

THE INTER-CONGOLESE DIALOGUE: A CRITICAL OVERVIEW

Emeric Rogier¹

Introduction

With a death toll of at least 3.3 million since it broke out in August 1998, the conflict in the Democratic Republic of Congo (DRC) has cost more lives than any other since the Second World War.² Resulting from an intricate cluster of internal and external factors, it also probably counts among the most complex conflicts, with up to nine states militarily involved on Congolese territory and even more rebel groups brought in. Broadly speaking, the war in the DRC initially opposed two sides, composed of the Kinshasa government, its Angolan, Namibian and Zimbabwean allies as well as various paramilitary forces on the one hand, and a divided set of rebel groups (notably the Congolese Rally for Democracy- RCD- and the Movement for the Liberation of Congo- MLC) and their Rwandan and Ugandan sponsors on the other.

As a result of a year-long international (mainly African) process that placed great pressure on the belligerents, a ceasefire agreement was signed by the Heads of State of the Democratic Republic of Congo, Namibia, Rwanda, Uganda and Zimbabwe and the Minister of Defence of Angola on 10 July 1999. This ceasefire agreement was then signed by the Ugandan-backed MLC on 1 August 1999 and, finally, by 50 people representing both factions of the RCD on 31 August. As its title indicates, however, the 'Lusaka Ceasefire Agreement' only provided for the cessation of hostilities pending a political settlement among the Congolese parties themselves. Chapter V of the agreement, which defined the parameters of the Inter-Congolese Dialogue (ICD), called for the official launch of this process of negotiations, which should lead to a 'new political dispensation and national reconciliation in the DRC'. Yet, instead of the 90 day time frame allotted to the Congolese parties to reach agreement, the ICD lasted three months...and three years. The aims of this chapter are firstly to provide a historical account of this somewhat hectic process, its actors, stages, setbacks, achievements and shortcomings; and secondly, to draw a few policy conclusions pertaining to the application of a nonetheless original conflict resolution technique.

The Lusaka Phase: A false start

Lusaka, Gaborone, Addis Ababa, Sun City, Pretoria ... these are shorthand for only but a few of the various steps that have marked out the ICD and, as the place names testify, have made the ICD essentially an African process – though one that was rescued several times by the United Nations.³ In fact, the latter observation applies to the ICD but also to the wider peace efforts deployed immediately after the break up of hostilities on 2 August 1999. During the first year of the Congo war, most of the diplomatic initiatives were taken by appointed or self-proclaimed African mediators, including Blaise Campaore (as Chairman of the Organisation of African Unity- OAU), Frederick Chiluba (mandated by the Southern African Development Community- SADC), or Muammar Al-Qaddafi (acting on his own behalf)⁴. Among the various African sub-regional organisations involved in these peace activities, SADC played a leading role. However, the Community was profoundly divided over the Congo war between those of its members that had rejected Laurent-Désiré Kabila's request for military assistance and the governments of Zimbabwe, Angola and Namibia that intervened on the side of the Congolese President.

Hence, as is often the case with regional organisations involved in peace-making activities in their own regions, neighbouring countries could hardly bring about a solution, since they were part of the problem to begin with. As a result, and given its *non*-involvement in the conflict and its regional power status, the Republic of South Africa soon became involved as a moderator. While Nelson Mandela tried to bridge the gap between SADC countries, his successor, President Thabo Mbeki, put forward key proposals, such as the need for direct talks among the parties; the cessation of hostilities pending an inter-Congolese political arrangement; and the withdrawal of foreign forces after the deployment of a peacekeeping operation. These were to be agreed upon and enshrined less than one month later in the Lusaka Ceasefire Agreement.

Back to Basics: the Lusaka Ceasefire Agreement (July- August 1999)

The signing of the 'Lusaka Ceasefire Agreement' not only resulted from persistent third-party efforts, but also from contextual factors. The accord was indeed brokered at a time when the military situation had reached stalemate: the rebels and the 'uninvited' Rwandan and Ugandan forces had to admit the failure of their 'blitzkrieg' strategy and could no longer hope to topple Laurent-Désiré Kabila, while, for his part, the Congolese President had failed to push them out of the DRC. In addition, all the signatories could draw political benefits from certain, yet differing, provisions of the peace accord. While

Rwanda and Uganda gained acknowledgement of the security threats that they claimed had triggered their intervention, the DRC had it confirmed that the invading forces had an obligation to withdraw. In this sense, all the belligerent states secured a regional commitment to deal with their national security. As far as the rebels were concerned, they obtained international recognition and an agreement that weakened Laurent-Désiré Kabila by granting them equal status in the forthcoming political negotiations.⁵ In other words, the signing of the ceasefire agreement resulted much more from an opportunistic move by each party than it reflected a general commitment to reach a political settlement to the conflict. In such a context, the inter-Congolese 'dialogue' took time to materialise and even longer to reach its conclusion.

The objective of the ICD was to establish a transitional administration in the DRC pending the holding of democratic elections. As stipulated in the 'Lusaka Ceasefire Agreement', the ICD aimed at facilitating an agreement among its participants on four issues related to power-sharing in the DRC: the formation of a new Congolese army; the future institutions of the country; the organisation of general elections; and the interim constitution and institutions that would govern the DRC during the transition period. Importantly, the transitional administration was to be 'inclusive', i.e. its composition should represent the various Congolese stakeholders, and it should govern the country based on the principle of consensus. In accordance with this approach, the negotiations should not only include the Government of the DRC and the main rebel groups (at the time, RCD and MLC), but also opposition political parties (the so-called 'non-armed opposition') as well as representatives from civil society (the 'forces vives'). All parties were expected to participate with equal status in the talks. The dialogue would take place under the aegis of a neutral facilitator who would be responsible for organising the negotiations, consulting the parties, and conducting the discussions.⁷ However, the appointment of the neutral facilitator came as the first stumbling block as the parties proved unable to agree on a candidate. Sir Ketumile Masire, former President of Botswana, was finally appointed on 15 December 1999, two months after the deadline given to the participants to conclude the dialogue. Still, after Sir Ketumile took up his functions in January 2000, the ICD stalled for another twelve months—obstructed by Laurent-Désiré Kabila.

From Laurent-Désiré to Joseph

Several features of the Dialogue infuriated the former DRC President. First of all, Laurent-Désiré Kabila could not stand seeing his rule put into question. The ICD not only gave 'equal status' to each of his armed and unarmed opponents but was basically intended to result in a new power sharing arrange-

ment within the DRC. Instead, the self-proclaimed President wanted a new constitution to be adopted and elections to be held (under his control) to provide him with some degree of legitimacy. In addition, Kabila refused to open discussions on the future of the DRC as long as the country remained under foreign occupation. Contrary to the terms agreed upon in Lusaka, he demanded that the withdrawal of the 'aggressors' be the prerequisite, not the consequence, of national dialogue, a factor which would obviously weaken the position of the rebels. In this respect, Laurent-Désiré Kabila had the backing of UN Resolution 1304 (2001), which required that Rwanda and Uganda withdraw without delay, and he tried, although in vain, to use this text to release himself from the commitments binding him to the dialogue.

Kabila Senior therefore did everything in his power to obstruct the holding of the ICD. At first he rejected the facilitator and even ordered the closing of his office in protest against the fact that his proposal to appoint a (French-speaking) co-facilitator had been rejected. Then, on 6 June 2000, after months of consultation with Congolese and other interested parties, a preparatory meeting was finally convened in Cotonou (Benin). However, the Government delegation refused to attend and failed to provide representatives from unarmed opposition and civil society with the necessary travel authorisations. Simultaneously, Laurent-Désiré Kabila promoted the newly established Constituent Assembly (composed of 300 members nominated by himself) as the appropriate forum for a national dialogue.⁸ He persistently assaulted public and political liberties in a way that was hardly compatible with the requirements of a broad and open dialogue. However, while Kabila's obstructionism did not allow the ICD the slightest chance to begin, things almost immediately ran more smoothly after he disappeared from the political landscape.⁹

While his own appointment had raised much perplexity, Joseph Kabila (Laurent-Désiré Kabila's son) was aware that the Congolese authorities had little to gain in appearing to be the main obstacle to peace and he therefore radically changed direction. Externally, he permitted Sir Ketumile Masire to continue (or rather start) his work; internally, he repealed the decrees restricting activities by political parties.¹⁰ This new climate facilitated the holding of several preparatory meetings during 2001. On 4 May, the three Congolese belligerent parties reconvened in Lusaka in order to renew their commitment to the Dialogue, agreeing on a number of general principles that would serve as a basis for the negotiations. Meanwhile, the office of the facilitator sent a technical mission to the field to assist the other two (civilian) components of the dialogue, namely the unarmed opposition and the forces vives, in selecting their representatives. This was a difficult but useful task given the heterogeneity of these groups and the fact that they were subjected to harnessing attempts. In the end, the ICD preparatory committee comprised seventy-four delegates from the five components, who managed to agree by the end of

August 2001 on the agenda, the structure, the rules, the place and the dates of the dialogue. Yet, the first session of the ICD, which was convened in Addis Ababa on 15 October 2001, resulted in complete failure.

The abortive dialogue in Addis Ababa (October 2001)

The chief reason of this failure did not relate to unbridgeable political differences, but to representation issues that prevented the discussions from starting. Indeed, having only limited financial resources at his disposal, the neutral facilitator found himself compelled to reduce the number of delegates to fifteen per group instead of the sixty previously agreed upon. This reduction to one quarter impinged on the representativeness and thereby on the credibility of the process. In addition, it appeared that the overall participation in the ICD needed to be broadened further in order to reflect the diversity of the Congolese population and include groups not adequately represented in the five components. It was thus decided that the ICD should also incorporate representatives from the local Mayi-Mayi militias; religious orders; traditional chiefs; as well as other groups from the armed and non-armed opposition. Yet, discussions on the best way to accommodate these various interests dragged on and the Government delegation, irritated by the overall situation, eventually decided to withdraw its participation. This first meeting of the Inter-Congolese Dialogue eventually lasted only five days instead of the proposed forty-five.

The Sun City phase: Failed outcome

At this point, the ICD was basically still-born. At the initiative of UN Secretary-General Kofi Annan, the three main parties (the DRC Government, the RCD-Goma and MLC) attended an informal meeting in New York in November 2001 where they agreed to re-launch the process. However, crucial funding, representation and political issues had to be resolved in order to revitalise the ICD. Financial resources were first secured (with contributions from, inter alia, South Africa, the European Union, the USA, Canada, Japan and Belgium) to ensure the participation of a much larger number of delegates for a much longer duration than in Addis Ababa. Meanwhile, during a meeting held in Abuja in December 2001, the three main parties made significant progress on the issue of the composition of the delegations. Nevertheless, the Belgian Government had to re-motivate and provide guidance to the representatives of the unarmed opposition and civil society who were infuriated by the arrangements made without their consent and which impacted on their own delegations. In addition, the discussions held in Abuja revealed strong

disagreements on substantial issues, in particular concerning the presidency. While a pre-summit between the leaders of the three main belligerent parties (Joseph Kabila, Adolphe Onusumba and Jean-Pierre Bemba) might have helped outline a political deal on the most sensitive issues, no such meeting could take place before the official opening of the dialogue.

The Sun City “talk show” (February-April 2002)

The real negotiations took place in Sun City, South Africa, from 25 February to 19 April 2002.¹¹ The 362 delegates represented five different ‘components’ (the three Lusaka signatories; the unarmed opposition; and the ‘*forces vives*’) and three ‘entities’ corresponding to three additional belligerent groups (RCD-ML, RCD-National, and the Mayi-Mayi). These delegates split into five technical commissions devoted respectively to: political and legal matters; security and defence; social, cultural and humanitarian affairs; economy and finance; and, finally, peace and reconciliation. Ultimately, thirty-four resolutions were negotiated and approved by consensus within these commissions. In particular, the delegates agreed to create a number of new institutions of ‘support to democracy’ (such as an independent electoral commission; a national observatory for human rights; a truth commission; a higher authority for the media; etc.) that could later potentially help with rebuilding the DRC on a “healthy” basis.

Nevertheless, these technical commissions failed to shape a solution to some of the key issues at the heart of the conflict and instead tasked the interim institutions with resolving them. The citizenship issue and the commercial contracts signed during the wars, for example, were thus to be examined by the future parliament. Furthermore, while the latter three commissions mentioned above exhausted their agenda, the former two (on political and security matters respectively) did not, due to the belligerents’ inability to reach agreement on the weightiest issues before them: the political and military power they would enjoy during the transition period.

Indeed, when the negotiations opened, the three main parties had incompatible objectives that largely prevented a compromise. Joseph Kabila was ready to call for elections at the end of the transitional period and was open in the meantime to appointing opposition and rebel leaders at high level positions within the interim institutions; but he also aimed to be confirmed as Head of State during the transition – a position he deemed neither vacant nor negotiable. On the other hand, the rebel leaders wanted to seize the opportunity created by the dialogue to unseat the current president (hence, the MLC’s proposal of a revolving presidency every three years).

The structure and command of the future national army gave rise to the same kind of dispute. All sides agreed in principle that the Congolese army

should be restructured to incorporate forces from the three belligerent parties. However, in order to stay in command of the army and ensure the break up of rebel groups, the government delegation wanted their forces to be integrated into the existing *Forces Armées Congolaises* (Congolese Armed Forces) and was not ready to grant rebel leaders anything more than low-ranking leadership positions. On the contrary, the rebel movements demanded that the three armies be completely merged on the basis of a quota system and claimed their share of the command structure.

Enter Mbeki

The lack of agreement on these power sharing issues meant, very simply, the failure of the Inter-Congolese Dialogue and the continuation of the war. In desperation, Sir Ketumile Masire appealed to South African President Thabo Mbeki to try to broker a last minute deal. South Africa had indeed many reasons to support the successful conclusion of the dialogue, which largely explains its mediation efforts in the DRC. As the host country, South Africa was obviously willing to maintain the momentum due to the significant financial investment it made in the ICD. As a regional power, it was eager to achieve a success that could only increase its prestige and reinforce its image as peacemaker. As a commercial power, Pretoria was also aware of the business opportunities that would open to South African companies once peace was restored in the DRC. Finally, as a military power, the South African government feared being pushed to send peacekeepers to a hazardous environment and was therefore anxious to see a peace agreement brokered. However, South African leaders have often been seen as biased in favour of the Rwandan camp. While this positioning may have provided Pretoria with some leverage, there was a potential for backlash, which was realised in Sun City.

President Mbeki submitted successively two plans related to the allocation of key power positions during the transition period. The first one, officiously called 'Mbeki I', was rejected by the two rebel movements. The second one, 'Mbeki II', was amended in a sense so ostensibly in favour of RCD-Goma that it allegedly offended the Congolese nationalist sense of most delegates and was ultimately rejected by Kinshasa and the MLC. Thus, this initiative not only failed but may even have been counterproductive by spurring the government delegation and the MLC to come quickly to a deal under their own terms.

The 'Accord de Sun City'

The Kinshasa government and the MLC concluded a bilateral power-sharing deal on the sidelines of the ICD, which enabled Kabila to be confirmed as pres-

ident for the transition period (and to obtain thereby the long-awaited resumption of international aid) but also to gain a military advantage on RCD-Goma by encircling its zones and symbolically reunifying two thirds of the Congolese territory. For his part, Jean-Pierre Bemba was allotted the seat of prime minister (and reportedly other financial benefits) and could see himself becoming one of the most prominent political leaders of the country. This *'Accord de Sun City'* was subsequently signed by a majority of delegates (including representatives of RCD-ML and RCD-N) but crucially not by the RCD-Goma, nor by a number of opposition parties. Those delegates dissatisfied with the outcome later formed an Alliance for the Preservation of the Inter-Congolese Dialogue. In so doing, civil society groups aligned themselves with particular armed groups in a move that contradicted the search for a new political order as well as their struggle for the democratisation of Mobutu's Zaire in the early 1990s.¹²

The fact remains that up to this stage the ICD did not result in the all-inclusive agreement that was expected. To sum up, several factors contributed to this failure. First, the negotiations appear to have been poorly prepared: much time was devoted to solving representation issues before the opening of the ICD (and again during the first two weeks of the session) in detriment of more substantive issues on which no pre-deal could have been concluded. In that respect, the ICD facilitator has drawn much criticism for the minimalist conception that he may have held of his role, while the last-minute intervention by President Thabo Mbeki was also scarcely effective. Fundamentally, however, the failure to reach an all-inclusive agreement should be ascribed to the parties themselves, in particular to the Rwandan camp. The RCD-Goma could not resign itself to Kabila's renewed presidency and was even less willing to agree to an outcome, which allowed the latter to continue to provide support to Rwandan Hutu extremists (including ex-FAR and Interahamwe elements) based in the DRC. In fact, the RCD-Goma was probably prevented from concluding a deal by the Rwandan government, which had given up the idea of controlling Kinshasa but not the Kivus, and was therefore not ready to accept the re-establishment of the DRC's sovereignty throughout all the Congolese territory. Clearly, Rwandan short-term benefits from resource exploitation and long-term objectives of creating a zone of influence in eastern Congo were not compatible with the restoration of the DRC's unity, which an all-inclusive agreement could have heralded. Hence, inter-Congolese affairs remained strongly influenced by outsiders.

The Pretoria phase: A fools' game?

While the Inter-Congolese Dialogue ended in failure in April 2002 and the peace process seemed to have then reached stalemate, significant develop-

ments nonetheless occurred during the second half of 2002, whose convergence might have outlined a potential way out from the Congolese labyrinth.

The Sun City Accord produced mixed reactions within the international community. For his part, the facilitator repudiated the agreement (in the negotiation of which he played no part at all) on the basis that it was non-inclusive and had been concluded outside the legitimate framework of the ICD. Yet, while certain countries supported that position and called for the resumption of the dialogue, others accepted the agreement at the risk of undermining further the facilitator's authority. Eventually, the deal concluded between Kabila and Bemba proved short-lived as both parties displayed their inability to agree on a constitutional basis and to put into operation an agreement that was very vague in nature. These developments encouraged the United Nations and South Africa to put the process back on track and to continue searching for a comprehensive agreement involving all Congolese stakeholders. Such an agreement was not only necessary to restore peace in the DRC, it also seemed within reach given the fact that the ICD had not failed to produce consensus on the principle but only on the modalities of power sharing. Still, the poor performance of Sir Ketumile Masire led the UN Secretary-General to grant Mustapha Niasse, his Special Envoy to the DRC, (who had chaired the Political and Legal Commission of the ICD) a six-month mandate (later extended until March 2003) to broker the long-awaited all-inclusive agreement.

Enter Niasse

Between June and October 2002, Mustapha Niasse conducted three missions in the region during which he discussed with all parties concerned their views pertaining to power sharing during the transition period. At the end of his third mission, the Special Envoy was already optimistic about the prospects for reaching an agreement.¹³ In fulfilling his mandate, he was helped by two critical factors. First, the UN Special Envoy benefited from the crucial support of the South African government's team, led by Sidney Mufamadi, Minister of Provincial and Local Government Affairs, in his capacity as representative of the Presidency-in-office of the African Union. Although Mbeki's unsuccessful intervention at Sun City made it difficult for South Africa to play a prominent role (hence, the appointment of a French-speaking mediator), Pretoria remained nonetheless highly committed to the process. This time the South African government made the most of its privileged relationship with Kigali to try to convince the RCD-Goma and its sponsors to reach a deal.

Second, the overall context in the latter half of 2002 proved much more conducive to peace efforts than the situation that prevailed a few months before. In July and September 2002 respectively, separate agreements were concluded

between the DRC and Rwanda (Pretoria I) as well as between the DRC and Uganda (in Luanda), which paved the way for the withdrawal of foreign forces from the Congolese territory. At the time, the Rwandan leadership in particular seemed to have reconsidered its involvement in the DRC.

Pretoria I: Rwanda's new departure (July 2002)

When an accord was announced on 30 July 2002 on the withdrawal of Rwandan troops from Congolese territory and the dismantling of the ex-FAR and Interahamwe, very few expected it would ever become a reality. In fact, signed by the President of South Africa and the UN Secretary-General as witnesses, this four-page protocol added nothing new to the agreement concluded three years earlier in Lusaka, nor even dismissed any of its loopholes. In particular, it remained a mystery as to how the targeted armed groups would be disarmed and who would take on this responsibility. Conversely, being made conditional upon the simultaneous implementation of 'effective' (but yet-to-be-defined) measures to address its security concerns, it seemed all the more unlikely that the Rwandan withdrawal would take place within the 90-day timeframe. Yet Rwanda's President Paul Kagame pulled out his forces without even waiting for Kabila to live up to his own commitments.

This sudden shift, a few months after preventing the RCD-Goma from making a deal at Sun City, deserves some explanation. First, it appears that after the failure of Sun City, for which the Rwandan leadership was widely held responsible, it felt increasingly isolated. Not only had Kabila concluded an accord with the Ugandan-backed MLC, but Kigali's instructions to the RCD-Goma generated the impression that Rwanda preferred a quasi-permanent partition to the potential reunification and reconstruction of the Congo. Added to the overwhelming conclusions of the UN Panel of Experts on the exploitation of natural resources in the DRC, Kigali's obstructionism at Sun City fuelled the interpretation that, in the final analysis, the Rwandan Patriotic Army had not invaded the DRC in (self)-defence of Rwandan borders, nor even to grab hold of Congolese resources, but simply to annex the Kivus. Thus, while the post-1994 Rwandan regime, as an embodiment of the survivors of the genocide, has long enjoyed a form of international immunity status, Kagame's intransigence and possible duplicity started to raise criticisms and attract international (including US) pressure.

Furthermore, the RCD-Goma became implicated in war crimes committed in Kisangani in May 2002 during the put-down of a mutiny. Although the Rwandan army denied any involvement in the events and insisted it had no troops in the city since June, Rwanda continued to control the city through its proxy and bore responsibility, as the *de facto* occupying power, for the atroci-

ties committed in the region. In the end, there was probably no better way for Kigali to defend itself against the accusations of obstructing peace efforts, plundering Congo's resources and abusing human rights than by withdrawing its forces. This step was also consistent with the new policy the Rwandan regime had developed for the Kivus, according to which while the two provinces may not have to remain under its direct military occupation, they still constitute a zone of influence. The power-sharing deal brokered by Mustapha Niasse did not seem incompatible with this objective either.

The "Global and All-Inclusive Agreement": Unfinished business (December 2002)

On 17 December 2002 in Pretoria, the main Congolese parties to the conflict, including the DRC's government, RCD-Goma, MLC, RCD-ML, RCD-N and the Mayi-Mayi, finally signed the Global and All-Inclusive Agreement on the Transition in the DRC (also called 'Pretoria II'). Short of addressing the causes of the conflict, this agreement reflected a deal between the principle warlords as to how they would share power at the governmental level during the 24-month transition period, at the end of which elections should be held. In brief, President Kabila would remain Head of State (and Supreme Commander of the Armed Forces) but would be assisted by four Vice-Presidents in charge of governmental commissions, each comprising ministers and deputy ministers. A political commission would be chaired by the (new) leader of the RCD-Goma (Azaria Ruberwa); an economic and finance commission by the (former) leader of the MLC (Jean-Pierre Bemba); a reconstruction and development commission by a member of Kabila's government (former foreign minister Abdoulaye Yerodia Ndongbasi); and a social and cultural commission by a representative of the political opposition (former international civil servant Arthur Z'ahidi Ngoma). In total, the transitional government would include no less than 36 ministers and 25 deputy ministers. In addition, the signatories also agreed on the structure and composition of the parliament, which would consist of a national assembly (comprising 500 members and presided over by an MLC representative) and a senate (comprising 120 members and presided over by the '*forces vives*'). Civil society would also head the five independent institutions 'in support of democracy' whose establishment was decided at Sun City, including the independent electoral commission.

Although this deal was a necessary step on the road to peace and may eventually mark the beginning of a new era in the DRC, the Pretoria II agreement did not stem from the political will of the signatories but was achieved, just like the previous ones, after protracted negotiations and under intense international pressure exerted in particular by the United Nations, South Africa,

and Western countries. In the end, the parties' motives for signing were to avoid being marginalised and to have their share of power preserved, confirmed or recognised, but probably not to offer the DRC an opportunity to rise from its ashes. Each party's likely motives is summarised below.

RCD-Goma: Given its strong military position and the fact that certain political issues deemed important by some of its members were not adequately addressed in the agreement (such as citizenship), the RCD-Goma had no strong incentives to conclude a deal. However, the rebel movement was well aware of its lack of popular support in eastern Congo, even less in Kinshasa, and probably expected to gain some legitimacy from participating in the transitional government. In addition, RCD-Goma was granted the ministry of defence, an allocation consistent with its ambition (as well as Kigali's objective) to control the Congolese state security apparatus. Finally, it is all the more likely that RCD-Goma complied with the instructions of its Rwandan master, itself under the pressure of the international community.

MLC: Compared to the RCD-Goma, the MLC was far less unpopular in the DRC, especially in Kinshasa, as it appeared less obviously subjugated to the will of neighbouring countries. Although sponsored by Uganda, the MLC comprised a number of former Mobutists and ex-supporters of Laurent-Désiré Kabila within its ranks, making it a more credible Congolese political force. However, Bemba had seen his position rapidly weakening since the end of the Sun City meeting. Not only did the deal concluded with Kabila not materialise, but Bemba's credibility was seriously undermined by human rights abuses perpetrated by his troops in Mambasa (Ituri district) and reported on by the national and international media during the summer of 2003.¹⁸ The MLC was further weakened on the military front by the fall of its Central African ally Ange-Felix Patassé, who was overthrown by François Bozize on 15 March 2003, with the help of the Congolese Armed Forces. As a result, the MLC lost its supply base in CAR and felt further threatened by the defence accords that Bangui and Kinshasa agreed to revive in June. With his political and military room to manoeuvre shrinking, Bemba was less demanding in the negotiations and saw no better exit strategy than signing an accord which guaranteed him a safe position in power. In so doing, the MLC leader also obtained the lucrative position that he (and his Ugandan mentors) aimed at: the vice-presidency for economy and finances.

RCD-National: A similar calculation was made by the leader of the RCD-National. Since the *raison d'être* of this movement was mainly to attract more positions for the MLC within the transitional administration, Roger Lumbala disposed of no armed forces as such except Bemba's troops. He nonetheless was implicated in the Mambasa affair and was therefore happy to leave the bush in exchange for some form of political immunity.

RCD-ML: Finally, in spite of Kinshasa's support, RCD-ML troops found themselves in an increasingly difficult military situation as they were encircled from all sides. Mbusa Nyamwisi, who had already concluded a deal with Kabila at Sun City, also reached the conclusion that time had finally come to move to Kinshasa.

The Final Act (April 2003)

The Pretoria II agreement could be described as 'global and all-inclusive' in so far as the distribution of political positions and privileges had been negotiated to the smallest detail among those stakeholders considered the major national players. However, the agreement failed to address at least three outstanding issues. These were: the integration of all armed forces into a united national army; the personal security of transitional government leaders; and, finally, the interim constitution for the transition period. It was to resolve these pending matters that technical committees were convened once again in Pretoria on 24 February 2003. After eleven days of discussions, on 6 March 2003 the ICD delegates approved three additional documents.

First, a 'Memorandum regarding the mechanism for the establishment of a restructured and integrated national army' was signed, which in fact was nothing more than a declaration of intent. No agreement had yet been found among the belligerent parties on the sharing of military responsibilities during the transition period. Discussions on this contentious issue dragged on until a deal was brokered on 29 June by UN Special Envoy Mustapha Niasse, assisted by former Canadian Armed Forces Chief of Staff, General Maurice Baril. Under this agreement, which was signed in Kinshasa, President Kabila would nominate the armed forces chief of staff and the head of the navy, while RCD-Goma and MLC would head the ground forces and the air force respectively.

In the second document approved in March, entitled 'Memorandum regarding the security provisions during the Transition', the signatories requested the international community to provide for their personal safety in Kinshasa. Rebel leaders in particular agreed to come to the capital in order to take up their functions, but wanted assurances that their security (and that of their relatives) would be guaranteed at all times. This proved to be another contentious issue, as President Kabila could only receive with scepticism the proposal made by RCD-Goma and MLC to make up a police force of their own soldiers. The international community was therefore approached to 'protect the transitional institutions', and ensure security in the Congolese capital – a task the United Nations Mission in the Congo (MONUC) would actually take on.

Thirdly, the final round of discussions led to the adoption of the transitional constitution. However, just as the memorandum on the army missed out the

crucial command issue, the transitional constitution was silent on a major aspect of the DRC's conflict: the granting of Congolese nationality in general and the status of the Banyamulenge in particular. Article 14 of the constitution states that all ethnic groups and nationalities constituting Congo at the time of independence are equal as citizens before the law. Yet, it leaves it to a future nationality act to spell out the conditions under which Congolese nationality is to be recognised, acquired, lost or recovered. In this matter, the constitution proves specific only in precluding double nationality, a provision that may alienate Rwandan Hutu and Tutsi minorities in the DRC. In the same vein, the transitional constitution does not contain any indication concerning the future constitutional order and level of decentralisation in the DRC. While the RCD-Goma and autonomist movements in the Kivus (backed by Rwanda) support federalism as a way to secure control over eastern Congo's resources, the government component will seek to re-establish control over all the territory, and especially over the rebel areas.¹⁹

This unfinished deal nevertheless paved the way to the final session of the Inter-Congolese Dialogue, held in Sun City on 1-2 April 2003, during which the Final Act was signed, endorsing all agreements approved until then. Ironically, the leader of the RCD-Goma, Dr Adolphe Onosumba Yemba, was this time the only one of the three main belligerents to attend this session, which Kabila, irritated by the choice of location (Sun City instead of Kinshasa), decided to boycott, followed by Bemba. The official ICD facilitator, Sir Ketumile Masire, attended the ceremony but did not deem it relevant to refer in his speech to the role played by the UN Special Envoy in the outcome. Yet, as illustrated by the fact that key agreements, including the latest ones, were secured outside its framework, it is quite clear that the Inter-Congolese Dialogue did not live up to expectations and would have ended in failure without external interventions.

Conclusion

Initially, the Inter-Congolese Dialogue could have been seen an appropriate conflict resolution tool that would address both the contextual factors of the Congo war (in particular the failure of Mobutu's Zaire) and the greedy motives of most belligerents. While bad governance and democratic deficit had characterised the Mobutist state and eventually caused its collapse, the launching of a nation-wide dialogue open to non-belligerents seemed a first step towards establishing a new political order based on popular consent and inclusive participation. This broad-based dialogue also indicated that the belligerent parties were not considered the only relevant political actors, but that political legitimacy could also be acquired without resorting to violence. At the

end of the day, however, although a few resolutions were approved at Sun City that might later reveal their peace-building value, key issues for the reconstruction of the Congo were not adequately (if at all) addressed during the whole process. The ICD can thus be considered a failure in spite of the signing of the 'global and all-inclusive' agreement, and in fact *because* of the signing of this very agreement. Not only was this peace deal (and the subsequent memoranda) negotiated largely outside the framework of the Inter-Congolese Dialogue, but the nature and shortcomings of the Pretoria II agreement indicate that, far from laying the foundations of a new Congo, the ICD was reduced to a bargaining forum between warlords and predatory leaders. How to explain this failure?

First, one should admit that given the nature of the Congolese conflict - that is, a conflict fought over the control of the central government by belligerent factions devoid of any other political manifesto- some kind of power sharing deal (in the narrowest sense of the term) was probably inevitable to stop the fighting. However, even if an 'elite pact' might be necessary to end the war, it is not sufficient to build peace. The trouble is that the ICD talks were gradually reduced to that narrow objective while the number of contestants simultaneously, and correlatively, kept growing. Greedy warlords indeed managed to 'shoot their way' to the negotiating table, thereby increasing the difficulty of finding an agreement and impoverishing further the contents of the talks. Hijacked by belligerent factions, the ICD was locked in a vicious circle.

Second, responsibility for the failure of the dialogue is must also be partly borne by the '*forces vives*' and the unarmed opposition. True, most of the substantial resolutions adopted at Sun City were initiated by civil society organisations. True also, these organisations found it difficult to find their way in the forum while belligerent factions were simultaneously engaged in parallel discussions, and even determined the composition of their delegations. However, by eventually aligning themselves with certain armed groups, the '*forces vives*' and the political parties gave up the peacebuilding role they were expected to play by polarising further and reducing the scope of the talks.

Third, in spite of its designation, the ICD was not purely 'inter-Congolese'. Neighbouring countries played a major role in the Congo war and continued to exert their influence during the ICD process through their proxies. It is thanks to the support provided by Rwanda and Uganda that armed groups could shoot their way to the negotiating table and raise the bidding. Likewise, this support enabled foreign sponsors to limit the rebels' room to manoeuvre and keep the Inter-Congolese Dialogue at least partly under their control. While the ICD aimed ultimately at reunifying the country and re-establishing the sovereignty of the DRC over all the Congolese territory, neighbouring countries could not be expected to support the process as long as they perceived these goals would be achieved at their expense.

Finally, the ICD was without any doubt weakened by the lack of international involvement without which African solutions can hardly be sustainable. Whether the severe criticisms to Sir Ketumile Masire were well grounded or not, the facilitator's performance could only have benefited from timely financial and political support. That the ICD process was several times rescued by the UN indicates both its inherent weaknesses and the need for a *continued* international commitment.

The failure of the ICD does not necessarily mean that this kind of conflict resolution strategy should be dismissed. On the contrary, enlarging the negotiations to non-armed actors remains a valid option to avoid peace processes being monopolised by (often obscure and non-representative) armed groups. A few conditions should be met, however, for this strategy to be more effective. First of all, negotiations should not be held against the background of continued fighting. While the ICD was designed to take place only after the Lusaka ceasefire agreement had entered into force, in practice hostilities continued in eastern Congo throughout the negotiations. As seen above, new armed groups have emerged and tried (successfully) to force their incorporation into the dialogue. The lesson is that a ceasefire agreement should not only be signed but strictly enforced (with the assistance, if needed, of a robust international peace-keeping force) and participation to the talks should then be limited to the signatories of the agreement. Instead of incorporating new factions, those who violate the ceasefire should not be allowed at the negotiation table. While peace spoilers usually come from splinter groups, such a policy may induce would-be spoilers to stay within the mainstream, even more so if their actions are met with adequate military response. By the same token, such a policy would punish, not reward, the resort to violent means; avoid propelling obscure and/or non-qualified leaders to power positions; and enable talks to be held in a more conducive climate.

The rules of the game thus defined, the experience of the ICD also shows that such a process requires careful preparation. Ideally, the composition of the delegations should be determined well in advance, funding should be secured, and preliminary discussions should have been held on the most sensitive issues before the official opening of the talks. These three conditions require, in turn, that the facilitator/mediator be granted unambiguous political and technical support by external actors. Such a support may entail providing guidance to non-armed actors so that they play a constructive role, compelling belligerent parties to commit to the negotiation process, and preventing, through the use of "carrots and sticks", neighbouring countries from jeopardising peace efforts. Having largely failed to do so in the DRC, the international community is now faced with the daunting task of rebuilding democratic institutions with former war leaders and profiteers who are more likely to concentrate on entrenching themselves in power, than on contributing to the reconstruction process.

Notes

1. Dr. Emeric Rogier is a Research Fellow at the Netherlands Institute of International Relations 'Clingendael' (Conflict Research Unit).
2. According to the International Rescue Committee, the aid agency responsible for these estimates, 10% of the victims died violently while the rest died from starvation and disease because of the various armed groups' activities. DRC Conflict Deadliest since World War II – Aid Agency, *IRIN-DRC*, 8 April 2003.
3. The final report of the neutral facilitator of the Inter-Congolese Dialogue and all documents approved within the framework of the ICD are available online at www.drcpeace.org/docs
4. Former Senegalese Prime Minister Mustafa Niassé may be added to the list although he acted as Special Envoy of the United Nations Secretary General (himself a Ghanaian national).
5. International Crisis Group, *The Agreement on a Cease-fire in the Democratic Republic of Congo*, *DRC Report N°5*, 20 August 1999, pp. 4-17.
6. International Crisis Group, *The Agreement on a Cease-fire in the Democratic Republic of Congo*, *DRC Report N°5*, 20 August 1999, pp. 4-17.
7. In this regard see *Lusaka Ceasefire Agreement*, Chapter 5.
8. *Report of the United Nations Secretary General*, S/2000/1156, par. 23.
9. Laurent Kabila was mysteriously assassinated in Kinshasa on 16 January 2001. His cohorts appointed his son, the then 29-year old Joseph, as President. Joseph Kabila was sworn in on 26 January 2001.
10. *Report of the United Nations Secretary General*, S/2001/373, par. 6 and 18.
11. A detailed account of the negotiations at Sun City can be found in International Crisis Group, *Storm Clouds Over Sun City: the Urgent Need to Recast the Congolese Peace Process*, *Africa Report N°44*, 14 May 2002.
12. Stressed by Henri Boshoff and Martin Rupiya, *Delegates, Dialogue and Desperadoes. The ICD and the DRC Peace Process*, *African Security Review*, 12(3), 2003, pp.34-36.
13. *Report of the United Nations Secretary General*, S/2002/621, par. 18 and S/2002/1180, par. 3-7.
14. The agreement is available online at www.usip.org/library/pa/drc_rwanda_pa07302002.html
15. On the Kisangani events, see Human Rights Watch, *War Crimes in Kisangani. The Response of Rwandan-backed Rebels to the May 2002 Mutiny*, 20 August 2002.
16. The reason for Rwanda's withdrawal was given by Kagame himself: 'we will have proved we were not in Congo for human rights abuses or to exploit resources'. Quoted in All Party Parliamentary Group on the Great Lakes Region and Genocide Prevention, *Cursed by Riches: Who Benefits*

from Resource Exploitation in the Democratic Republic of Congo? November 2002, p. 11.

17. I am indebted to Arsène Mwaka Bwenge, researcher at the University of Kinshasa, for some of the information.
18. Bemba's MLC and RCD-National troops were held responsible for widespread human rights abuses and inhumane acts, including acts of cannibalism, committed during the '*effacer le tableau*' (wipe the slate) campaign launched in Ituri in October 2002. See Human Rights Watch, *Ituri: "Covered in Blood", Ethnically Targeted Violence in North-eastern DR Congo*, July 2003, pp.36-38.
19. On Rwanda's support to autonomist movements, see International Crisis Group, *The Kivus: The Forgotten Crucible of the Congo Conflict*, Africa Report N°56, 24 January 2003, pp. 3 and 9.