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## *State Failure and Civil Society Potential: Reconciliation in the Democratic Republic of Congo*

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The conflict in the Democratic Republic of Congo (DRC) has consistently been labelled as one of the world's worst and most forsaken humanitarian crises. The conflict officially ended in 2002, with the signing of the Global and Inclusive Accord at the Inter-Congolese Dialogue in Sun City, South Africa. This article focuses on the contribution of domestic actors to the reconciliation process that was born out of this dialogue. The relative failure of the government's involvement in this process, primarily through the operation of its Truth and Reconciliation Commission (TRC) will be contrasted with the relatively unrecognised contribution of Civil Society Organisations (CSOs) and the potential of their work in the national process of reconciliation. The author argues that state involvement in national reconciliation, along with increased recognition by the international community of the efforts and successes of civil society organisations, is critical if the DRC is to transition from a violent past to a peaceful future.

**Keywords:** Democratic Republic of Congo, Truth and Reconciliation, government, civil society organisations, amnesty, justice, human rights abuses.

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# State Failure and Civil Society Potential: Reconciliation in the Democratic Republic of Congo

## Introduction

Between 1998 and 2007, the conflict in the Democratic Republic of Congo (DRC) resulted in the deaths of 5.4 million people; a death toll greater than any other conflict since World War II (International Rescue Committee 2007). These figures highlight just one aspect of the severe devastation caused by a prolonged conflict that has ravaged the country's economic and social resources, left millions dead and many more displaced, homeless, malnourished and suffering from disease.

## The Colonial Era to Post-Mobutu Democracy

The DRC's long history of violence, since Belgian rule until the present day, caused Frantz Fanon to remark that, 'Africa has the shape of a gun and its trigger is Congo' (in Savage and Vanspauwen 2008:323). Following the prolific exploitation of both human and natural resources during the colonial period and the subsequent, relatively peaceful move to independence in June 1960, the country fell into political chaos within its first year of independence, and was led for the next five years by a series of weak civilian governments (Savage and Vanspauwen 2008:326). On 24 November 1965, Joseph Mobutu, then Chief of Staff of the army, seized his opportunity and took power in a military coup, surviving as head of the Congolese government under autonomous rule until 1997, leading a regime characterized by extreme levels of corruption, human rights violations and political repression (Savage, 2006:3).

After negotiations at the Sovereign National Conference had failed in August 1991, further political uncertainty came in 1994, when the effects of the Rwandan genocide spilled over into the DRC. Many of the 1.2 million Hutu refugees who fled to eastern Congo were soon regrouped in refugee camps under the direction of the Interahamwe. The leaders of the Interahamwe, the political group largely responsible for deaths during the Rwandan genocide, also recruited Congolese Hutus, forming the Army for the Liberation of Rwanda (ALiR). They carried out attacks along the border against Rwandan and Ugandan forces in Congo, and also launched a counter-attack against the new, Tutsi-led Rwandan government based in Kigali (Savage 2006:4). In response, a newly-formed coalition between Ugandan and Rwandan forces and Congolese fighters, the Democratic Forces Alliance for the Liberation of Congo-Zaire (AFDL), led by Laurent-Desire Kabila, forced Mobutu finally to surrender power and flee the country. In May 1997, Kabila announced himself as head of the government of the



newly-named Democratic Republic of Congo, but his style of political leadership failed to involve many of the democratic components that the country's new name would suggest (Havermans 2000).

Following Kabila's assumption of power, the formally allied Rwandan and Ugandan forces switched to serve their own agendas. The Rwandan, Congolese and Ugandan armed forces, along with numerous rebel groups, then fought each other for power and control of the country's vast mineral resources. The ensuing war, labelled by Borello as 'Africa's First World War' soon took on a truly international nature when Angolan, Zimbabwean, Chadian and Namibian troops stepped in, in support of Kabila's government (2004: iii).

### **The Road to Peace**

A ceasefire in Lusaka in 1999 was followed by the Lusaka Peace Accord. This had little impact however, and the devastating consequences of this can partially be seen in the over three million deaths that resulted between 1998 and 2002, from continued fighting, malnutrition and disease (International Rescue Committee 2006).

The turning point came when Laurent Kabila's son, Joseph, assumed the Congolese presidency following the senior Kabila's assassination in January 2001. After four months of false starts, the Inter-Congolese Dialogue, a proposal of the Lusaka Agreement, opened in Sun City in South Africa on 25 February 2002. The Sun City Accord was signed in April 2002, and by the end of the year all stakeholders had signed the Global and Inclusive Agreement. It was here for the first time that the Congolese Government showed its full support for a unified, national reconciliation effort, joining with civil society groups, unarmed opposition, and the warring factions in the process.

### **The Truth and Reconciliation Commission in the DRC**

One of the five democracy-supporting institutions established as part of the Global and Inclusive Agreement was the Truth and Reconciliation Commission (TRC). It was through this Commission that the government was primarily involved in the reconciliation process.

It is widely agreed that truth-seeking has an important and obligatory role in the reconciliation process of any country or region seeking to move on from a period of protracted conflict. Truth commissions are one way of revealing this truth, providing a victim-centred approach that enables wrongs to be identified and acknowledged and gives victims some form of compensation for the harm caused to them.

The overall mission of the Truth and Reconciliation Commission was to '...establish truth and to promote peace, justice, reparation, forgiveness and reconciliation for sustaining national unity.' (Kambala and Savage 2008:346). The mandate was two-fold; firstly, through truth-seeking mechanisms, to identify the victims, collaborators and perpetrators of crimes and human rights violations and secondly, having established the truth, to promote national unity by 'acknowledging the facts, asking and receiving



pardon and providing reparation and rehabilitation for victims' (Davis and Hayner 2009:21). The mandate included all crimes committed over the 46-year period between independence in June 1960, and the end of the transition period in 2006.

The TRC was legally established on 30 July 2004, but by August of that year, the head of the commission, Bishop Jean-Luc Kuye, without giving any justification announced that it was not able to investigate human rights violations, but would instead focus on conflict mediation activities (Borello 2004:46). In this mediatory role, particularly in the eastern provinces, the TRC was instrumental in collecting victims' complaints, mediating between FARDC soldiers and Mayi Mayi militia, and facilitating coexistence initiatives between different ethnic groups (Kambala and Savage 2008:346). In this way the TRC upheld its mission to 'establish truth and...promote peace...and reconciliation for sustaining national unity' but failed to fulfil its specific mandate of investigating political crimes and human rights abuses.

One of the characteristics of truth commissions is the inclusion of some degree of amnesty, and the Congolese TRC was no exception in this. At the Inter-Congolese Dialogue, the parties involved made a power-sharing concession in the form of a Transitional Government of National Unity. However, many of the rebel groups only agreed to the concession upon securing a promised amnesty protection for crimes they had committed during the conflict. For the sake of moving the transition process forward this condition was granted, and in November 2005, the provision was extended to include crimes committed since 1996. This meant, controversially, that those responsible for the assassination of Laurent Kabila were protected by a legal amnesty.

In the case of the DRC, the amnesty was seen as a small price to pay to appease the numerous rebel groups and to start to bring some level of peace to the war-weary country. Many others, however, share Slye's opinion that it is 'one of the most controversial mechanisms contemporary societies have used to address violent pasts' (2000:170). The controversy surrounding this issue of amnesty will be discussed in the following analysis of why the TRC failed to fully achieve its reconciliatory objectives.

### Why the TRC Failed

The work of the Congolese TRC has come under much criticism. It has been labelled a 'stinging failure' (Nyabiringu, quoted in Chaco 2009) and referred to as a 'truth omission instead of a truth commission' (Yav 2007).

The formation of the Commission was highly politicised from the start, with the eight initial Commissioners nominated by members of the parties belonging to the transitional government. Having committed various atrocities themselves, these commissioners naturally had a vested interest in seeing that the work of the TRC did not succeed. Following pressure from the international community, the Commission added thirteen new members, but the power still lay firmly in the hands of the appointed political commissioners, and the resulting disunity between commissioners made concrete decisions regarding the operation of the Commission very hard to reach (Kasuku 2010). Various structural barriers meant that the Congolese public



failed to engage fully in the work of the TRC. There was very little public ownership and the conflict survivors were seen solely as beneficiaries rather than participants in the process (Borello 2004:40).

Due to the lack of legitimacy and transparency in its design and implementation, the Commission was also unable to attract funding from major international donors. These external constraints, coupled with the low level of funding that actually materialised from the Congolese Government's promised budget, significantly constrained the Commission's capacity to carry out its work across the country (Muiti, quoted in Kahora and Kumakana 2009).

At the Inter-Congolese Dialogue it was agreed that the pursuit of justice would be an integral part of the work of the TRC, however, by the end of the conflict the judicial infrastructure had all but collapsed and, according to a survey by Altit et al. in May 2004, only around twenty per cent of the population had access to a formal judicial system (quoted in Kambala and Savage 2008: 336-339). Further condemnation from others such as Kamwimbi condemning the judicial system as corrupt, riddled with tribalism and nepotism and lacking the necessary impartiality, independence and professionalism to prosecute perpetrators effectively, further highlights the lack of support to the TRC from the country's judicial system (2006).

The blanket nature of the amnesty provision, coupled with the incapacity of the judicial system to carry out trials meant that there was no credible threat of prosecution and therefore no incentive for perpetrators to engage with the process, rendering its reconciliatory contribution useless. Despite these criticisms, there are others who suggest that the amnesty clause was actually fundamental in advancing the transition process, arguing that the most important goal for the transitional government was the protection and promotion of the fragile peace rather than the more aggressive pursuit of justice. Had the government focussed more heavily on the prosecution of perpetrators, the country would very likely still be embroiled in major conflict, as a certain level of amnesty and leniency was necessary to engage the warring parties in the pursuit of peace (Kasuku 2010). Savage and Vanspauwen emphasise the need to balance the two pursuits sensitively, the need to consider how much truth is needed for victims to gain a sense of justice, but also how much truth the DRC can bear in order to maintain peace (2008: 392).

The Chief Administrator for the TRC, Kasuku, suggests rather insightfully, that the failure of the TRC to uphold its mandate should come as no surprise, proposing instead that the international community's expectations were too high and that they were partly to blame for some of its weaknesses. He proposes that the government never intended to prosecute perpetrators of human rights abuses and that the exceptions to the amnesty clause were included under pressure to please the international community. Instead, he argues that the government chose to act pragmatically to ensure first that the fragile peace was maintained and strengthened before turning to the more aggressive pursuit of justice, suggesting that the TRC was an inappropriate mechanism for furthering reconciliation in the DRC at that time (2010).



## What Role Can the Congolese Government Play in the Reconciliation Process Today?

In spite of strongly voiced opposition from leading civil society members concerning the government's conduct in its earlier approach to reconciliation in the DRC, the Congolese population still appears to have faith in its leaders to bring peace, security and justice to their country.

Since the closure of the TRC in 2006, the government's contribution to the reconciliation process has primarily been through negotiations with various rebel factions. The Nairobi peace talks held in 2007, and the Goma conference in 2008, led to a partnership between the Congolese and Rwandan governments to disarm one of the largest rebel groups, and to broker a ceasefire to end the ongoing violence and human rights abuses in the eastern provinces. This ceasefire remains fragile however, and by 23 July 2008, more than 200 people had been killed in the region and 150,000 displaced, with over 2,200 rape cases recorded in North Kivu in June 2008 alone (Trocaire 2008). The government-led Amani process that emerged from the talks, focussing on the disarmament, demobilisation and reintegration (DDR) of armed groups in North and South Kivu, failed to achieve its target. There is still much more work to be done in the DDR with ex-combatants, a process vital to furthering the reconciliation process in the DRC and one in which the Congolese government must continue to play a major role.

One particularly clear role that remains for the government in the reconciliation process is in leading the reform of both the security and judicial sectors. The integration of thousands of rebel soldiers into the national army, and concessions made in giving various rebel leaders high-ranking army positions, has left a highly undisciplined military, which continues to commit crimes and human rights abuses (Davis and Hayner 2009:8-9).

Calls for a comprehensive reform of the judicial sector will be equally difficult to meet. President Kabila's spoken commitment to pursuing justice in the DRC has, in part, been backed up by the government's scheme to train and recruit 2000 qualified judges as well as initiating a training scheme for lawyers. However, this is somewhat contradictory to the Government bill which granted amnesty for 'acts of war' committed in North and South Kivu since 2003 (Kasuku 2010).

The Congolese government has a vital role to play in securing these conditions and if these reforms are carried out, it is clear that the government still has the opportunity to play a leading role in the reconciliation process in the DRC. It must act soon, however, to meet the demands of the Congolese public otherwise its legitimacy and credibility might soon be challenged and the fragile peace might once again be broken.

## The Role of Civil Society Organisations in the Reconciliation Process Until 2002

In the early 1990s, a number of civil society groups began extensively documenting human rights abuses in the DRC, and despite strong opposition from both the government and rebel factions, proved themselves to be a key force in opposing



Mobutu's increasingly repressive regime (Davis and Hayner 2009:7-8). In the province of North Kivu, an umbrella group brought together more than sixty small regional NGOs, facilitating inter-ethnic dialogue between local communities and bringing the government to a peace conference in Mweso in 1993. The agreed disarmament of troops promised at the conference never materialised however, but the work of the CSOs continued and a national umbrella organisation was formed at a meeting of more than 200 civil society representatives in Kinshasa in June 1997. The ensuing war in 1997 hampered CSO efforts, but a new peace campaign was embarked upon in 1999, and with increased international awareness and pressure, the government agreed to hold a national debate on peace later on that year between the government, civil society representatives and the political opposition.

Despite these dialogues and the role of civil society leaders in organising them, Havermans still concludes that the full potential of Congolese CSOs at the turn of the century had not been realised, partly due to the susceptibility of such groups to form and divide along ethnic lines (2000). This weakness was made apparent at the Sun City talks in 2002 and, despite the clear unity displayed by the groups in their opposition to Mobutu's dictatorship, the exposure at Sun City showed that they lacked the necessary leadership and guidance to make the transition from mobilising against to working alongside the government in mutually advancing the process of reconciliation (Masterton 2006).

### **The Role of Civil Society Organisations in the Reconciliation Process after 2002**

Following the criticism at the Sun City talks, civil society leaders took action to address the issues that had been so publicly exposed, and a newly-united civil society was behind the initiation of the Goma conference in North Kivu in 2008, bringing the government to one of the worst-affected conflict areas to acknowledge and address the damage for themselves.

Since 2002, the involvement of domestic CSOs expanded within all areas of reconciliation work. Many organisations are involved in trauma counselling, particularly working with women who have been victims of sexual abuse; rape having been extensively and systematically used as a weapon of violence throughout the conflict. Through demobilization, counselling, education and the provision of basic needs and services, other organisations are working to reintegrate child soldiers into communities, especially in the eastern provinces where the forced conscription of child soldiers was particularly widespread.

Many local CSOs play an important role in recording and condemning human rights abuses. This work is not always warmly received by the Kinshasa government however, and the extent of the danger human rights activists face in carrying out their work was recently brought to the World's attention by the killing of one of Congo's leading human rights activists, Floribert Chebeya, in June 2010.

Other CSOs are able to span the lines of conflict and facilitate communication between enemy groups by holding a unique position in society. In the DRC, where more than





eighty-five per cent of the 65 million population are Christian, the church has a very strong voice that the State cannot ignore. A similarly influential group of domestic CSOs in the DRC is the media. In a country where fifty-four per cent of the population listen to the radio daily, this particular form of media plays a strategically vital role in the reconciliation process (Baldo et al. 2008:3). Some radio stations promote reconciliation by actively disseminating accurate information, resisting hate media and media manipulation, broadcasting radio programmes focusing on reconciliation and grass-roots issues, hosting listening groups and carrying out reconciliation activities in local communities. Especially in many of the DRC's vast expanses of isolated, rural areas these radio programmes are integral in involving DRC citizens in a process of unified, national reconciliation.

Many local CSOs are involved in effecting local justice, often working through centuries-old, traditional justice mechanisms. In the DRC, local mechanisms such as the Traditional Community Court are used by CSOs to help bring justice at a community level. These mechanisms bring communities together to engage in dialogue, ritual and reconciliation through ceremonies involving truth telling, confession, forgiveness and purification rituals. Despite some criticism of the limitations of these methods and possible bias of some of the convictions, they provide some level of basic justice to over eighty per cent of the population and if well managed, hold great potential for supporting the national reconciliation process, (Kamwimbi 2008:361-363).

### Case Study of the Work of CSOs in Eastern DRC

Compared to the many discussions regarding the reconciliatory role of both the government and international community in the DRC, there is very little anglophone literature that acknowledges the widespread work of domestic CSOs in the reconciliation process. In light of this exposed gap in the literature, the author conducted a survey, collating the views of domestic CSOs working in the east of the country in a broad range of peace-building activities, including trauma counselling, DDR, peace training through local seminars and conferences, women's community projects, peace education and mediation with the Mai-Mai militia (Mould 2009?).

When asked about the involvement of domestic CSOs in the reconciliation process, respondents all saw this as fundamental, describing such organisations as catalysts of reconciliation and the door to peace in the DRC, advocating on behalf of the population to the government, and fighting against impunity, poverty and ignorance. Whilst recognising the leading role the Congolese government must play in the reconciliation process, for example in judicial sector reform, DDR of ex-combatants, monitoring natural resource extraction and creating jobs, respondents also emphasised the need for the government to listen to the voice of CSOs, which speaks with authority on behalf of the Congolese population whose confidence they have gained through persistent grass-roots work. Moreover, respondents emphasised that without the full inclusion of all members of society (in particular women, civilian conflict victims, ex-combatants and local-level CSOs), the reconciliation process would fail to advance.



The participants all faced obstacles to their work in the form of insufficient financial and physical resources, but more generally, they highlighted the difficulties of pursuing reconciliation within a traumatised population dominated by the language of hate, where people were not always ready to hear the message of peace.

It is clear from this research that the government must take a firm stand in leading the process at a national level, but must also do more to support and resource the work of local CSOs to recognise and fully harness the potential of their reconciliatory contribution.

## Conclusion

As has been clearly shown in the first part of this article, the Congolese government's contribution to the reconciliatory process in the country has been distinctly lacking. Despite following the lead of countries such as South Africa in setting up a TRC, and thus on paper at least, giving the appearance of having implemented various effective measures to initiate and further the process, in reality the extent of the government's practical involvement was much weaker. Strangled by various political and legal constraints, the TRC proved very ineffective in bringing any kind of reconciliation, and since its closure in 2006, there has been little effort made to renew the involvement of the central authorities in the process.

Rather than suggesting that the government's role should therefore be abandoned, this discussion has conversely called for the government to take a firmer stand and to lead the process from the front. Both the local population and domestic CSOs believe it to be the government's role and duty to do so, although both very heavily emphasise the need for mutual cooperation between the government and the local populations and CSOs themselves, seeing their grass-roots experience as a vital resource to be acknowledged and put to good use by the government in bringing much-needed reconciliation to the Congolese population.

Compared to the extensive literature highlighting the failure of the Congolese government in its reconciliatory involvement, there is very little emphasis placed on the positive involvement of the local population and CSOs. In the regions of the country that are furthest from the Kinshasa-based government, these organisations are in particular leading efforts to bring peace and reconciliation to local communities. Such groups have unique access to local populations and through persistent grass-roots efforts have built up solid reputations and firm relationships within the communities, enabling them to carry out various, effective reconciliatory activities at grass-roots level. Despite this potential, however, this article has highlighted the difficulties these organisations face in carrying out their activities on a daily basis and it demonstrates the need for the government to acknowledge, support and resource these groups, and to join with them rather than hinder their efforts.

As the work and experiences of the various CSOs shows, reconciliation in the DRC is not merely a dream but is a real possibility in this war-ravaged country. Despite this hope, however, the task ahead remains daunting due to the extreme levels of violence and devastation caused by the various conflicts fought over the last few decades. In



order to strengthen this process to combat the destructive desires of a number of rebel groups still carrying out violent attacks in the east of the country, the government must be more substantially involved. With the backing of the state, as well as stronger recognition and support from the international community, we can have faith that the DRC can leave its violent past behind and move forward, through a unified process of reconciliation, to a democratic and peaceful future.



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