



HUMAN RIGHTS AND RULE OF LAW IN AFRICA

Edition 2009

Contents

Acknowledgements	3
Forward	4
Democratic Republic of Congo (DRC)	5
- The essence of the conflict	5
- The challenge for the ICC and UN Peacekeepers	7
- Resource extraction at the heart of the conflict	10
- The rule of law on the ground	12
- Conclusion	14
Uganda	17
- The historical background of the Uganda civil war	17
- The emergence of the Lord's Resistance Army (LRA)	19
- The complexity of the conflict and recent developments	21
- The ICC and how to bring Justice to the perpetrators	23
- The Judiciary and the Rule of Law in Uganda	25
- Human Rights violations	27
- Conclusion	30
Guinea Bissau	32
- Brief history of the political turmoil prevalent since independence	32
- Recent developments: a return to the past?	35
- Problems facing the new regime	37
- Issues concerning human rights and the rule of law	38
- Conclusion	39

ACKNOWLEDGEMENTS

Conscience International (CI) would like to acknowledge the various assistance received in the course of this work and in the implementation of this Research, Monitoring and Reporting Project. In particular we are grateful to our congregations for providing the funds which enabled us to carry out the project. Words are not enough to convey the depth of our gratitude for this as, without the funds, the project will not have been possible.

Special acknowledgement is due to Mr. Henning Goranson-Sandberg (intern) and student of the University of Oxford in the United Kingdom, who had the task of editing this report. Finally we appreciate, with gratitude, the commitment of the staff of Conscience International (CI) who has worked assiduously in the implementation of the project and the completion of this report.

FORWARD

Our focus at Conscience International (CI) has been, among others, the protection and promotion of human rights in Africa. This is pursued through various projects and undertakings that involve various activities such as training, public awareness campaign and programs. It is a fact and also our belief that the implementation of human rights in Africa is only achievable through the incorporation and application of human rights principles in the day-to-day working of the system.

Incidentally, human rights has deservedly attracted much efforts geared towards their promotion and protection both at the international and national levels. Part of the outcomes of the efforts are putting together of the principles covering various aspects of human rights relating to different facets or areas.

This report contains a number of human rights issues that calls for the attention of the international community. It is aimed at making sure that activists and concerned bodies are aware of the current human rights situation in the Democratic Republic of Congo (DRC), Uganda and Guinea Bissau. It is expected that in being aware, will be able to intervene consciously and in a timely manner in addressing issues.

It is our hope that this awareness will go a long way to protect the lives and properties of vulnerable persons caught up within the conflict areas. It is intended that this report will serve as a reference and resource material for all those working in the promotion and protection of human rights and all others interested in the protection of human rights.

Shaka Ceesay
Director
Conscience International (CI)

Democratic Republic of Congo

The conflict in the Democratic Republic of Congo (DRC) has been fought since the middle of the 1990s and is of great concern to Conscience International, and to the international community. A large number of states are involved in the conflict, which has claimed a vast number of lives and has displaced millions in the DRC. The number of actors involved, with troops or equipment; the neighbouring states of Angola, Zimbabwe, Namibia, Rwanda, and Uganda, has led some commentators to call this "Africa's First World War"¹, and a "new scramble for Africa"². While these comments may be exaggerated, it is however true that it is currently "the world's deadliest war"³. The Crisis Group, a Brussels-based think-tank, said in 2005 that 1,000 people were dying every day from war-related causes, including disease, hunger and violence. Some estimates say 3 million people have lost their lives in the conflict, but a study by the International Rescue Committee put the death-toll figure at 5.4 million⁴, and millions displaced in the eastern parts of the DRC.

The essence of the conflict

The conflict in DRC has its roots in the coup d'état in Burundi in 1993 and the Rwandan genocide in 1994. This led to a mass exile of over one million Hutus, many genocidaires, into the eastern part of Zaire where groups of people tracing their ancestry to Rwanda already lived, Kinya-rwanda. The DRC state and the nature of its politics since independence was largely similar to that of its neighbouring countries Tanzania and Zambia; a one party state with a long ruling, powerful leader and with a large network of patrimonial relations giving political control. Most large commodity productions were nationalised but, as donor supported started to become more dependent on political performance and commodity prices sank, Mobutu, like his neighbouring colleagues, felt the need to agree to multi party elections in the early 1990s. Mobutu however, opposed the system and did much to oppress the opposition and the state became increasingly fragmented. Mobutu kept in control by allowing the rise of local strongmen or warlords that supported Mobutu as long as he gave them free economic rein in their localities. However, in the refugee camps in the eastern part of the DRC, the Kivu region, Mobutu had no control and this enabled the Hutus to reorganise and launch counterattacks over the boarder into primarily Rwanda and Uganda.

The Kinya-rwanda, who increasingly began identifying themselves as Tutsi's and thus got support from the Rwandan government, the RPA, had had land rights taken from them and their Congolese citizenship revoked in 1981, a law that was strengthened in 1991, causing in the region "great

¹ Jon Snow, <http://www.alertnet.org/thefacts/reliefresources/111038817665.htm>

² Nest *et al* (2006), p. 31

³ CNN.com, Bardem, Prendergast, "Stop the Vampires in the Congo"

⁴ <http://edition.cnn.com/2008/WORLD/africa/10/21/bardem.congo/index.html>

concern and insecurity even before the Rwandan genocide"⁵. In the DRC governments' attempt to regain control over the region they distributed resources to strong, Congolese, leaders, further creating tensions in the region. In 1996 Rwandan and Ugandan forces attacked and got support from Angola, since Mobutu had sponsored UNITA (with the backing from the United States), and the AFDL was formed to liberate the DRC and put Laurent Kabila as the leader instead. More and more groups joined and in May 1997 the AFDL entered Kinshasa and Mobutu was defeated and Kabila inaugurated. The extreme fragmentation of the state, the disintegrated bureaucracy, the weak control over police and military, and the disruption caused by the Rwandan genocide were factors that made the DRC erupt into a war while Zambia and Tanzania did not, despite their similar political developments during the later half of the 20th century.

However, this was just the start of the DRC conflict, the First Congo War. Despite a peace deal and the formation of a transitional government in 2003, the threat of civil war has re-emerged in the eastern parts of the country, and commentators speak of a Second Congo War. A rift between Kabila and the former allies of his rule sparked a new rebellion soon after the first one has finished, this one backed by Rwanda and Uganda, while Angola, Namibia and Zimbabwe took the side of the sitting government, turning the country into a battleground. Despite democratic elections in 2006 the bloodshed continued. Coup attempts and violence heralded renewed fighting in mainly the Kivu area in east Congo in 2008. Hutu militias in exile from Rwanda clashed with government forces in April, forcing thousands of civilians to flee. Another militia, under Congolese Tutsi General Laurent Nkunda, had signed a peace deal with the government forces in January of that year, but this was broken in August, leading to heavy fighting. General Nkunda's rebel army advanced on government bases and reached Goma, the provincial capital in the autumn, causing civilians and troops to flee while UN peacekeepers tried to hold the line alongside the battered government forces.

The International Criminal Court has, since its formation in 2002, been very active in the DRC conflict and concentrated on crimes committed in the Ituri district in eastern Congo. The Congolese warlord Thomas Lubanga Dyilo was the first person detained by the court and also the first person to be accused in 2006. Germain Katanga and Mathieu Ngudjolo Chui, two other rebel leaders in the area, was arrested almost two years later, opening the second and third case of the ICC and the second and third case on the DRC conflict. Thus the court has made much progress on the conflict, with three arrests, and an arrest warrant for an army leader, Bosco Ntaganda. He has, however, not been detained as of yet. The court has thus put much focus on militia leaders in the region, and praised the DRC for its cooperation in arresting these leaders and bringing them to the Court in The Hague.

⁵ Nest *et al* (2006), p. 22

The challenge for the ICC and the UN Peacekeepers

A UN report from the Secretary General's Office for the Security Council in late 2008 stated that both "Government and rebel armed groups in the Democratic Republic of the Congo have committed serious human right abuses including mass killings, rape and torture", and that the human rights situation in the country was still, more than 10 years after the original conflict started, "a cause for grave concern". Members of Congo's security forces, politicians and government officials had targeted journalists and human rights activists, some of whom were threatened, arrested, detained and hit with other forms of ill-treatment. While attributing grave violations against human rights such as "mass killings, torture, abductions, forced recruitment of children, forced displacement and destruction of [refugee] camps, force labour, sexual violence" to the rebel groups in the eastern regions of Congo, the Congolese army was claimed to be guilty of "arbitrary executions, rape, torture and cruel, inhuman and degrading treatment" as well as "torture and extortion". Calls on the government to bring an end to the conflict from the international community intensified with a Security Council resolution increasing the size of the UN peacekeeping mission in the DRC, MONUC, by 3,000, bringing the biggest UN peacekeeping force in the world to 20,000 troops and police with the aim of preventing an escalation of the conflict in eastern Congo. These statements from the Secretary General's Office came as the Congolese government ruled out talks with General Nkunda and his rebels, despite the UN's special envoy to the DRC crisis, former Nigerian president Olusegun Obasanjo, said, after talking to General Nkunda, that his peace 'wish-list' was "not outrageous", and including direct talks with the government, guarantees that minority tribes in the DRC would be better protected, and an agreement that his own troops and civil administrators would be integrated into the country's national army and government. The Congolese army and UN peacekeeping forces have been targeting the Ugandan Lords Resistance Army (LRA) in northern Congo and the Rwandan Hutu militia the Democratic Forces for the Liberation of Rwanda (FDLR) in the east regions.

In an attempt to bring the situation under control the government invited troops from Rwanda to help mount a joint operation against the Rwandan rebel Hutu militias active in the eastern regions of Congo. This invitation also led to Rwanda arresting the Hutu militias' main rival, General Nkunda, a remarkable move since he was widely seen as being the Rwandan army's greatest ally in the area. The Congolese government also passed a law granting amnesty to militias in the east of the country, including for 'acts of war' committed since 2003 but does not offer amnesty to those accused of war crimes. According to information given to the BBC, the amnesty only apply to Congolese militias and would not cover crimes committed by foreign rebel groups. Many observers welcome the law, saying that it may bring eastern Congo closer to peace; however,

it also makes the situation more complicated from a human rights and international law perspective.

Conscience International is worried that this law will excuse Congolese militia leaders and Congolese military commanders from human rights violations in the eyes of the Congolese government, the international community, the victims in the DRC and the ICC. It is very important that the ICC makes sure that it is not afraid to begin investigations on Congolese militia leaders and Congolese military leaders, despite the fact that this law is implemented, and despite the fact that the DRC has been very helpful in the detention of the other three militia leaders. The ICC should not be afraid of offending the Congolese government by opening investigations on senior Congolese military commanders. The integration into the top ranks of the Congolese army of individuals implicated in serious human rights abuses further exacerbates an already dangerous human rights environment. The most glaring example is Bosco Ntaganda, mentioned earlier, now a general in the Congolese army involved in military operations in eastern Congo, who is wanted on war-crimes charges by the ICC. The Congolese government may be more reluctant turning him over to the ICC, and spend fewer resources trying to arrest him, than the rebel leaders in the region.

There are allegations from the international community that the UN peacekeeping forces in the area has achieved very little in the DRC, or even "zero" according to president Paul Kagame of Rwanda⁶, and they have been accused by Oxfam of not making the protection of civilians a priority, something which the troops deny⁷. The task of bringing and sustaining peace in the DRC for the UN peacekeeping forces has been called 'impossible' by the BBC, and the operation has been fraught with problems. In the Kivu area there was a string of mutinies in May and June of 2009 by Congolese soldiers working with the UN forces who hadn't been paid for 6 months, and it was reported that around 30 Congolese soldiers were arrested for firing on a UN base in the Goma area. In Kalehe territory in South Kivu, soldiers who had not been paid for five months are regularly pillaging, looting, and extorting the civilian population. On June 15, government soldiers, angry because they had not been paid, tried to kill their commander and then attacked a UN base in Pinga, North Kivu. On June 17, more than 30 armed soldiers who had not been paid deserted in Ngora, Walikale territory. The government's failure to feed and pay its soldiers regularly is a virtual invitation for them to prey on the civilian population.

Human Rights Watch (HRW) released a report on July 2, 2009, in which it was claimed that the Congolese government and the UN peacekeepers failed to address the human rights catastrophe. It claimed that the UN backed Congolese army forces fail to protect civilians from brutal rebel retaliatory attacks and instead they attacked and raped Congolese civilians. Thus the civilians are attacked from all sides, resulting in

⁶ During a speech at the Oxford Union, April 2009

⁷ <http://news.bbc.co.uk/2/hi/africa/7725344.stm>

significant human rights violations over the past six months in the eastern and northern regions of Congo. This also makes it very difficult to assign blame when all sides are committing abuses. The HRW report mentions an attack by the FDLR on May 10 as an example, when at least 86 civilians were brutally massacred, including 25 children, 23 women, and seven elderly men at Busurungi, in the Waloaloanda area of Walikale territory in North Kivu. Some of the victims were tied up and executed; others were shot or their throats slit open by knives or machetes as they tried to flee. A number of people were burned to death when FDLR combatants deliberately locked them in their homes and torched the village. From the newly sparked conflict, the UN reckons that about one million people have been forced to flee, many having limited or no access to humanitarian assistance. HRW have evidence that the FDLR has killed at least 403 civilians since January and the LRA, whose leaders are wanted by the ICC, has killed more than 1,000 people since December. Furthermore, abductions of children to be used for child soldiers by the LRA has increased, in two attacks in early June in Dakwa local sources reported that the LRA abducted some 135 children and adults.

The report confirms the allegations made by the Secretary General's Office, that Congolese army soldiers have also committed war crimes against civilians. The report states that soldiers have deliberately attacked civilians whom they accused of collaborating with the FDLR, raped women and girls, looted, unlawfully forced civilians to act as porters, and torched homes in villages that they claim harboured FDLR supporters. Rape cases have also dramatically increased in areas of Congolese army deployment. In nearly all the health centres, hospitals, and rape counselling centres visited by HRW, rape cases had doubled or tripled since the start of military operations in the Kivus in January. While all sides continue to use rape and other sexual violence as a weapon of war, the majority of the rape cases investigated by HRW were attributed to soldiers from the Congolese army. The report also states that the Congolese army also forced civilians to perform dangerous and hard labour; civilians forced to carry heavy ammunition and other supplies for Congo forces were witnessed by the HRW.

It is Conscience International's strong opinion that the UN forces should not continue to support or work with forces of the Congolese army that are committing human rights violations for risk of themselves becoming associated with such atrocities. Congolese forces and UN peacekeepers have yet to establish promised humanitarian corridors that would allow thousands of Rwandan refugees and FDLR combatants willing to disarm a safe exit from the war zones. High risk areas such as the Waloaloanda area, as identified by MONUC, have still not received adequate protection. It is the view of Conscience International that the UN must not delay any further, but deliver protection to the IDPs, refugees, and civilians that are deemed living in zones of risk.

The recently instated AFRICOM, the American led military force for Africa, has announced that it will continue to aid the Congolese armed forces, and the UN, in training, advising, and capacity building, as well as run a major medical exercise, MEDFLAG, with the DRC military next year. The MEDFLAG initiative is highly desirable in a country without much facility to aid wounded and ill people in the regions where the militias set the agenda. However, the AFRICOM general William Ward stated that it will not station any combat troops in the country. Conscience International sees this as disappointing; that the AFRICOM force will not be used for the worst war in terms of human lives lost since the Second World War. Conscience International also considers the AFRICOM Mobile Training Team at the US Embassy in Kinshasa of only seven men to be too small to be able to effectively train and help the army deal with the conflict, and urges the AFRICOM to revise their mission in this the worst conflict currently in the world. However, Conscience International applauds the combined initiative from AFRICOM and European military investigators and lawyers to take part in a collaborative training project with the Congolese military on the investigation and prosecution of sex crimes taken place under military jurisdiction. These crimes pose the most brutal crimes imaginable, committed by both militias and people wearing the Congolese military uniform, and needs to be addressed ferociously. Sexual crimes and sexual human rights violations are widespread in the DRC, among the highest recorded in the world according to American Bar Association, and the four-day workshop organised by the UN Mission in DR Congo's Rule of Law division was therefore much needed.

Resource extraction at the heart of the conflict

It is the view of Conscience International that the conflict is fuelled by the extraction of resources from the DRC. Congolese politicians, bureaucrats, the military, and militias have all been "seemingly motivated by the profits they could extract from the DRC's natural resources"⁸. During the first Congo war, the state of Congo "virtually disappeared"⁹ with no administration or bureaucracy, and allowed rebel groups could continue to use eastern Congo as a base for attacks into these countries. Not much has improved during the second Congo war now raging. Control over the government buildings still means little more than control over certain markets. Thus state control became centred "on domination of an archipelago of resources that could be used to generate income and attract powerful allies"¹⁰. This gave rise to many illegal economic activities that further weakened the powers of the state. Thus, as the conflict became prolonged, the rebel groups were "forced to undertake commercial activities that generated income necessary to improve and expand their military capability"¹¹. Mwanasali believes that economic factors and greed was very important in the beginning of the war and

⁸ Reno (1997), p. 31

⁹ Reyntjens (1999), p. 241

¹⁰ Reno (1997)

¹¹ Nest *et al* (2006), p. 37

argues that the political shock of one million refugees flowing into Kivu was as great as the economic shock of US dollars flowing in from help organisations and becoming the currency of choice in the region. This damaged the formal economy further and created yet another link between actors in the informal economy and future civil war protagonists. Because of the fragmented state, Kivu had economically and politically “closer contact with Rwanda, Burundi, and Uganda than with most of [Congo]”¹². Moreover, Mwanasali describes four trade routes that were in place in the region before the war, going through the Kivu region, to Uganda and Rwanda, but also stretching to Zimbabwe. Thus it might be the case that the actors involved in the war had other incentives than just grievances. Additionally, within the Congo borders, many powerful Congolese were unhappy with the economic and political reforms made by Kabila, which reduced the wealth and power they had enjoyed under Mobutu. Thus they were incentivised to oppose Kabila and his reign and to side with the rebels.

Illegal activities is an intrinsic element of the war economy and it is definitely so that it is “in the interest of some actors that the war, instability, and the absence of the state in the Congo continu[e]”¹³. Furthermore, the involvement in the conflict by some actors on the side of the DRC, such as Zimbabwe are for mainly economic reasons; the DRC has an important debt outstanding, and many high officials in Zimbabwe had business interests in the Congolese mining sector. Other foreign actors, such as Rwanda and Uganda’s military forces, are self sufficient in the Congolese war because of the exploitation of minerals and other primarily commodities, and both Rwanda and Uganda are minerals they do not domestically produce such as diamonds. Thus it is imperative that the Congolese government and the UN peacekeeping forces are able to increase the formal economy and decrease the informal sectors used for funding the war. It is very difficult to determine whether it was greed or grievances that are the underlying cause of the conflict in the DRC. However, what can be said is that while it isn’t clear that greed was the main cause of the conflict, it is apparent that it is an important feature in sustaining the conflict. In a prolonged conflict the warring factions need to make money to be able to pay, feed, and supply the troops with gear. Thus greed is very important, if not in the beginning of a war, but in prolonging the conflict. Furthermore, a conflict such as the Congo conflict may legitimise elites and factions to exploit natural resources in ways that would not be acceptable in peacetime. This means that there is no real incentive for the participants of the war to end the war. This is illustrated by the fact that the DRC’s neighbouring countries are exporting primary resources, such as gold and diamonds, which are not naturally occurring in these countries.

¹² Reno (1997)

¹³ Reyntjens (1999), p. 249

Effectively, in the war zones “there is no rule of law”¹⁴, and no ethical code impacting the international supply and demand for the minerals produced there and which are essential for the consumers of luxury-cum-everyday goods in the west, such as mobile phones, laptops, and jewelry.

These consumers are completely unaware of the fact that they are sponsoring a deadly war in the DRC. This consumption increases the suffering of the Congolese civilians in the war-torn regions and is unnecessary. It is possible for it to go on because of the lack of a rule of law and because of a lack of governmental presence in these areas; causing suffering for the civilians and important revenue to be lost for the workers and the government.

In May 2009 a bill was introduced in one of the committees of the US Senate¹⁵, directing the State Department to support multilateral and U.S. government efforts to break the link between the trade in minerals and armed conflict in eastern Congo. Conflict minerals—cassiterite (tin ore), gold, coltan and wolframite (a source of tungsten) that are used in electronic devices such as cell phones and laptops—are a major source of funding for armed groups in eastern Congo, including the Congolese national army and an array of rebel groups who regularly commit horrific atrocities against civilians. If this bill is passed it would provide authority for the United States government, and thus send a signal to other international actors, to help ensure that the mineral trade stops contributing to human rights violations; killings of unarmed civilians and sexual violence, while at the same time adopting mechanisms allowing the Congolese people to benefit from the trade. The bill demands greater transparency and accountability from companies, mine-of-origin disclosure requirements, and is very welcomed by Conscience International, who urges the United States Senate to pass the bill.

The rule of law on the ground

Many human rights groups and human rights defenders in the DRC have been subjected to harassments, arbitrary arrests, threats, and killings by the authorities, making it very difficult for them to attend to the situation on the ground in the most heavily affected areas in eastern Congo. The UN declaration on human rights defenders (the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally-recognised Human Rights and Fundamental Freedoms) that was adopted by the UN General Assembly in 1998, has not been fully implemented in the DRC, the rule of law is very weak, if not non-existent, in the war-torn areas, and the judiciary have not been the ultimate guarantor of human rights as they should be. In 2004 an attempt was made to implement the rule of law in the north-eastern Ituri district; a single courthouse with 12 judges was set up. They served the around 5 million people living in the district and lived under constant death threats sleeping in a UN military camp and was having the courthouse surrounded

¹⁴ CNN.com, Bardem, Prendergast, “Stop the Vampires in the Congo”

¹⁵ Bill S. 819, the Congo Conflict Minerals Act of 2009

by barbed wire and UN guards. They were the sole presence of the government in the district in a vast country where the infrastructure is almost nonexistent. "When we got here, we found a widespread climate of impunity" had taken root, said chief judge Jean Ekabela.

His predecessor was detained in 2003 by a local militia, the Union of Congolese Patriots. This was what closed the court last time. "When anybody with a gun can do just about anything, justice doesn't mean much in the eyes of the people," he told the associated press at a press conference at his office inside the reopened courthouse. They have however accomplished very little in terms of bringing back the rule of law to the district, which is still ruled by rebel leaders and militias.

The DRC constitution does provide for a number of human rights to be protected, but the legal system fails on a number of accounts, especially in the provision of protecting human rights activists and NGOs. For example, up to the year 2001 all non-profit organisations and institutions of public utility had to be approved by the president to get legal personality. As a consequence, only a few associations had the privilege to access this. However, with the July 20 Bill, 2001, this right was transferred to the Minister of Justice and the provincial governor, providing for more organisations to be granted legal personality. However, it is still the case that foreign non-profit organisations, international associations, or NGOs need to get legal personality granted by the president, and cannot exercise their activities in the DRC without authorization from the president. This is in violation with the constitution and international human rights legal instruments, such as the African Charter on Human and Peoples' Rights that the DRC has ratified. The same is true for the law regulating public demonstrations and meetings. The constitution (of 2006) states that demonstrations and public meetings are allowed following a notification to "the competent administrative authority"¹⁶, however, a Decree from January 29 of this year subjects the freedom of expression through demonstrations and public meetings to prior administrative authorisation.

In a report on "The Implementation of the United Nations Declaration on Human Rights Defenders in the Democratic Republic of Congo" published in "the Rapporteur's Newsletter by the African Commission on Human and Peoples' Rights, Okitonembo, the National Director for Human Rights Campaign in Congo (CDHC – ASBL), and Wetsh'okonda, the Honorary National Director for CDHC – ASBL, states that rights of human rights defenders in the DRC are "repeatedly violated". They cite the examples of Wabihu Kasubi of VOVOLIB, who was murdered on May 18 2008; George Mwamba wa Mwamba from the Lotus group, the family of Advocate Carine Bapita of FEDOH, Thérèse Kerumbe of SOFEPAI, Lukusha Christian and Joel Bisubu of Justice Plus who has received numerous death threats; threats of arrest against Amigo Ngonde of ASADHO, Ferdinand Chebaya of VSV and Fernandez Murhola of Cojeski; deprivation of freedom for Hubert

¹⁶ The DRC Constitution (2006), Article 26

Tshiswaka of OSISA Floribert Chebaya, Dolly Ibefy and Donat Tshikaya of RENADHOC; and aggression and attempts to attack the physical integrity of Noëlla Usumanga Aliswa. The freedom of the press in the DRC is also still severely limited despite the June 22 Bill¹⁷ which significantly lessened the strains of the press but provided many press offences.

The report states that the “legal response to attacks on the rights of human rights defenders is almost absent” in the DRC, and that there is need to improve the implementation of the Declaration of human rights defenders in the country. Conscience International supports this call by Mr. Okitonembo and Mr. Wetsh’okonda. The issue of education needs to be addressed; there needs to be an investment in the popularisation of the Declaration for human rights defenders and state agents (judges, police and security officers etc) alike. The judiciary is also something that needs to be targeted; it is not enough to ensure the dissemination of the Declaration, it is imperative to ensure that violations are punished. Thus, the Constitutional Court and the State Council in the DRC have a crucial role to play in affirming the principles of the Declaration. The legislative offers a further challenge; the law on freedom of expression needs to be repealed, the law on the freedom of the press needs to be reviewed, and there needs to be a law on cooperation procedures between non-profit associations and the government; incorporating of budget lines for subsidies for non-profit organisations. The government should be encouraged to adopt a law specifically for the protection of human right defenders. In the DRC, human rights defenders on the ground needs to be a cohesive group, and stand together, combining their efforts to improve their own protection. Conscience International, on that point, strongly approves of the January 2009 creation of the Congolese Network for the protection of human rights defenders, and hopes that the network will be able to improve the status of human rights defenders in the DRC and thus for the greater civilian population of the country.

Conclusion

The Congo conflict is both the deadliest in the world and one of the most complicated conflicts raging. Large parts of the eastern territories of the DRC are ruled entirely by rebel groups without any government presence on the ground. Serious human rights violations are committed every day, including sexual violence, by both rebel groups and parts of the Congolese army, parts of which the UN peacekeepers is cooperating with. The UN peacekeeping force is the largest so far, but is still finding it very difficult to alleviate the suffering of the civilians. More efforts needs to be put in to ease the humanitarian suffering in the affected regions, and more needs to be done from the Congolese government to protect human rights workers and let them do their job in putting an end to the abuses.

¹⁷ The DRC Bill No. 96-002, Articles 73 to 88, DRC Official Gazette, special edition, August 2001, p. 31

The ICC has, since its formation, been targeting the DRC for its first prosecutions. This is encouraging, but the court will need to make progress on the prosecutions for the international community and the DRC in particular, to see that it takes the conflict seriously, and that it can make a difference for bringing a peaceful end to the conflict and punish the perpetrators now in custody.

The conflict is to a large degree funded by the illegal extraction and exploitation of resources by militias. Western companies and consumers have a part in this through the fact that much of the minerals extracted are sold to the West and end up in Western products. Thus, law proposals like the Congo Conflict Minerals Act of 2009 introduced to the US Senate are imperative and needs to be encouraged; controlling the resources in the DRC means controlling the country and thus controlling the conflict. Other countries should follow, and make sure that they are not buying materials from the DRC until the conflict is resolved. It is crucial that the international community raise its voice to stop the funding of the Congo war.

References

- Ali, T. M. A. and Matthews, R. O. 1999 *Civil wars in Africa : roots and resolutions*, Montreal ; London: McGill-Queen's University Press
- Berdal, M., & Malone, D., 2000, *Greed and Grievance: Economic Agendas in Civil Wars*, Lynne Rienner
- Chege, M. 1997 'The Great Lakes crises', *African Studies Quarterly* 1(3)
- Clement, Jean A.P. (Ed.) *Postconflict Economics in Sub-Saharan Africa: Lessons from the Democratic Republic of the Congo* USA. International Monetary Fund. 2004
- Collier, P., Hoeffler, A. and World Bank. Development Research Group. 2000 *Greed and grievance in civil war*, Washington, DC: World Bank Development Research Group
- Cramer, Christopher *Civil War is not a Stupid Thing: Accounting for Violence in Developing Countries* UK. Hurst. 2006
- Furley, Oliver & May, Roy (Eds.) *Ending Africa's Wars: Progressing to Peace*. Ashgate. 2006
- Nest, Michael & Grignon, Francois & Kisangani, Emizet F. (Eds.) *Democratic Republic of Congo: Economic Dimensions of War and Peace*. Lynne Rienner. 2006
- Reyntjens F., 2005, 'The privatisation and criminalisation of public space in the geopolitics of the Great Lakes region', *JMAS*, 43, 4, December

Internet Sources

www.abanet.org, July 13, 2009, '*ABA Rule of Law Initiative - Democratic Republic of Congo*'

www.abc.net.au, November 25, 2009, '*Serious rights abuses committed in DR Congo conflict: UN*'

www.africom.mil, February 9, 2008, '*U.S. Military Legal Experts Train DR Congo Military in Preventing, Prosecuting Sex Crimes*'

www.africom.mil, April 27, 2009, '*Ward in Congo U.S. Military will Continue Supporting Security Assistance Activities*'

www.cnn.com, October 22, 2008, '*Commentary: Stop the 'vampires' in the Congo*'

www.globalwitness.org, May 15, 2008, '*NGOs Welcome the Congo Conflict Minerals Act of 2009*'

www.hrw.com, July 2, 2009, '*Democratic Republic of Congo*'

www.news.bbc.co.uk, January 28, 2009, '*Country profile: Democratic Republic of Congo*'

www.news.bbc.co.uk, April 9, 2009, '*From rebel-held Congo to beer can*'

www.news.bbc.co.uk, May 7, 2009, '*Amnesty law for DR Congo militias*'

www.news.bbc.co.uk, June 17, 2009, '*Mutinuous Congo troops fire at UN*'

www.redorbit.com, June 4, 2004, '*Congo Tries to Restore Rule of Law*'

www.telegraph.co.uk, November, 25, 2008, '*Congo army and rebels both guilty of human rights abuses, UN chief says*'

Uganda

The conflict in Uganda has been going on for more than 20 years and has been labelled one of the “most neglected” conflicts in the world by the UN. The conflict involves the Lord’s Resistance Army (LRA) led by Joseph Kony, and the government army, the Ugandan Peoples Defence Force (UPDF), and has been fought in northern Uganda since the late 1980s. The LRA is known for their guerrilla tactics, extreme brutality, and attacks against civilians in villages of northern Uganda. The communities worst hit are the Acholi, Teso, Lango, and Madi. Apart from the extreme humanitarian costs, the economic cost of war has been enormous for the poor country of Uganda; recently estimated to have cost Uganda more than \$1.3bn since the start of the war¹⁸.

The ICC has issued arrest warrants for the leaders of the LRA and this seems to have led to the rebels seeking a peaceful end to the conflict. Recently, peace talks and treaties have been negotiated. However, it is still very unclear where the LRA and Kony stand and recent brutal attacks in the Democratic Republic of Congo (DRC) and in southern Sudan by the LRA has fuelled worries that the LRA might not be seeking peace, but to expand their terror across the region. Conscience International is deeply worried about the humanitarian situation and the ruthlessness of the rebels and calls upon the international community to realise this one of the most gruesome wars and to end this conflict once and for all.

The historical background of the Ugandan civil war

The region in northern Uganda in which the civil war erupted, Acholi-land, is about the size of Belgium and not densely populated, and has become the heartland of the LRA. To understand the conflict, and to understand why the LRA emerged, it is important to realise the grievances and marginalisation felt by the Acholi community. Two features of Ugandan political history occurring after independence are important factors leading to the seeds of the conflict; the militarization of politics and the widening gap between the north and the south of the country, having its root in the colonial period. The British colonial administration divided the country both in terms of economic development and systems of labour recruitment, turning the south in to the productive part and the source of recruitment of civil servants, while the north became mainly as a source of cheap labour and the northerners made up the main part of the army, turning the Acholi into a military ethnocracy¹⁹. This socio-economic division of Uganda manifested in economic marginalisation of the north and further development of the south and an army consisting of the Acholi, who now saw this as their natural vocation, was inherited by Obote and postcolonial Uganda after independence in 1962. The identification of an ethnic group with the military profession (which is in many countries the key to political power, something which for example Kenyatta understood when diluting the army with his own Kikuyu tribe), together

¹⁸ World Vision Uganda, (2004) *Pawns of Politics: Children, Conflict and Peace in Northern Uganda*

¹⁹ Mazuri (1975)

with economic underdevelopment, is a decisive antecedent of the mayhem that followed.

After the Idi Amin regime, in which the internal structure of the army was reshuffled and many Acholi officers killed, the Obote II regime again created an army, the UNLA, predominantly controlled by the Acholi. In 1981 Museveni established the National Resistance Army (NRA), a “no-party democracy”²⁰, convinced that multi-party politics would stimulate ethnic tensions and that the ‘old’ politicians had no ideology but were only concerned with power. The UNLA lost control in the Luweto triangle, where there was big support for the NRA, and instead launched bloody military expeditions in which at least 300,000 people died. Since the soldiers deployed were mostly Acholi, this ghastly repression made the tribe scapegoats. In a military coup following the bloodshed Lutwa, an Acholi, was successful in launching a military coup and briefly became president before the NRA, in January 1986, captured Kampala, sending the UNLA troops fleeing into southern Sudan, ousting the Acholi from power. The Museveni regime shifted the balance of power from the northern Acholi parts to the southern and western parts and thus left the Acholiland very vulnerable and virtually “defenceless”²¹. This was exploited by one of the indigenous people of Uganda, the cattle-rustling people of Karimojong, living in neighbouring Karamoja. They are an agricultural and pastoral area which took little or no part in the forming of the independent post-colonial state and was viewed as a “special problem area”²² by the elite. They were repressed by the Amin regime and remained entirely marginal during the Obote II regime. However, the ousting of the Amin regime provided an opportunity for the Karimojong to increase their importance; as the soldiers fled from the nearby Moroto garrison, the Karimojong looted the arsenal and gathered a significant number of automatic weapons (AK47s) and ammunition. The Karamojong were also given weapons from the government as ‘self-defence’ from attacks coming from neighbouring areas in Kenya²³. The following year, 1980, drought hit the region and the number of cattle for the Karimojong was down at half the 1962 herd while the population had more than doubled. This provided the need for more cattle and the weapons provided the means to get new cattle. The Karimojong raided the Iteso district, stripping them of their cattle, and, in the wake of the Museveni takeover 1987, Acholiland was overrun by Karimojong cattle raids. Of the 300,000 cattle in Acholiland only 5,000 were left ten years later²⁴ proving a disaster for the Acholi and forcing them to abandon oxen cultivation in favour of donkeys. In the 1996 presidential election, 95% of the Karimojong population supported Museveni, making it very difficult for the regime to disarm them, and further making it obvious, from the Acholi point of view, that the government is giving the Karimojong permittance to continue to destroy

²⁰ Kasfir (1998)

²¹ Mirzeler, Young (2000), p. 417

²² Mirzeler, Young (2000), p. 415

²³ Doom, Vassenroot (1999), p. 12

²⁴ Gersony (1997)

their cultural and moral heritage at the same time as the Acholi were, with the final defeat of UNLA forces in March 1986, for the first time totally divorced from state power.

Many Acholi were convinced that the NRA would seek vengeance for acts committed under the two earlier governments, and with the NRA disregard of the Nairobi Peace Agreement, under which Lutwa governed, and directives broadcasted on the radio giving former UNLA members 10 days to report to Mbuya army headquarter, similar directives given under the Amin regime sometimes ending in virtual assassinations, spurred the regrouping of UNLA soldiers in southern Sudan. Reports from Human Rights Watch (HRW) state that soldiers on the ground felt that this regime was the same as the Amin regime, but that this time the Acholi were convinced to fight for their survival, not "die like chickens"²⁵. The former UNLA soldiers together with politicians, Obote and Amin supporters joined together to form the Uganda People's Defence Army (UPDA) in the southern Sudanese town of Juba in March 1986 with the aim of recapturing power from the NRA (NRM). The group tried to panic the public, spread propaganda and carried out attacks in the Gulu and Kitgum areas in northern Uganda. The initially successful rebellion ran into strong opposition from the Federal Democratic Movement (FEDEMU), an anti-Obote II movement that had been integrated into the NRA, which carried out a series of massacres in Namu-Okora further crating fear in the Acholi communities of massive retaliation, and the brutal FEDEMU response lost Museveni all credibility in the region and finally galvanised the support for the UPDA. The response from the NRA was brutal; rape, looting, torture, execution, and this only served to underline "the conviction held by many Acholi that surrender meant death"²⁶ at the same time as arms, ammunition and morals started to dwindle.

The emergence of the Lord's Resistance Army

The LRA grew out of the Holy Spirit Mobile (HSM) Force, which took advantage of the demoralization and vacuum left by the UPDA, led by Alica Auma. She claimed to be possessed by a dead Italian army officer, Lakwena, thus becoming a spirit medium, calling herself Alice Lakwena, and worked as a minor oracle and a spiritual healer near the city of Goma in northern Uganda before taking control over soldiers and weapons with the rationale that one what is the point of healing a man if he gets shot the next day; one must first fight the evil powers. The HSM went so far as to attack other UPDA troops for not subordinating themselves to Auma. While the NRA continued its battles against the more and more scattered UPDA/HSM Museveni offered amnesty to any rebel giving up fighting, ending in the Gulu Peace Accord, signed on June 3, 1988. Some 2,000 troops were integrated into the NRA and by 1989 the UPDA virtually ceased to exist.

²⁵ Nyeko, cited in Human Rights Watch (1996), p. 64

²⁶ Doom, Vlassenroot (1999), p. 15

The HSM was based on spirituality, solidarity of the “in-group”, on Christian beliefs, and on initiation, not just on being an Acholi. Upon being initiated newcomers were endowed with powerful forces; turning stones into grenades, bees and snakes became one’s friends, one was immunised against the enemies bullets. On the whole, Auma received “massive support”²⁷ among the young Acholi and was a “political manifestation of an Acholi society driven into a corner after Museveni’s assumption of national power”²⁸. After initial success the HSM was finally crushed in the end of 1987, along with an breakaway group led by Auma’s father. This is when the Lord’s Resistance Army and Joseph Kony, Alice Auma’s cousin, comes into the picture. Kony was a commander of a UPDA battalion, but in the end of 1987 tried to joining both Auma and her father without success. It is unclear whether Kony received blessings for the elders or how exactly the rebellion started, it is best to conclude that Kony’s programme, from the start, was “indistinct, a mixture of political entrepreneurship, personal frustration and warlordism”²⁹. Like his cousin, he invented his own rituals and belief-system and made himself the supreme leader. In the beginning, Kony can be seen as the heir of Alice Auma and the Holy Spirit movement (Kony even called the LRA the Holy Spirit Movement II at first). The vision that the Acholi is on the verge of genocide from which the only way out is a “deep transformation of the Acholi people itself, a revitalization underpinned by a strong call for moral rejuvenation”³⁰. Only a purified Acholi with a renewed identity could successfully fight Museveni. Thus Kony’s aims were political, although it is not certain in what scale; whether he wanted to take Kampala or limit the rebellion to the north. The members, to mark their distinction from the common Acholi, had to go through special rites involving cleansing from sorcery and witchcraft, and being sprinkled with special water and shea-butter oil. Kony claimed to be possessed not only by Lakwena but also by minor spirits, one of which was a Chinese spirits who turned the jeeps of the enemy into harmless toys³¹. Kony was an “amalgamation of social functions”³², reinforcing the Ten Commandments and acting as a political oracle; a spokesperson of the Christian god and an intermediary between spirits and the people, representing a new ethno-political and moral identity. Kony can be described as a *manti*; a category of people, such as healers, diviners, seers and prophets, who act through a wide variety of idioms and has a clear anti-establishment message. In the beginning of the LRA existence, however, the battles went rather poorly since the popular support was much less than for the UPDA or the HSM, and an anti-insurgency operation (Operation North) launched by the government in 1991 delivered an almost fatal blow for the LRA, and local people joined in not insignificant numbers armed with bows and arrows to get rid of the movement. Before the kiss of death the government suddenly changed their tactics and switched from the stick to the carrot, allowing the LRA to regroup and regain their strength.

²⁷ Doom, Vlassenroot (1999), p. 18

²⁸ Ibid

²⁹ Ibid, p. 22

³⁰ Adas (1987)

³¹ Doom, Vlassenroot (1999), p. 23

³² Ibid

In the following years the conflict was reduced in intensity and the government opened peace talks with the LRA and a cease-fire and safe-conduct agreement was agreed. However, peace suddenly collapsed when Kony lost confidence in the Acholi elders, and he wanted to delay the final negotiations three to six months. This caused Museveni to lose his patience and in February 1994 he gave the LRA one week to hand over the weapons or the government army would deal with the organisation once and for all. Residing in Juba and stepping up attacks against the Sudanese People's Liberation Army (SPLA), Kony now received full-scale support from the Sudanese government. Kony also tightened the religious rules, stating that anyone raising pigs should be killed and anyone working on Fridays should have their arm cut off, clearly Islam-inspired but far more extreme. The people, even other Acholi, rather than government forces, now to a much greater extent became the victims of the LRA attacks. Apart from many small-scale attacks, the LRA soon after 1994 carried out major massacres, clubbing and hacking people to death; eg. Atiak, April 22, 1995, around 200 dead; Karuma, March 8, 1996, 50 dead; Acholpi refugee camp, July, 1996, 100 dead; Lokung-Palabek, January 1997, 400 dead. It was also during this time that abductions became an important part of the movement's recruitment, the nucleus of the new Acholi identity; a blank sheet of paper to be filled with Kony's commandments. In 1997, a HRW report estimated the number of child abductees, both boys and girls, since the breakdown of the cease-fire agreements in 1994 to be around 8,000³³. These children are often forced to kill or hurt their own relatives, or watch them get killed, and become brainwashed making it very difficult to reintegrate them into society. Girls become sex-slaves for the LRA commanders, losing self-respect and acceptance in society.

The complexity of the conflict and recent developments

It seems that in the later stages of the conflict, the violence has become an end in itself; looting takes place for its own sake, and, furthermore, the expansion into the mineral-rich, conflict-ridden eastern DRC, where the rule of law is virtually non-existent, seems to be consistent with the theory of continuing the conflict for the sake of sustaining the movement and surviving in a day-to-day life stained by violence. How could Kony and his commanders go back to a normal life after their names have been another word for a killer? In a world where battles are fought largely from HQs and much killing is computerised, images of victims with their ears, noses and lips cut off, and public rapes are extremely effective and gruesome ways of spreading terror and fear among the civilian population.

The international dimension of the Ugandan civil war is very unfortunate and makes the conflict so much more complicated. The SPLA, previously led by Garang, a personal friend of Museveni, has been sponsored by Kampala for some time. As retaliation, Khartoum has been sponsoring the LRA, especially since 1994. The backing of the SPLA also provided

³³ Achieng (1998)

Museveni with a powerful ally, the United States, making him more willing to support the SPLA. However, after the September 11 attacks on the United States, the tension between Sudan and Uganda eased considerably and the support to the proxy's has fallen. Conscience International welcomes this but sees the complete halt of any kind of support to the two military movements as vital for the conflict in Uganda, and thus calls for a complete stop in the funding of rebels of the two governments.

It is thus clear that the LRA under Kony is an outcome of a long political process resulting in a struggle for power in which violence became institutionalised. It is a struggle with four main characteristics; a struggle between the government and the LRA; between the Acholi LRA and the wider Acholi community; the conflict is fuelled by animosity between Uganda and Sudan, supporting rebellions on each others territory; and the conflict also continues the north-south divergence marking Ugandan politics since before independence. The conflict seriously blemished the reputation of president Museveni and the NRM, being unable to bring complete peace and stability to the country, and pursuing a military solution to the conflict. This was possibly a conscious strategy; to make the army a key pillar of his regime, and could have been why the rebellion wasn't crushed when the chance was given in 1994. The war helped Museveni "to justify and maintain the status quo in Ugandan politics"³⁴, in which he was able to deny any opposition a role and make him able to curtail groups and associations, as well as other freedoms, in the name of the war against terrorism in northern Uganda. The instability and security questions in the north justified that the power and wealth stayed in southern Uganda. However, due to the growing instability in the country caused by the civil war, and the growing domestic pressure and international attention given to the conflict, prompted Museveni to search for a political solution, rather than a military. The cease-fire declared by the LRA in 2003 may have looked, to the naïve, as a possible solution to the conflict, following the allowance by the Sudanese government to let Ugandan troops into Sudanese territory to attack LRA bases. However, this was the time the conflict really flared, with brutal and vicious attacks on civilians and the government forces. At the end of 2003 Museveni referred the conflict to the International Criminal Court (ICC) at the same time as government forces began intense fighting against the LRA and rebel activity subsequently dropped. Since July 2006, peace talks have been held in Juba in Southern Sudan and a truce was signed on August 26 which has been subsequently extended several times. However, Kony has repeatedly failed to sign peace agreements at agreed meetings. The attacks in Uganda have all but ceased and the LRA have instead moved into the DRC, where, following an attack on the LRA by forces from Uganda, Sudan and the DRC, a massive massacre was carried out by the LRA in late 2008, called the Christmas Massacre, in which many children were abducted, perhaps suggesting that the LRA is trying to increase its numbers. Conscience International urges the DRC, Uganda, Sudan, the

³⁴ The Crisis Group, April 14, 2004

ICC, and the wider international community to stop the attacks by Kony and the LRA once and for all.

The ICC and how to bring justice to the perpetrators

The ICC decided to focus their first investigations on the Uganda conflict after it being referred to the Court by president Museveni. After a yearlong investigation the Court issued five arrest warrants for LRA commanders in July 2005; Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo, and Dominic Ongwen. It has later been confirmed that Lukwiya has died since the arrest warrants were issued and the Court is looking into rumours that two of the others investigated have died. The ICC has been subject to much criticism for only targeting members of the LRA and not the government forces. These accusations have been fuelled by the fact that the prosecutor and president Museveni appeared in public at the start of the investigations and the low profile of the investigations, keeping the mandate and purpose of the ICC a mystery to many. The arrest warrants have led to an intense debate on the peace and justice process of a civil war in Uganda and beyond, and even though a final peace deal has not yet been signed, it is clear that the “intensity of the crimes and the battles has certainly diminished”³⁵. It may be possible to keep the trials in Uganda by creating a Special Division within the Ugandan High Court to take on the cases under jurisdiction by the ICC. The ICC believes that while peace is essential to the region, it is imperative that the LRA commanders are held accountable for the crimes and atrocities committed in the region.

However, another main opposing argument has been forward in the debate on peace and justice in Uganda; that of the possibility of granting amnesty for the LRA in order to secure peace in northern Uganda. Thus there is an issue of peace versus justice; proponents of this argument believe that peace should be reached by any means even if it comprises international justice. Kony and the commanders of the LRA have demanded that the ICC arrest warrants be withdrawn, and president Museveni has guaranteed Kony’s safety, in July of 2006 offering total amnesty to Kony if the peace talks were successful. The ICC on their part has stated that Uganda has the “legal obligation to execute the arrest warrants”³⁶. At the international level, the justice system is clear enough; perpetrators should be punished for their crimes against humanity or war crime committed in the conflict. However, the communities in Uganda affected by the violence often employ a different kind of justice, punitive or forgiving. The Teso and Lango communities’ justice system involves expelling individuals and withdrawal of all their rights. Perpetrators have also in the past been excommunicated as punishment for their crimes. In the Acholi community the justice system revolves around forgiveness. Acholi religious leaders have been active in facilitating the peace process by approaching LRA leaders and pushing for forgiveness for their crimes.

³⁵ FIDH: The ICC’s First Years (2009)

³⁶ CICC: The Monitor 33, p. 9

This justice system, now also endorsed by the Ugandan government, stands at odds with the punitive justice system sought by the ICC.

The debate revolves around whether this forgiving justice system would actually bring peace to the region or whether it would sponsor a culture of impunity. The purpose of an international justice system and the ICC is to ensure real justice to the victims of the conflict and to prevent, through deterrence, the future commission of atrocities. It is the view of Conscience International that if the ICC is to be a credible and powerful promoter of international justice amnesty cannot be given to the perpetrators of the LRA. By promoting the justice system of the Acholi community, the Ugandan government denies all other tribes and communities their right to justice. They are actively being denied access to justice, although they suffered the same crimes as the Acholi community. It is also the case that for example cash economies, industrialisation and Western education, in many cases have eroded the role of traditional leaders. Thus many young people no longer respect the authority and power of the elders, and thus the role of the traditional justice system. Kony himself denounced the Acholi elders, and many rebels see them merely as government agents in disguise³⁷. It is essential that the debate around justice be broadened to all the affected communities (such as the Acholi, Teso, Lango, Madi), the traditional and religious leaders, and the ICC to allow all parties to express their views, facilitate information-sharing, and allow for all views to be expressed and avoid marginalisation of some group. Regardless of the view held about the justice system that is to be used in Uganda, Conscience International is certain that the ICC arrest warrants have played a crucial role in promoting the peace talks in Uganda, and it is increasingly obvious that a solution without trials will not be possible. However, Conscience International believes that it is imperative that national trials are held for perpetrators that will not be tried by the ICC for minor crimes committed. This will of course not be an easy task, and so the international community must offer its full support to Uganda to facilitate such trials. They need to be credible, impartial and independent; international fair trial rights must be adhered to in principle and practice; and appropriate penalties that reflect the gravity of the crime should be imposed. Conscience International believes that the penalties will be of great importance, they must reflect the seriousness of the crimes, and if the LRA commanders are able to use the national trials to get out of punishments this would be tantamount to impunity and taint what might otherwise be fair and credible trials. The international community, especially donors to Uganda and the ICC, the US and the UN needs to be involved to make sure this does not happen. The international community need also make sure that perpetrators from the Ugandan army are tried for war crimes. The ICC believes that the crimes committed by the Ugandan forces are of less gravity than those committed by the LRA commanders, but they should not be able to escape punishment in national trials for crimes they

³⁷ Doom, Vlassenroot (1999), p. 12

have committed. If this is ensured, Conscience International supports national trials for the minor crimes committed by perpetrators in this war.

Consultations have been made with different groups and communities to assign blame and to get witnesses to come forward. For example, the Ugandan Women's Coalition for People and the Women's Initiative for Gender Justice consulted with women in three districts in Northern Uganda on the issues of accountability and reconciliation as outlined in the peace agreement signed between the government and the LRA. They identified a wide range of perpetrators that should be held accountable, including the LRA, the government of Uganda and the UPDF, Karimajong and other cattle rustlers, local defence units, and individual perpetrators. They also expressed dissatisfaction against the ICC, not regarding the LRA arrest warrants but because of the absence of arrest warrants against other perpetrators. Conscience International encourages such consultations to identify perpetrators and get victims a change to be heard. Victims have been denied the right to justice in Uganda for various reasons: illiteracy prevents them from accessing necessary information about their rights; the national legal system has limited (if any) measures to ensure victims' participation and reparations; and fear of reprisals as well as a situation of political uncertainty also serve to deter victims from seeking justice. To avoid 're-victimisation', it is essential that victims be granted the status of victims with all the related rights; remain free from any type of social exclusion and stigmatisation; receive appropriate counselling, protection, and assistance; and obtain true justice. Conscience International supports the creation of a Ugandan victims' working group to make the voice of victims heard and to make their grievances heard so aid and help can be better allocated.

In the beginning of January 2009, the LRA's second-in-command wanted by the ICC reportedly told Ugandan authorities that he would surrender himself in return for an amnesty and contacted the International Organization for Migration (IOM) expressing a desire to submit with an unknown number of his combatants. The IOM agreed to facilitate this transfer. This was immediately heavily criticised by Amnesty International among many others, and Conscience International joins in with the criticism, considering this an obstruction of justice should IOM proceed with the transfer. It is the belief of Conscience International that any ICC suspect who is captured or surrendered during military operations against the LRA should be sent to the ICC for trial.

The judiciary and the rule of law in Uganda

A concern for Conscience International is the state of the rule of law in Uganda and especially in the northern regions. In the war torn areas there are little police and judicial presence, and rebels are raiding villages, looting, abducting and killing civilians. While the presence of the government is now slowly being restored in the northern regions since the peace agreement, there is still need for greater implementation of the rule of law. The judicial institution in Uganda has also been subject to much

debate. A 2006 report by the Democratic Governance and Rights Unit carried out interviews with judges, judicial officers, and members of the legal profession, only 1 out of 10 stated with conviction that Uganda's judiciary is independent. The president is, acting on advice of the Judicial Service Commission (JSC), is responsible for the appointment of all judges, also to be approved by parliament. However the parliament is subservient to the president and thus "parliamentary oversight is...meaningless"³⁸. The members of the JSC are also appointed by the president and thus also succumb to the wishes of the president.

As an example of the disregard of the rule of law and the weakness of the judiciary in Uganda the controversy about the Referendum Act of 2000 can be looked at. This was nullified in 2004 by the Constitutional Court since it was not lawfully enacted, and thus the result of the referendum, in which the Ugandans chose the Movement political system rather than multi-party democracy, was also declared void. Museveni publicly criticised the decision in a televised broadcast stating that "the government would not accept the verdict"³⁹. The government appealed the decision and later the same year the Supreme Court, although it upheld the Constitutional Court's decision, it still validated acts done in terms of the Referendum Act, thus the result of the referendum was still valid. This is not the only time the president has publicly denounced judges and rulings and this suggests that the executive has tried to whittle away at the independence of the judiciary, and succeeded. Conscience International is appalled by these acts of diminishing the importance and the independence of the judiciary in Uganda. It is Conscience International's view that the government and other institutions have a duty to respect and observe the independence of the judiciary as supreme.

The fact that the judiciary in Uganda is not independent and that the government have got huge influence over rulings and certain judges makes the judicial institution in Uganda untrustworthy. If Uganda is to be regarded as able to hold trials for LRA commanders and army officials that have committed crimes in the Ugandan civil war the independence of the judiciary needs to be guaranteed. It is the view of Conscience International that the international community and the ICC need to make sure that this is the case before allowing Uganda to deal with the perpetrators of the war.

Recently, reports in Uganda have talked about a new rebel force operating in northern Uganda. If this turns out to be true it would be much disturbing and terribly sad, however, equally sad has the response of the government to these reports been. In May of 2009, journalist Partick Otim was arrested by men in civilian clothing and an unmarked vehicle, not telling his family where he was taken or why. He is not the only case; 10 others have also been arrested, accused of being involved with this new

³⁸ Democratic Governance and Rights Unit (2006), p. 208

³⁹ Ibid, p. 221

group. The government has committed procedural violation and raised questions about the veracity of some of the evidence used to justify the arrest of Otim and 10 others in over their alleged involvement with the new group. It took until mid-June for the UPDF to admit that the 11 had been detained by them and were held in military custody. As they appeared in court on June 15, it was clear that some of them had been held since September 2008 without charge. Uganda's Constitution provides for many rights and freedoms protected under international human rights law. It requires that anyone arrested be immediately informed of the reason, that they be held in a place authorised by law, that the next of kin be informed as soon as possible, and that they be brought before a court within 48 hours of arrest. While officials contend that the UPDF is a defender and not a violator of human rights, time and again, evidence shows that the government flagrantly disregards the country's laws. The disregard for these fundamental standards in these recent cases related to the alleged new rebellion raises questions about the motives behind the arrests. If, as was stated when the detainees were finally charged with treason on June 15, that the UPDF has been tracking the activities of the alleged rebel group since 2006, why couldn't they be brought before a magistrate within 48 hours of arrest? Conscience International condemns these actions by the UPDF and the Ugandan government, and demands that the constitution be upheld.

It is the view of Conscience International that the Ugandan government should urgently charge or release all detainees held by military intelligence, one of them for 16 months. Lawyers for the detainees' families and friends filed petitions for habeas corpus with the High Court in Kampala on July 17, 2009 seeking to compel the government to justify the legal basis for continuing detention. The government's refusal to reveal the physical whereabouts of the detainees makes these cases of enforced disappearance under international law. A report by HRW states that the some of the detained were tortured during interrogation and as a result may be in ill health. One detainee died while in custody of the task force. Although military intelligence asserted in its letter that it had no knowledge of the whereabouts of Saidi Lutaaya, HRW states in the report that they have seen a copy of Lutaaya's death certificate, which states that he died in a "comatose state." The certificate presents no cause of death. A number of people who saw him either in the task-force detention site or in the casualty ward of Mulago Hospital in Kampala told HRW that he had been severely beaten by task force and military intelligence agents, who allegedly hit him on the head with a hammer during an interrogation. His family has never received his body nor had any official acknowledgement of his arrest or detention.

Human Rights violations

The human rights violations in the Uganda civil war have been many, including killings, abuses, rapes and abductions. The UN Secretary for Humanitarian Affairs Jan Egeland has stated that it is a "moral outrage"

that the international community hasn't paid more attention to the conflict in terms of alleviating human suffering. It has been reported that around 20,000 children have been abducted during the conflict to be used as child soldier or sex slaves of the LRA. In 2006, the BBC reported that around 2 million people have been displaced by the conflict, and many who survived the attacks that have killed or kidnapped tens of thousands have had their lips, ears and noses cut off, a favourite punishment of the rebels. The threat of violence from both sides has left civilians, including children, at constant risk of indiscriminate attacks and displacement. Fear of abduction has caused many children from rural areas to flee their homes each night and travel miles by foot to town and city centres to sleep in bus stations, churches, storefronts, and on the streets. Adults also flee to populated areas to avoid LRA attacks. They are known as night commuters. An estimated 50,000 of them made this journey nightly during the height of the conflict and returned home at dawn.

After the joint attack on the LRA bases in the DRC by the governments of Sudan, Congo and Uganda in December the LRA launched a massive retaliatory attack on Congolese villages. The airstrikes were meant to kill Joseph Kony and other LRA leaders and finally put an end to the LRA rebel's attacks on civilians, but instead seems to have sparked the approximately 600-1,000 rebels to divide up in small groups and carry out surprise attacks on villages. The attacks have been labelled the Christmas Massacre but LRA killings have not stopped since the Christmas massacres, and the LRA combatants used brutal tactics against surrounding populations, retaliating against civilians rather than hostile forces. HRW has regularly reported murders and abductions by the LRA, keeping civilians living in terror since the beginning of 2009. The widespread, virtually simultaneous nature of the attacks as well as the similar means used to kill the victims points to a coordinated operation carried out under orders from a single command structure. The UN refugee agency, UNHCR, reports that since December 2009, more than 1,200 people have been slaughtered with clubs and machetes in the massacre, and, according to the UN, 140,000 Congolese were forced to flee immediately after the Massacre, and 250,000 people have been displaced in total due to the recent violence. HRW also reports that at least 476 children have been abducted in the attacks⁴⁰. The worst attacks happened in a 48-hour period over Christmas in locations some 160 miles apart in the Doruma, Duru, and Faradje areas of Haut-Uele district of northern Congo. The LRA waited until the time of Christmas festivities on December 24 and 25 to carry out their devastating attacks, apparently choosing a moment when they would find the maximum number of people all together. The killings occurred not just in Congo but also in parts of southern Sudan where similar kinds of weapons and tactics were used.

Kony had unexpectedly departed from the camp shortly before the attack, sparing him injury and allowing him to organize subsequent LRA operations. Planners did not make adequate contingency plans in the

⁴⁰ HRW, 'The Christmas Massacre', February, 2009

event their first plan failed and military forces were unprepared when the LRA began their devastating attacks on surrounding civilian areas on December 24 and 25. With only some 200 troops in the area who were designated primarily to provide logistical support to the Congolese army, not to protect civilians, MONUC peacekeepers were too few and too ill-equipped to assist civilians who came under attack. The Security Council had days before increased the troop strength, but at the same time instructed MONUC to provide the highest priority in its operations to the Kivu provinces of eastern Congo, a request that MONUC officials said hampered them from moving needed troops and equipment to the area where LRA attacks were occurring. It is Conscience International's view that, given the LRA's history of turning against civilians when under attack, the governments carrying out the military operation should have taken greater measures to protect civilians in the area from reprisal attacks by the LRA. They should also have given higher priority to rescuing abducted children and adults who remain with the LRA. To minimize further harm to civilians, the forces involved in the joint military operation should urgently prioritize the protection of civilians and coordinate their efforts with MONUC. Conscience International urges the UN Security Council to provide direction and additional resources, including further logistical capacity, to MONUC and the United Nations Mission in Sudan (UNMIS) to enable them to protect civilians at risk of LRA attack.

The former Mozambican President Joaquim Chissano will give his final briefing to the United Nations Security Council on July 15 in his role as the Secretary General's special envoy for the areas of east and central Africa affected by the LRA and their two-decade campaign of violence. Although Chissano's mandate was suspended as of June 30, abuses by the LRA continue. For two years, Chissano and other leaders in the region attended and supported talks between the Ugandan government and the LRA in Juba, southern Sudan. Those talks achieved some progress: the parties agreed to a cessation of hostilities and mechanisms to prosecute those implicated in serious crimes, and the abuses subsided for a time. The Security Council has met the increased attacks on civilians by the LRA with concern, but minimal action. In suspending Chissano's mandate, Secretary General Ban Ki-Moon said that the onus is on Kony, the LRA leader, to sign the peace agreements. However, it is the view of Conscience International that the international community and the Security Council especially, should not remain hostage to Kony's whims while abuses continue. Experience has shown that none of the countries of the region have the capability themselves to protect civilians from the LRA or to apprehend the LRA leaders wanted by the ICC, thus the Security Council has an important role to play in developing a strategy and moving it forward urgently. Conscience International believes that there needs to be a UN force on the ground with the special task of protecting the civilians from LRA attacks, the people of the Great Lakes region have suffered enough from the LRA's abuses.

Conclusion

The Uganda conflict is complicated and brutal, the roots of the conflict dating back to the pre-independence days. The LRA was formed from a mixture of grievances in the Acholi community, spirituality, and the twisted self-image held by Joseph Kony. The LRA has always targeted civilians and spread terror in the regions it has operated. The conflict has been raging in northern Uganda for more than twenty years, but now it looks like the main rebel attacks have recently targeted civilians in the DRC and southern Sudan. Tens of thousands have been abducted as child soldiers or sex-slaves, a vast number have been killed in the most brutal ways and many more still have been mutilated and scarred for life by the conflict. Conscience International believes that this has gone on for far too long, and that the Ugandan government, the governments of the DRC and of southern Sudan, the ICC, and the international community must act now to end this conflict and to bring justice to Joseph Kony.

Conscience International calls upon the Ugandan government to strengthen and develop the capacities of local agencies to bring justice and socio-economic development to the affected regions, and to facilitate the return home of the hundreds of thousands IDPs that are still not in their home village. The government must also ensure that the IDPs and others get the treatment and help they need upon returning home, mainly through allowing human rights organisations on the ground room to maneuver. Confidence should also be built through developing a deeper dialogue with the Acholi leaders and to transfer unpopular and antagonistic officials, both LRA and UDFP commanders. It is also imperative that dialogue is continued with LRA and that clear aims are laid out in what the dialogue is to achieve; a peace treaty. It is also Conscience International's view that amnesty should not be given to the perpetrators sought by the ICC, however, it might be wise to give other commanders of the LRA amnesty. This would create a split in the leadership of the rebel group, and might facilitate a break-up of its core. However, preferable is of course that all perpetrators of the conflict are being out on trial for the crimes they have committed. Donors to Uganda have an important role in ending the conflict through conditioning all military assistance of security sector reform with respect to corruption and human rights and to increase humanitarian assistance to the affected communities. If these recommendations are achieved Conscience International are hopeful that the conflict will come to a peaceful end.

References

Allen, T. 1991 'Understanding Alice: Uganda's Holy Spirit Movement in context', *Africa* 61(3): 370-399.

Behrend, H. and Cohen, M. 1999 *Alice Lakwena & the Holy Spirits : war in Northern Uganda, 1985-97*, London, Athens: J. Currey ; Ohio University Press.

CICC (2006) 'The Monitor No. 33'

CICC (2007) 'The Monitor No. 34'

CICC (2007/2008) 'The Monitor NO. 35'

Democratic Governance and Rights Unit (2006) *The Judicial Institution in Southern Africa*, Cape Town, Siver Ink

Doom, R., and Vlassenroot, K. 1999 'Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda' *African Affairs* 98, 5-36

FIDH (1999) ' The ICC's First Years'

Kasfir, N., 2005, 'Guerrillas and civilian participation: the National Resistance Army in Uganda, 1981-86', 2005, *JMAS* , 43, 2, June.

Kasfir, N. (1998) 'No-Party Democracy In Uganda', *Journal of Democracy*, 9 (2): 49-63

Mirzeler, M. and Young, C. 2000 'Pastoral politics in the Northeast periphery in Uganda: AK-47 as change agent', *Journal of Modern African Studies* 38(3).

Internet Sources

www.latimes.com, January 11, 2009 '*Uganda's conflict spreads to Congo, where LRA rebels massacre villagers*'

www.internationalcrisisgroup.com, April 19, 2004, '*Northern Uganda Conflict*'

www.news.bbc.co.uk, February 17, 2009, '*Behind the LRA's terror tactics*'

www.news.bbc.co.uk, October 23, 2008, '*Congo terror after LRA rebel raids*'

www.news.bbc.co.uk, November 6, 2007, '*How to punish Uganda rebels*'

www.news.bbc.co.uk, January 28, 2009, '*Living in fear after LRA atrocities*'

www.news.bbc.co.uk, September 13, 2006, '*LRA victims seek peace with past*'

www.news.bbc.co.uk, July 14, 2007, '*Peace talks bring change to Uganda*'

www.hrw.com, July 17, 2009, '*Charge or Release People Secretly Detained*'

www.hrw.com, February 16, 2009, '*The Christmas Massacres*'

www.hrw.com, July 14, 2009, '*UN Envoy's Term Ends, but Rebels Go On and On*'

Guinea-Bissau

Guinea-Bissau is one of the worlds' poorest and least developed countries, currently being 175th out of 177 countries on UN's ranking of HDI, measuring human welfare. Since its independence from Portugal in 1974 after a successful 13-year liberation struggle against the colonial rule by the African Party for the Independence of Guinea and Cape Verde (PAIGC). The country has been experiencing numerous military coups and internal political struggles, but seems to democratise in 1990 when multi-party democracy was implemented, the freedom of the press guaranteed, and trade unions allowed, but a bloody civil war 1998-1999 put an end to these hopes. The country is also a port for drug trade from the drug cartels of Latin America to Europe and beyond and thus has an enormous illegal informal market where weapons and violence is commonplace.

Conscience International is worried about the human rights situation in the very ethnically diverse and rural country, and about the recent political turmoil in which the army general and the long-time president Major João Bernardo Vieira were killed. The new presidential elections has just been held and the results are expected to be our shortly. To understand the recent political developments one must look at the history of the political life in the country. Conscience International calls upon both the victorious and the losing candidate, the international community, the UN, the AU, and ECOWAS to ensure that the post election period remains peaceful and that the country once again embarks the road towards consolidating democracy in the country, and refrain from falling back into the destructive and unstable political situation that has stained the country's political record since independence. Conscience International believes that one of the first steps towards a consolidated democracy in Guinea-Bissau is a reformation of the bloated and highly influential army, and thus this should be one of the new president first tasks, requiring support from the international community, the UN, the AU, and ECOWAS.

Brief history of the political turmoil prevalent since independence

Between 1974 and 1980 both Guinea-Bissau and Cape Verde was ruled by the PAIGC under Luís Cabral, the brother of Amílcar Cabral, one of the founders of the PAIGC assassinated in 1973, but as separate countries. The intention of the party was to unite the two countries in the future, but this vision was smashed with the 1980 coup. One reason to the failed reconciliation of the interests of the two countries was that, as in many other sub-Saharan countries, ethnicity was very important in politics and power. In Guinea-Bissau the ruling class were of the Mestizo ethnicity, as well as the majority of the party, public administration and armed forces, despite the fact that they represented only 2 % of the total population of Guinea-Bissau⁴¹ and there were major tensions within the ruling party. Thus, after disagreements over proposed constitutional amendments with Luís Cabral, Major João Bernardo "Nino" Vieira mounted a successful coup

⁴¹ Ferreira (2004)

in Bissau, overthrowing his regime and putting an end to all thoughts of a union with Cape Verde. The Cape Verdean wing of the PAIGC consequentially renamed itself and formed a new independent sovereign government.

In Guinea-Bissau, however, the power struggles within the main party continued. Vieira concentrated power in the president and started a personality cult around him, entailing, among other things, abolishing the post of the Prime Minister. In 1985, six leading political figures, including the vice-president Paulo Correia, were assassinated for attempting a coup. However, under massive pressures from the international community, especially from France and Portugal, Vieira was forced to introduce a multi-party system and liberalise the political regime in 1990, with the obvious goals of eventually transcending into a full democracy. The following years the country became a model for other sub-Saharan African countries; an effective opposition developing, trade unions being formed, a free press being allowed to exist, and, the abolition of the death penalty. The first multi-party elections were held in 1994 and, although returning the government to power, they marked a milestone in the country's democratic transition and manifested the beginning of an increase in opposition activity. However, despite this the increased authoritarianism of the president led to discontent forming among the political opposition and the military. Especially the army is very important in Guinea-Bissau, and an attempt to modernise it by promoting younger soldiers, demobilising veterans from the liberation struggle who constituted the majority of the PAIGC, delays in the payment of salaries, and political interference in the management of the military all contribute to the political instability in the late 1990s. Finally, the forced retirement of the army chief Brigadier Ansumane Mané because of his alleged assistance to the separatist rebel movement in the Casamance province in neighbouring Senegal sparked a civil war.

The war lasted from June 1998 until the middle of 1999 and killed approximately 2,000 people while many more were wounded and approximately 300,000 displaced⁴². Apart from the loss of lives, economic and social activities were paralysed, and most of the infrastructure was destroyed. Troops from Guinea-Bissau's neighbours, Senegal and Guinea-Conakry, intervened in support of the government, and the condemnation of the revolt against a democratically elected government from the international community was immediate. Nevertheless, the military junta leading the insurrection had the support of the population and of most of the armed forces⁴³. The armed conflict officially ended in November 1998 with a peace agreement signed in Abuja after mediation efforts by the Community of Portuguese -speaking Countries and ECOWAS, envisaging a sharing of power between the actors, the creation of a government of national unity facilitating the holding of elections, the withdrawal of foreign troops from the country, and the establishment of a small

⁴² Barry *et al* (2007), p. 3

⁴³ Ferreira (2004)

ECOMOG peace-keeping force (ECOWAS Cease-Fire Monitoring Group). Despite these efforts the tensions escalated in early 1999 and there were repeated ceasefire violations from both the government and the army. Vieira was deposed in May and was granted political asylum in Portugal. Subsequently, the military junta declared its confidence in the transitional government and security and stability rapidly improved in the country, culminating in the withdrawal of the last ECOMOG force in July 1999.

The good signs in Guinea-Bissau were not followed by approval from the international community; of the US\$220 million pledged in May 1999, only US\$6 was transferred to the country, allegedly because of the departure of president Vieira. This meant that the democracy consolidating efforts made, such as increased transparency in the management of state resources, the introduction of human rights monitoring mechanisms, and a reduction of military influence in the political sphere, were largely unrewarded, something which led to a "general feeling of frustration and disappointment in Guinea-Bissau"⁴⁴. This made it impossible for the transitional government to carry out its programmes and thus delayed important development measures. The elections of 1999 implied that formal peace doesn't imply stability and that the holding of multi-party elections doesn't imply a successful democratic transition. The legislative and presidential elections were won by the Social Renewal Party (PRS), ruling in coalition with RGB-MB, and President Kumba Ialá, largely due to the Balante vote, an ethnic group that had made up the main independence fighting force under Amílcar Cabral but were largely marginalised by the Vieira regime. The political balance after the election was fragile due to the head of the military junta still having approximately the same legitimacy and power as the democratically elected leader of the country. The government resolved the problem by assassinating Brigadier-General Ansumane Mané in November 2000, after numerous unsuccessful attempts by the government to reassert control over the army. This however proved counter productive and gave the tensions in the country a new face; producing a new martyr in the eyes of the population, bringing religion to the forefront of politics as Muslim leaders from all over the world came to Guinea-Bissau to pay homage to the brigadier, and giving rise to new leaders ascending in the army.

The 2001, due to recurrent ministerial reshufflings due to political motives the RGB-MB ministers resigned and the country was virtually without a government. The political tensions between the executive and the legislative continued with dismissals of senior judges in the Supreme Court, a violation of the constitution, and various unsuccessful coups d'état. In 2002 strikes in Bissau broke out, a capital that in many areas lacked the provision of water and electricity and the support from the international community, that had been strong, now started to wane, with the withdrawal of support from the International Monetary Fund (IMF) to assist the budget of the Guinean government and to implement its

⁴⁴ Ibid

Poverty Reduction and Growth Facility (PRSP). Ethnicity became an increasingly important political factor during these difficult times, and Ferreira speaks of a “Balantisation” of the political life in the country with the ethnicity holding most of the high-ranking and intermediate posts in the public administration. Constraints were put on the press, the National Assembly was dissolved in late 2002 and shortly after the government collapsed. Kumba Ialá’s mental health was questioned after holding a series of unstructured speeches and irrational public announcements, such as moving the capital to Buba, a small city 200km away from Bissau, or a threat to invade The Gambia.

The elections scheduled for early 2003 were delayed several times and there was a discovery of fraud during voter registration, leading the UN Security Council to warn that there was a risk of the country sliding back into conflict, something which was fuelled by Prime Minister Pire announcing that a victory for the opposition would lead to a civil war. It was rumoured that weapons were being distributed among the population by the government, and that Balante youths were being recruited into the armed forces should the PRS be defeated in the legislative elections. Ialá also managed to increase the salaries for the army commanders, using funds secured during visits to Nigeria and Libya. Nevertheless, this wasn’t enough to stop a military coup d’état taking place in the end of 2003, and was even recognised by the UN Security General as the natural outcome of an unbearable situation. However, the coup-makers expressed a desire to return a civilian government, and this facilitated the swift signature of a Charter of Political Transition, introducing a National Transitional Council, ruling the country until the legislative election 6 months later. This transitional government embarked on efforts to restore the independence of the media and the judiciary, but had trouble paying for delayed salaries, food for the army, and fuel for the Bissau power station. The elections were largely considered free and fair by international observers, despite some irregularities, such as buying of votes with bags of rice, intimidation, technical difficulties forcing some polling station to remain closed etc. The result was delayed, officially to investigate some of these irregularities, but there were also reports that the PAIGC and the military wing linked to the PRS were holding secret talks, underlining the importance of the army in Guinea-Bissau. Without an absolute majority, the PAIGC finally entered a parliamentary alliance with the PRS.

Recent developments: a return to the past?

Presidential elections took place in June 2005, marking the end of the caretaker government in place since the 2003 coup. Joao Bernardo Vieira had come back to Guinea-Bissau in April after six years of political exile in Portugal, as a “soldier of peace”⁴⁵, running as an independent in the election primarily campaigning among the young and the unemployed. When it became official that he had won 52% of the votes there were

⁴⁵ BBC News, November 21, 2008

clashes between rival supporters in the capital and the opponent, Malam Bacai Sanha's party, alleged fraud, despite EU observers declared the poll to be free and fair, and the head of the Navy fled the country in July after a failed coup attempt. Nevertheless, Vieira took the president's office in October, promising to foster "reconciliation and national unity"⁴⁶. In the 2008 parliamentary election, the former ruling party, the PAIGC, got a clear majority, winning 67 out of 100 seats, while Vieira's party, the Republican Party for Independence and Development (PRID) won only three seats. Once again international observers deemed the election free and fair, and the election passed off smoothly without any resorts to violence, unlike other elections in the country. Thus there were hopes that stability was finally coming to Guinea-Bissau, and that the politicians, instead of internal struggles, could start fighting the problems of the country.

These hopes were however short-lived. Days after the election, which Ialá of PRS, a party with, as previously explained, strong links to the army, called "fabricated"⁴⁷, gunmen attacked the presidential palace with machineguns and rocket-propelled grenades. The president however escaped the three hour coup attempt unharmed, but later established a 400 man strong militia as his personal bodyguards. They were later disbanded in January when accused of trying to kill the Chief of Staff of the Armed Forces, general Na Waie in an attack on his convoy. However, two months later the general was killed in an attack on the military's headquarters and hour's later president Vieira was killed at the site of his house. The general had served in the junta that overthrew Vieira and was an outspoken critic of the president. "President Vieira was killed by the army as he tried to flee his house, which was being attacked by a group of soldiers close to the head of the Chief of Staff, Tagme Na Waie, early this morning," Zamora Induta, a military spokesman, told the AFP news agency. He also stated that the president had been one of the main people responsible for the general's death, but an army statement on the state radio dismissed the claims that the assassination of the president was retaliation for the death of the head of the army, but that the attack was made by an "isolated" group of unidentified soldiers whom the military claimed to be hunting down. The statement also stated that the military would respect the constitutional order which called for the head of parliament, Raimundo Pereira, to succeed the president in the event of his death, and that this was not a coup.

Raimundo Pereira had 90 days to schedule new residential elections, and the first round was held in the end of June, in which Iála, of PRS, and Sanha of the ruling PIGC, got the largest share of the vote. The army observed the election process closely and issued a warning to the two candidates in the second round, stating that it wouldn't tolerate any acts that put the peace and security of the country at risk. The second round

⁴⁶ Ibid

⁴⁷ BBC News, November 23, 2008

was held on July 26 and observers deemed the polls to have been conducted in a free and fair manner without any reports of violence, and Sanha won the runoff between him and Iála with more than 20% of the vote, highlighting that many still hold Iála responsible for the economic difficulties during his presidency. Conscience International is hopeful that Mr Sanha will be able to deliver on his promises on introducing peace and stability to the country and is also hopeful that Mr Iála will respect the outcome of the election and that the army, which has supported PRS, the party of Mr Iála, will remain loyal to the regime.

Problems facing the new regime

The challenges facing the new regime are many and some are more acute than others. First, the public sector experienced considerable expansion and centralisation after independence, yet few incentives and little training were offered to the civil servants. Their salaries were frequently not paid, a situation that has become endemic. Second, the functioning of the legal system is severely hampered by a shortage of resources. At present it cannot provide either adequate legal assistance to those accused or ensure complete impartiality when cases come to trial. Third, the role of the police service as a purely repressive agent rather than an impartial body acting to protect the community's interests and rights is still encouraged by the legal framework that guides the structures and actions of the police. Fourth, the weakness of the judiciary and legislative authorities that has followed the abuse of their functions by the executive powers is evident. Fifth, the salary structure that is currently applicable cannot provide adequate remuneration to magistrates, lawyers, members of the police and correctional services employees. This has created an environment conducive to corruption, which in turn undermines the credibility of the legal system.

Then there is the issue of the army. It has repeatedly meddled with the politics of Guinea-Bissau, with repeated coups as a consequence, and most recently with political killings in the run-up to the presidential election and warnings issued to the candidates. The army must be restructured and its duties redefined. At present it is disproportionately large, and dependent on the state for resources. In 2008, a UN census found that of 4,500 members of the armed forces, 3,000 were officers, and 1,800 of them held a rank of major or higher, with many being over 60 years of age⁴⁸. The government needs to initiate a process of demobilisation, reintegration and social reinsertion for former combatants. This is essential if the country's internal stability and security are to be maintained. Although a restructuring process for the army was agreed in principle during Kumba Ialá's regime of, its implementation was delayed by various factors. These included border security problems; an escalation in the tensions between the military (as a result of the detention of several officials allegedly involved in the events of November 2000);

⁴⁸ Reuters AlertNet, June 25, 2008

delays in the payment of salaries; and division within the armed forces along ethnic, religious and political lines. The critical shortage of financial resources to provide the armed forces with training that would enable them to transform into a professional republican force has also been identified as a reason for the delay in the reform process.

Conscience International sees Guinea-Bissau as a prime example of the fact that, disregarding the findings of Lindberg⁴⁹, the mere holding of multiparty elections is insufficient to overcome an institutional culture that has long followed undemocratic practices, and decades of authoritarian governance.

Related with the issue of the army is the issue of the drug trade that has become common in the country. The International Crisis Group recently said that some in the military were opposed to "a reform that could force them into retirement and cut them off from lucrative drugs trafficking income". Iála has claimed that Vieira was one of the country's leading drug traffickers, something which Vieira didn't respond to, and that this might have been related to the death of the army Chief of Staff and himself. West Africa has been an increasingly popular drug shipment route in recent years, being a rout to Europe for Latin American cartels. It is clear that the new government of Guinea-Bissau must take control over this huge smuggling and informal market that has developed in the country, and dismantle it. Otherwise, Conscience International fears, the country might be turned into a "narco-state". IRIN reports that the number of weapons in the country is extremely high, estimated at some 650,000. Regional instability, crime and weak governance toughen the battle, observers say, and makes the governments swift and tough action all the more necessary.

Issues concerning human rights and the rule of law

The army have been involved in numerous human rights abuses in recent years. On June 5, 2009 four people, including two former ministers, one of whom was Baciro Dabó, a candidate in the forthcoming elections, were unlawfully killed by the armed forces which also arrested an undisclosed number of civilians including a former prime minister and the national director of the internal security services. The armed forces accused them of attempting to overthrow the government. The political climate in the run-up to the election was not ideal. Ten of the 12 candidates approved by the National Electoral Commission will run for president. One, Pedro Infanda, withdrew his candidacy following the killing of candidate Baciro Dabó, fearing for his own security.

Helder Proença, a former Minister of Defence, whom the Chief of Staff of the Armed Forces accused of being the mastermind of the plot, his bodyguard and driver were killed as they were returning from Senegal.

⁴⁹ Lindberg (2006)

They were killed at around midnight, on the Amilcar Cabral Bridge, some 40 km north of Bissau, where soldiers were reportedly waiting for them. Baciro Dabó, a former Minister of the Territorial Administration, was killed at home at around 2 am. According to reports, a group of about 13 soldiers entered his house and shot at him. Following the killings, the Internal Security Service of the Interior Ministry issued a statement claiming that the armed forces had foiled a coup on the night of 4 June; that the alleged perpetrators were armed and that while some surrendered, others resisted arrest leading to an exchange of fire in which the four people were killed. However, according to reports, there is no evidence that the deceased were armed or that an exchange of fire occurred. The Security Services had presented a film and audio recording said to be of the alleged plotters during a meeting in which they allegedly agreed to stage a coup. Amnesty International reports that the detainees have not been brought before a judge to legalise their detention, as prescribed by Guinea-Bissau law that stipulates that all detainees must have their detention legalised within 48 hours. Furthermore, the arrests were carried out by military officials who do not have the authority to arrest civilians in Guinea-Bissau, in violation of national and international law.

Conscience International is very concerned about the climate that was prevalent in Guinea-Bissau after the assassinations of the army Chief of Staff and the president, one of arbitrary arrest, unlawful killings, and abuses of the rule of law. This situation is certainly not conducive to the exercise of freedom of expression, an essential condition for the effective exercise of the right to vote. The UN Human Rights Committee has stated in its General Comment 25, interpreting Article 25 of the International Covenant on Civil and Political Rights that "freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected." Conscience International believes that the state of impunity for the recent killings, arbitrary arrests, beatings and torture of civilians by soldiers must come to an immediate end and the perpetrators held responsible for their actions. These actions treat the freedom of expression. Amnesty International reports that in recent months people who criticised the government or the armed forces have been arrested and beaten by soldiers. Following the killings of late President Vieira and General Tagme Na Wai, those who criticised the armed forces were threatened, arrested, beaten and tortured. They included members of the Guinea-Bissau Human Rights League; Francisco José Fadul who was is the president of the Audit Court and former prime minister, as well as lawyer Pedro Infanda.

Conclusion

The ability to exercise the right to freedom of expression, peaceful assembly, association and movement is essential to create a climate in which people can participate in the election process without fear of intimidation or reprisals. Respect for human rights should have been a

central element to the election process and must be a central element to the post-election situation. The Guinea-Bissau government must take steps to ensure that everyone is able to exercise these rights without fear of becoming a victim of human rights violations.

Conscience International is deeply worried about the events in Guinea-Bissau during the last year and supports the statements from spokespersons of the AU calling the assassination of the president a "criminal act", and ECOWAS calling it "the assassination of democracy". The Security Council called the recent developments a "tragic setback" and called upon Guinea-Bissau to bring justice to the perpetrators in the recent spite of political assassinations. The election has run smoothly, and this is a good sign. The winner, Mr. Sahna, and the loser, Mt Iála, must together ensure that security and peace returns to Guinea-Bissau, and that the culture of impunity ends.

References

- Amnesty International report, Guinea Bissau, 2009
Barry, B-S. Gacitua-Mario, E. and Wodon, Q. (2007) ' Conflict, Livelihoods, and Poverty in Guinea-Bissau: An Overview', *MPRA, World Bank Working Paper*
Ferreira, P. M. (2004) 'Guinea-Bissau – Between conflict and democracy', *African Security Review*, 13:4

Internet Sources

- www.al-jazeera.com, July 27, 2009, '*Polls close in Guinea-Bissau runoff*'
www.allafrica.com, July 27, 2009, '*Guinea-Bissau*'
www.news.bbc.co.uk, October 22, 1998, '*Behind the Guinea-Bissau Conflict*'
www.news.bbc.co.uk, July 2, 2009, '*Country Profile: Guinea-Bissau*'
www.news.bbc.co.uk, November 23, 2008, '*G-Bissau leader survives attack*'
www.news.bbc.co.uk, July 27, 2007, '*Guinea-Bissau holds run-off vote*'
www.news.bbc.co.uk, March 2, 2009, '*Guinea-Bissau president shot dead*'
www.news.bbc.co.uk, March 2, 2009, '*I saw Bissau rocket attack*'
www.news.bbc.co.uk, November 21, 2009, '*Poll to bring G-Bissau stability*'
www.guardian.co.uk, March 2, 2009, '*Guinea-Bissau president 'killed in clash between rival soldiers'*'
www.guardian.co.uk, March 3, 2009, '*Retaliation theory as president of Guinea-Bissau is assassinated*'
www.guardian.co.uk, June 5, 2009, '*Presidential candidate in alleged coup plot killed*'
www.irin.com, May 22, 2009, '*Lowering the light-weapon load*'
www.news24.com, June 15, 2009, '*Guinea-Bissau's army warns poll candidates*'
www.reutersalertnet.com, June 25, 2008, '*Downsizing is next mission for bloated Bissau army*'