolving Congo's crisis, including the five permanent members of the U.N. Security Council. Its meetings are chaired and facilitated by MONUC. CIAT encourages consensual implementation by the transition government of the various political agreements that are the foundation of the transition process and helps resolve disputes between the former belligerents.

To accompany the work of CIAT on the ground, international supporters of the peace in Congo must develop a strategic framework of conditionality to elicit critical responses from the DRC transition government and its neighbors. Like any government cobbled together after a

stalemated armed conflict and comprising all the former belligerents, the transition government reflects only minimal agreement on policy and priorities among the key players. The lack of consensus positions may result in inertia. But, the DRC's transition process must compete for attention and resources with other conflict and post-conflict situations within and outside Africa. The DRC's cash-strapped transition can ill-afford the donor disaffection that will result from an incoherent transition government.

Well-targeted donor conditionality can help free the transition process from gridlock and steer the government toward developing a policy agenda that responds to the root causes of the Congolese conflict (lack of democratization, absence of the rule of law, collapse of state services and failure of regional cooperation frameworks). Such an agenda must also address the war's most severe consequences (the war economy and resource exploitation networks, underdevelopment, and humanitarian catastrophes). DRC's transition government will have a very short grace period after which ordinary Congolese, who have borne the brunt of the war, will demand a peace dividend in the form of more jobs, security, public infrastructure, and basic social services. While the donor community should be sensitive to this limited window of opportunity by providing assistance commensurate to the development challenge in Congo, it must articulate a clear set of performance-related conditions that will compel leaders of the transition government to place their political will behind the transition agenda.

In the justice sector, for example, assistance should be conditioned on the development of a clear government policy to combat the impunity that underlies the demise of Congo's judiciary, with clear implementation benchmarks monitored by the donor community. In the economic sector, dismantling and holding accountable the economic exploitation networks that have siphoned off revenue and plundered resources should be a key condition for structural and economic assistance.

This donor conditionality framework should mirror, and be implemented in tandem with, a conditionality framework for international engagement with Rwanda and Uganda, to ensure they do not resume stoking fires in Congo. Recent experiences show that when targeted conditionality is applied, Rwanda and Uganda are amenable to pressure. A clear link has been drawn between Rwanda's agreeing to withdraw its troops from Congo and a U.S. abstention from a vote at the IMF on an aid package to Rwanda in 2002. Similarly, senior-level Ugandan officials have been eager to show that Uganda is playing a helpful role in Congo's peace process, when pressed by major international donors.<sup>20</sup>

There is also need for a mechanism to restrain groups within Congo that could attempt to torpedo the transition. Such threats could come from both bad faith participants within the transition government or latecomers seeking political or military posts with the prospect of a return to violence as their bargaining chip. Since Congo's transition process is so inclusive, it does not

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automatically elevate the moral standing of those within it, leaving it vulnerable to violent extortion from a new crop of warlords (such as the armed groups in Ituri) seeking to partake in the spoils of peace. The risk to the transition from this quarter is substantial. In addition to the robust mandate given to MONUC, especially in Ituri and the Kivus, and the aid conditionality discussed above, other political tools are needed to keep these emerging warlords at bay.

The international community needs to develop individually-targeted sanctions to be invoked and implemented rapidly against Congolese political leaders and others who violate the peace accords, interfere with the peace process, or participate in the illegal plunder of Congo's resources. Such sanctions may include international travel bans on targeted individuals and their families and the freezing of their overseas financial assets. One tool to encourage favorable behavior could be a published list of individuals subject to targeted sanctions.

# Endnotes

1. See International Rescue Committee, “Mortality in the DR Congo: Results from a nationwide survey” (April, 2003).
2. Located near Congo’s northeastern border with Uganda, Ituri is one of five districts that make up DRC’s Orientale province. It covers a surface area of 25,350 square miles and has a population of approximately 1.6 million inhabitants.
3. North and South Kivu provinces (the “Kivus”), occupy a stretch of 48,170 square miles along Congo’s eastern borders with Uganda, Rwanda, Burundi, and Tanzania, and have a combined population of more than seven million inhabitants.
4. Established under Annex IV of the All-Inclusive Agreement signed by Congolese factions on December 17, 2002, CIAT is made up of ambassadors to the DRC from permanent member countries of the U.N. Security Council, and from states like Belgium and South Africa that have taken a leading role in resolving the Congo crisis.
5. For a historical account of Uganda’s role in fomenting discord in Ituri, see Human Rights Watch, “Uganda in Eastern DRC: Fueling Political and Ethnic Strife”, March 2001.
6. See George J. Coakley, “The Mineral Industry of Congo (Kinshasa)”, U.S. Geological Survey Minerals Yearbook (Vol III. -- Area Reports: International, 2001).
7. See “Final report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of DR Congo”, 16 Oct 2002, UN Doc. S/2002/1146, at paragraphs 12 to 21.
8. See “Report of the Secretary-General on children and armed conflict”, UN Doc S/2002/1299 (Annex), 26 November 2002.
9. For a discussion of the scale of sexual and gender-based violence in the DRC conflict, see Human Rights Watch, “The War Within The War: Sexual Violence Against Women and Girls in Eastern Congo”, June 2002.
10. Zimbabwe and Angola also withdrew their forces from DRC in 2002.
11. For on the ground analyses of the political, economic, and strategic underpinnings of the conflict in Ituri, see: JUSTICE PLUS, *Des Sanglants Conflits Politiques entre Mouvements Rebelles et Milices au Nord-est de la RDC : Quel Crédit Accorder aux Parties aux Négociations de Pretoria?* (Bunia, December 2002); JUSTICE PLUS *Ituri : La violence au - delà du clivage ethnique* (Bunia, July 2003); GROUPE LOTUS, *Ituri et Kisangani: Situation Sécuritaire Extrêmement Inquiétante* (Kisangani, March 2003); GROUPE LOTUS, *Ituri: l’escalade de la violence interpelle* (Kisangani, June 2003).
12. Article 93 of the DRC’s Transition Constitution expressly tasks the government with developing its policy agenda consistent with the Resolutions of the Inter-Congolese Dialogue (ICD). Resolution DIC/CPR/05 calls for the government to extend a request to the U.N. Security Council for the establishment of

an international tribunal to try atrocities committed in DRC. Realistically however – considering resource constraints – the prospects for the creation of such a tribunal along the model of the *ad hoc* tribunals for Rwanda and the former Yugoslavia are slim.

13. U.N. Security Council resolution 1468 of 20 March 2003, requests the Secretary-General, “in consultation with the High Commissioner for Human Rights, *to make recommendations to the Council on other ways to help the transitional government in the Democratic Republic of the Congo address the issue of impunity*”.

14. In his address to the U.N. General Assembly on September 25, 2003, President Joseph Kabila reiterated the need to establish, with U.N. support, an International Criminal Tribunal for the DRC to try perpetrators of genocide, crimes against humanity, and war crimes.

15. Although Kampala has purported to warn Congolese dissidents against meeting on its territory to rebel against the DRC transition government, delegations from these groups continued to be received there, including at the highest levels of the Ugandan government.

16. See U.S. Department of State, Bureau of Political-Military Affairs, “Amendment to the International Traffic in Arms Regulations (ITAR): Partial Lifting of Embargo Against Rwanda”, 22 CFR 126 [Public Notice 4399], published in *Federal Register*, Vol. 68, No. 23, July 30, 2003. This rule amends the *ITAR* by removing Rwanda from the list of embargoed countries in 22 CFR 126.1(a).

17. Resolution 1493 calls on “all States, including the Democratic Republic of the Congo, [...] for an initial period of 12 months from the adoption of this resolution, [to] take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, to all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not party to the Global and All-inclusive agreement, in the Democratic Republic of the Congo”.

18. The FDLR is the collective appellation for the two branches of the Army for the Liberation of Rwanda (ALIR); its leadership consists of ex-FAR and Interahamwe, but its troops include other Hutus not involved in the 1994 genocide in Rwanda.

19. In June 2003, the US government lifted the application of the Brooke amendment restrictions on direct assistance to the Government of DRC. The international financial institutions have recently also undertaken a number of measures to support economic revival in the DRC. A US \$ 450 million “Economic Recovery Credit” approved by the World Bank in June 2002 was followed shortly by a US \$ 454 million “Emergency Multi-Sectoral Rehabilitation and Reconstruction Project” in August 2002. Since the installation of the transition government, the World Bank has pursued this engagement with a US \$ 120 million “Private Sector Development and Competitiveness Project” (approved in July 2003) and a US \$ 214 million “Emergency Economic and Social Reunification Support Project” (approved in September 2003).

20. See *The Monitor*, “Wapa [sic] admits training Congo rebels”, Kampala, August 20 2003, reporting that Uganda’s Minister of Foreign Affairs, Mr. James Wapakhabulo, briefed a Parliamentary Committee about concerns in Ireland over Uganda’s role in training Congolese militias and its potential impact on Irish assistance to Uganda.

# List of Persons Met and Interviewed by the Delegation

## KINSHASA

William Lacy Swing, Special Representative of the UN Secretary General and Chief of Mission

Lena Sundh, Deputy Special Representative of the UN Secretary General

Roberto Ricci, Human Rights Section Chief/MONUC, Lisa Mbele-Mbong, Human Rights Officer/MONUC, & Mahamane Cissé-Gouro, Deputy Director, UN Office of the High Commissioner for Human Rights

Lt. Col. John Walker, Chief - Military Information/MONUC, & Col. Charles Hamel, Acting MONUC Chief of Staff

MONUC Civilian Police Section, Kinshasa

Charles Gomis, Jaque Grinberg, Gerald Gerold, Jennifer Sarvary, Nishkala Suntharalingam, Political Affairs Section/MONUC

Sandra Beidas, Head, Child Protection Section/MONUC

Nancee Bright, Head, Humanitarian Affairs Section/MONUC

Ambassador Aubrey Hooks, US Ambassador to DRC

Olivier Kamitatu, Speaker, Transition National Assembly

Marie Madeleine Kalala, Minister for Human Rights, Transition Government

The Rev. Appollinaire Malumalu, Chair Independent Electoral Commission

Civil society representatives from the following organizations: RODHECIC, Caucus des Femmes, Cause Commune, GARDERES, and Conseil pour l'Apostolat des Laïcs Catholiques au Congo

Alain Pillet, Country Director, CARE International

Baudoin Hamuli Kabarhuza, Director – CENADEP

## BUKAVU

Civil Society Groups in South-Kivu Province: Didace Kaningini (Civil Society Coordination Bureau), René Rubambura (PAD), Patient Bagenda Balagazi (Comité Anti Bwaki), Tharcisse Kayira (ADEPAE), Leon Baruani (SFCG), Kamengele Omba (Radio Maendeleo), Raphael Wakenge (ICJP), Annie Bukaraba (Int'l Alert), and Deodatte Chishibanji (International Human Rights Law Group)

Sharouh Sharif, Head of Office, MONUC/Bukavu

Timothy Reid & Jason Stearns, DDRRR Division, MONUC/Bukavu

Humanitarian agencies: IRC, UN-OCHA, Malteser, Moriah Africa, Action Against Hunger-USA, MSF-Hollande, IRC, FHI, Save the Children, Free Baptist World Missions, Radio Kahuzi, INADES, CEPAC

Michel Bonnardeaux, Radio Okapi/Kalemie

Staff of PANZI Clinic, Bukavu (treatment center for victims of sexual violence)

## **BUNIA**

Alpha Sow, Head of Office, MONUC/Bunia

Martha Cordoba & Alessandra Trabattoni, Political Affairs Section, MONUC/Bunia

Michel Nouredine Kassa, Head of Office, UN Office for the Coordination of Humanitarian Affairs, DRC

Humanitarian agencies: Agro-Action Allemande, COOPI, Atlas Logisitque, Oxfam-GB, Save the Children, ECHO, Aviation Sans Frontières

Ituri Interim Administration (IIA): Emmanuel Leku-Apuobo (Coordinator – IIA Executive), Kalimi Michel, Dr. Pilo Kamaragi, Droti Obhitre, Ambroise Ukelo Wokingi, Simbilyo-Duka Flory, Mileyo Lotiyomisaka, Prof. Ruhigwa Baguma, Thewi Batsi Larry

Colonel Laurent Banal, MONUC Commander – Ituri Sector

Major Charles Marquez, Civil-Military Relations Unit, Interim Emergency Multinational Force (IEMF), Bunia

## **KISANGANI**

Mgr. Laurent Monsengwo Pasinya, Catholic Archbishop, Kisangani

Civil Society representatives: Dr. Joseph Abisa Bokanga (Civil Society Coordination Bureau), Dismas Kitenge (Groupe Lotus), François Zoka (Groupe Justice et Liberation), Rev. Jean-Pierre Badidike (Synergie pour la Paix), Jean Paul Nyindu (Amis de Nelson Mandela), René Liamba (Amis de Nelson Mandela)

Vadim Perfiliev, Regional Director for the East, MONUC/Kisangani

Humanitarian community and UN agencies: Seydou Camara (UNICEF), Jaap Molenaar (IRC), Dr. Olinda Loku (WHO), Bertin Caleb Melindi (UN Security Coord.), Diallo Oumar Faroughou (UNDP / UNOPS), Victor Kilashi (CARE International), Nathalie Stiennon (MSF-Belgique), Georges Katembo (CARITAS), Michel Kabamba (FAO), Michel Lokonda (World Food Program)

Lt. Colonel Nadir Zeb (G-3, Military Operations and Plans – MONUC Sector II), MONUC Civilian Police staff – Kapalata Police Training Center

Jean Francois Basse (Child Protection/MONUC) & Mbu Etonga (Human Rights/MONUC)

Prof. Jean Pierre Bilusa, Governor, Province Orientale

# Biographies of Delegation Members

**JOHN SHATTUCK** was U.S. Assistant Secretary of State for Democracy, Human Rights and Labor from 1993 to 1998. While serving in this position, he worked to end the war in Bosnia and negotiate the Dayton Peace Agreement; establish the International Criminal Tribunals for the former Yugoslavia and Rwanda; restore a democratically-elected government to Haiti; administer U. S. assistance to new and emerging democracies; and raise the profile of human rights in U.S. foreign policy after the end of the Cold War. He also served as U.S. Ambassador to the Czech Republic from 1998 to 2001, at a time when the Central Europe was undergoing a challenging transition from communism to democracy. Before entering government service, Mr. Shattuck was at Harvard University, where he held the position of vice president for government, community and public affairs from 1984 to 1993, and taught human rights and civil liberties law at the Harvard Law School. Mr. Shattuck has served as Vice Chair of Amnesty International USA, and from 1976 to 1984 he directed the Washington Office of the American Civil Liberties Union. He is the author of a forthcoming book about humanitarian intervention, *Freedom on Fire: Human Rights Wars and America's Response* (Harvard University Press 2003) and is currently CEO of the John F. Kennedy Library Foundation in Boston.

**PAUL SIMO** is Africa Program Director at the International Human Rights Law Group where – since 1999 – he coordinates projects in the Great Lakes region of Africa which support indigenous civil society groups to monitor, challenge, and advocate against human rights abuses. He provides strategic guidance to major, in-country human rights programs in Burundi, DRC, Sierra Leone, and Nigeria, and has organized advocacy by African civil society leaders at the US Congress, State Department, the UN Security Council, and the UN Commission on Human Rights. He has helped policy-makers and social justice advocates in Chad, Congo, Burundi, and Sierra Leone achieve justice for war crimes in post-conflict environments, and has traveled extensively within the Great Lakes region. He previously worked for the Global Campaign for Freedom of Expression (ARTICLE 19) in London, England, where his research on freedom of expression in Israel and the Occupied Territories led to a report submitted in June 1998 by ARTICLE 19 to the UN Human Rights Committee.

**WILLIAM J. DURCH** is a senior associate at the Henry L. Stimson Center. He recently served as project director for the Panel on U.N. Peace Operations (the “Brahimi” Panel), a comprehensive study of the United Nations’ engagement in peace and security related field missions, at the request of the Office of the Secretary General of the UN. He is former assistant director of the Defense and Arms Control Studies Program, Massachusetts Institute of Technology, and holds a doctorate in political science from MIT. Dr. Durch has held research appointments at MIT, Harvard, and the Center for Naval Analyses, and served in government at the US Arms Control and Disarmament Agency. He has lectured on peace operations at Columbia, Stanford, and Yale University; at MIT; at the US Air, Army, and Naval War Colleges; at the National Defense University; and at the NATO School in Oberammergau. He is author of *Constructing Regional Security: The Role of Arms Transfers, Arms Control, and Reassurance* (Palgrave, 2000); editor and coauthor of *U.N. Peacekeeping, American Policy, and the Uncivil Wars of the 1990s* (St. Martin’s, 1996) and *The Evolution of U.N. Peacekeeping: Case Studies and Comparative Analyses* (St. Martin’s, 1993).

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