Strengthening governance in a post-conflict district of the Democratic Republic of Congo: a study of Ituri

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Executive summary

This report explores the political economy of conflict in Ituri district in the north-eastern part of the Democratic Republic of Congo (DRC), and its relationship to the national context. The district was chosen because it represents a post-conflict environment, although still fragile, where local conflict factors interact with national factors.

The fundamentals of the Congolese political economy reflect the typical risk factors for persistent state fragility: a large country with rich natural resources and a long history of neo-patrimonial governance, sustained by international interests. From 1996 onwards the eastern part of the country became trapped in conflicts that drew in regional stakeholders and led to the end of the Mobutu era. The peace process that got under way in 2002 led to successful elections in 2006 but after that the democratization process stalled. Violence and conflict in the eastern part continued, although it was mostly limited to national actors and partly contained by a UN mission, MONUC (recently renamed MONUSCO).

Ituri remained for a long time largely in the shadow of these developments. Customary governance remained fairly strong. The district is quite densely populated, rich in natural resources – gold, timber, oil – and it was eventually drawn into the regional war after 1996. Local conflict factors exploded when the regional armies withdrew in 2003, and local stakeholders belatedly tried to stake a claim in the national peace process. The violence was checked by Operation Artemis and has since been contained by MONUC.

The opportunity to start an enduring peace-building process in Ituri from 2003 onwards and to address the remaining – mainly local – conflict factors was missed. Although local civil society initiatives for conflict mediation emerged and have had some effect in de-escalating tensions, they are unable to solve key problems such as land conflicts and inequalities between ethnic groups, because higher levels of political power are involved and national regulations (land legislation, decentralization) have still to be completed.

The risks inherent in the limited containment strategy become clear now that pressure on MONUSCO to withdraw is mounting. There are reports that ex-militia leaders have returned to rejoin the remnants of their groups in Ituri, and that these armed groups have started to recruit again. The success of the substantial international peacekeeping efforts in Ituri is at stake.

Conflicts in Ituri have always centred on access to economic resources. The conflicts are politicized and fought out along ethnic lines. Stronger ethnic groups monopolize power, and weaker groups defend their livelihoods, if necessary through armed struggle. Government is weak but local elites are relatively strong, due to collusion between government, business and the church. They have an interest in the national politico-economic arena, and some of the local elite leaders have been elected as national and provincial deputies and nominated to government positions.

Ituri's main asset is indeed the relative strength of its local elites. Tensions in Ituri are rising, caused by the familiar conflict triggers (land, oil) and the prospect of MONUSCO's withdrawal. If the elites respond to these tensions by uniting to preserve the peace in Ituri, local solutions to the main conflict factors will be achievable. It would boost their local legitimacy in the run-up to the new round of elections, and strengthen their position on national issues such as decentralization and oil revenues.

In such a scenario the elites would stop politicizing and ethnicizing the economic issues at the root of conflicts. They would exercise their influence over armed groups to check the use of violence. They would negotiate solutions for the most pressing land conflicts, and start a participatory process of solving the main land conflicts between communities and of formalizing existing customary land rights. They would work towards a managed process of decentralization, together with leaders from other provinces, lobbying central government, utilizing space created by central government's receipt of debt relief, and making decentralization part of the bargain for their electoral allegiance in the presidential elections. The leaders would not let the struggle for access to oil revenues degenerate into armed conflict. They would control the risks for Ituri posed by decentralization, through power-sharing agreements acceptable to local communities. Donor support for such a strategy would greatly increase the chance of success.

1. Introduction

This report is based on desk study and a field visit to Ituri district (3–12 May 2010) by the author. The field visit was facilitated by IKV Pax Christi Netherlands and the Reseau Haki na Amani (RHA) in Ituri.

The study is one of five country studies that contribute to a larger research project, 'Strengthening Governance in Post-Conflict Fragile States', with the other country studies focusing on Afghanistan, Pakistan, Guatemala and Kosovo. The project is part of a research programme being undertaken by the Clingendael Conflict Research Unit within the framework of its cooperation with the Netherlands Ministry of Foreign Affairs. The project's first phase involved an analysis of current international academic thinking and practical lessons learned, and identification of the main issues encountered in efforts to restore governance after conflict (Anten 2009). The country studies serve a dual purpose. Their first purpose is to support national and international actors interested in strengthening governance in the country concerned. They aim to assess entry points and approaches for strengthening governance that would work, given the relevant (political) context in each country. The second purpose is to assess at a more conceptual level the extent to which the concepts developed and the lessons learned, as set out in the Issues Paper 'Strengthening Governance in Post-Conflict Fragile States', are applicable in concrete country situations. Each country study will result in a stand-alone report. In addition, all the studies will contribute to the preparation of a Synthesis Report that reworks the results of the country studies and the Issues Paper.

The present study would not have been possible without 26 key people in Ituri, the representatives of the communities in Kobu, Banyali Kilo, Gety, Nombe and Kasenyi and the staff of Réseau Haki na Amani (RHA) and IKV Pax Christi Netherlands, who were all willing to share their insights. I thank them all. The views expressed in this paper are those of the author, as are any mistakes or errors.

2. Research questions and main issues

In general terms this research assesses to what extent the Issues Paper 'Strengthening Governance in Post-Conflict Fragile States' is helpful in the analysis of the governance challenges in the Democratic Republic of Congo (DRC). Preliminary desk study indicated that the issues of the political order and the type of conflict are particularly relevant in the case of Congo. The conflicts in Congo affected mainly the eastern part of the country, and in fact are still ongoing in the Kivu provinces, while only in Ituri District could one speak of a post-conflict situation. Furthermore, local factors, including access to land, appear to be crucial to the conflicts, yet they are neglected in peace-building and state-building approaches (Pottier 2003, Vlassenroot and Raeymaekers 2004, More and Boshoff 2008, Autesserre 2008, Villers 2009). In order to examine post-conflict governance in Congo, Ituri District in Orientale Province was chosen as the area of study. In this area, armed conflict has been largely kept under control since 2003, with the support of MONUC,[1] although stability is still fragile.

The research questions were specified as:

- What is the political economy of conflict in Ituri?
- To what extent are land issues part of the conflicts?
- What is the relationship between local land management and provincial–national governance?
- (How) could the improvement of land management be an entry point for peace-building and state-building?

To answer these questions, the context of the DRC (Chapters 3–5) and particularly Ituri District (Chapters 6–8) is analysed, with account taken of the relevant issues identified in the Issues Paper, and with particular emphasis on the role of land issues. Chapter 9 focuses on land as part of the political economy, and as an entry point for peace-building and state-building. In Chapter 10, likely future events in the Congolese context and the opportunities they offer for governance reform are explored. Finally, Chapter 11 offers some conclusions.

[1] MONUC (United Nations Organization Mission in the Democratic Republic of the Congo) was established after the Lusaka Ceasefire Agreement of July 1999.

3. A very short history of governance in the DRC

The current governance situation in Congo decidedly retains characteristics of the earlier political orders in colonial times and the Mobutu era. Mobutu Sese Seko, who ruled the country (then called Zaïre) from 1965 to 1997, succeeded in keeping the large and heterogeneous country together and free from mass violence over a period of 30 years, in contrast to what happened in many of its neighbour states (Eriksen 2009). He did this mainly by co-opting opposition groups into the existing state. It was a neo-patrimonial, clientelistic, predatory political order with a full buy-in of all opposition forces. Mobutu initially managed to take and enforce his decisions through an authoritarian divide-and-rule regime. It was one of the most corrupt regimes in the world (Evans 1989 in Eriksen 2009), and it institutionalized kleptocracy at all levels of society (Lemarchand 2003 in Eriksen 2009). As in other neo-patrimonial regimes of that era, its economic policies were not conducive to development, and per capita income sank continuously during the Mobutu regime. The infrastructure eroded, as did state administration. In the end the state was unable to exert any real control over society at local level (Gallaghy 1984 in Eriksen 2009). Mobutu even actively weakened his one-time power base, the army, in order to prevent the emergence of rival powers. The fact that he managed to retain control for so long was due to foreign support that was readily available, given the cold war geopolitics at the time.

After the cold war ended, Mobutu could no longer rely on foreign support, and his regime gradually collapsed. From his fall in 1996 until 2003, conflicts raged in the east of the country (see Chapter 4), and half the territory of the country was outside state control altogether. Regional powers invaded the country, and international powers were reluctant to act against the main invaders, Rwanda and Uganda, which were their new post-cold-war allies in the region. The international community strongly supported the peace process of Sun City, and continued to channel funds through the new national government. It consistently contributed to the reproduction of the existing state.

4. The history of the conflicts in (eastern) DRC

From 1996 to 2006 – when Joseph Kabila became the first democratically elected president of the DRC – Congo was ravaged by widespread violence, which involved three Congolese rebel movements, 14 foreign armed groups and countless militias, and destabilized most of Central Africa (Autesserre 2008). In 2001 the United Nations (UN) dispatched what was to become its largest peacekeeping mission, MONUC. A peace settlement was reached in 2003, paving the way for elections in 2006. Nevertheless, violence and conflicts have continued to this day, especially in the Kivu provinces.

The main reason for the failure of the peace-building strategy is the fact that the international community has paid too little attention to the root causes of the violence in the east: local, politicized and ethnicized disputes over land and power. If anything, international efforts to enhance peace have increased local tensions. While the international community focused on organizing the presidential, legislative and provincial elections of 2006, it overlooked other critical post-conflict tasks such as local peace-building and overhauling the justice system. Meanwhile, the electoral process fuelled ethnic hatred and marginalized ethnic minorities, making the re-emergence of armed movements all the more likely.

Land in Congo matters, because for many people it is the key to survival and feeding one's family. For some it is also a means of securing Congo's rich natural resources. For centuries, and throughout eastern Congo, historical grievances over access to land have fuelled battles between (and within) dozens of mini-factions of different tribes, clans and families – such as those between Congolese and Congolese of Rwandan descent in the Kivus, between the Hemas and Lendus in Ituri, and between the Bembes and Kalangas of Katanga. These competing claims have become far more complicated since the 1990s, as the 1994 genocide in Rwanda and the various Congolese wars, invasions and refugee movements caused multiple shifts in the ownership and control of land. Since the peace deal of 2003, provincial authorities have resolved some of the disputes, but land ownership remains at the core of current tensions (Autesserre 2008, p. 96).

In most cases, economic tensions fed politically motivated hostilities, and vice versa. Access to resources meant the ability to buy weapons and reward troops, and thus to secure power; political power, in turn, guaranteed access to land and resources.
For decades, these local tensions have also fuelled broader struggles at the regional and national levels – and, at times, the reverse has been the case. Both Congolese and foreign

politicians have long manipulated local leaders and fragmented militias to enrich themselves, advance their careers, or rally support for their causes. Local leaders have also sought to win national influence. For example, the Hema and Lendu factions of Ituri have been violently asserting themselves, partly in reaction to their being excluded from the lengthy peace process that ended the last war in 2003.

At the same time, the capacity to manage these conflicts peacefully was badly affected by the 1996–2003 wars. Both the government's administration and security services, and traditional conflict-resolution mechanisms, were critically impaired (Autesserre 2008).

Ituri had its share of war and violence, although mainly in the shadow of the wider wars in the DRC; initially its conflicts went largely unnoticed by the international community, and they were of minor importance to the main actors in the Congolese power struggle (Veit 2008, p. 295). Yet from 1998 to 2003 Ituri experienced extreme violence. Roughly a dozen non-state armed groups emerged, most of whom defined themselves along ethnic lines. Although the groups' agendas initially focused on the local and individual interests of leaders and combatants – including the physical and material security of their constituencies – subsequently they were expanded to include ambitions relating to the national political arena.

The outbreak of violence in 1998 was linked to a deeply rooted local conflict over access to land, economic opportunity and political power (Vlassenroot and Raeymaekers 2004). In the context of the time the conflict soon acquired a regional dimension in addition to the local one, with both Uganda and Rwanda exploiting local groups for their own interests. The local root causes were linked to historical horizontal inequalities between the dominant pastoralist Hema and the agriculturalist Lendu communities in the territories of Djugu and Irumu. In the five-year war the Hemas initially increased their access to economic resources (land, gold and trade), with the help of the Ugandan army. However, after the Ugandan army withdrew in March 2003 their dominance was greatly diminished.

Early in 2003 Ituri's armed groups, which had been excluded from the Sun City peace negotiations, sought to fight their way to the national negotiating table. However, their approach failed, largely because the international community decided to intervene militarily in Bunia.[2] Suddenly, local and regional political actors found themselves confronted by powerful new foreign actors, who entered partly for geopolitical reasons related more to Iraq than to Ituri or the DRC (Veit 2008, p. 296). The international intervention succeeded over the years in stabilizing the district, through a combination of disarmament, co-optation of leaders in the transition government and its army, and sanctions against militia leaders. However, the local causes were not addressed, while the Ituri leaders still felt disenfranchised and under-represented in the national arena. As a result, the higher-level members of some militias soon resurfaced with new militia, continuing their struggle for a stake in local and national politics.

[2] A European Union-led military operation, 'Artemis', conducted in accordance with a mandate set out in a UN Security Council Resolution, was deployed from June to September 2003. It paved the way for subsequent reinforced deployment of MONUC.

5. Current context in the DRC

Security situation

Since the 2006 elections the security situation in the DRC has stabilized although it remains fragile. Currently, western DRC is relatively stable, with conditions allowing development and further peace-building. In the Kivus and parts of Orientale Province foreign and Congolese armed groups remain a source of insecurity, despite important gains made in 2009. In the Uélé districts in Orientale Province, attacks by the Lord's Resistance Army (LRA) against civilians continue. In Equateur Province, the Congolese army,[3] with limited support from MONUC, responded to an insurgency which erupted at the end of October 2009. Across the country, elements of the national security institutions continue to be responsible for serious human rights violations, in addition to localized militias. Reform of the security sector has made only limited progress (UNSC 2010a), and parallel chains of command continue to exist.

In a recent development, President Kabila requested the UN to submit, by 30 June 2010 (the 50th anniversary of the country's independence), a plan for the progressive drawdown of MONUC. The general international reaction was that the security situation does not yet allow fast withdrawal of MONUC. The UN Security Council decided to deploy a renamed mission, MONUSCO, until 30 June 2011, and to withdraw 2,000 troops "from areas where the situation permits", while concentrating troops in the eastern part of the DRC (UNSC 2010b).

Development situation

As to its development situation, the DRC remains a country rich in natural resources, although very little of the revenue from these resources is invested in development. Human development is among the lowest in the world. The DRC occupies 176th place out of 182 countries on the Human Development Index, 181th for income per capita, and (in 2007) was 150th out of 155 countries on the gender-related development index. Despite this, the international financial institutions (IFIs) take a positive view of the DRC's economic policies. It has qualified for debt relief under the Highly Indebted Poor Countries (HIPC) initiative.

[3] Formally called Forces Armées de la République Démocratique du Congo (FARDC).

In order to qualify for this HIPC debt relief, the government had to demonstrate satisfactory implementation of its poverty reduction and growth strategy, maintain macro-economic stability, and improve governance and service delivery. On 1 July 2010 the World Bank and the International Monetary Fund (IMF) decided to support the provision of US$12.3 billion in debt relief to the country.[4]

Governance situation

Government services continue to lack the funds and incentives needed to function effectively. In the provinces the main government posts are filled, but all services are severely understaffed. Salaries are paid irregularly or not at all, forcing (and allowing) government officials – including armed security forces – at all levels to 'fend for themselves', i.e., to extort money from the population in lieu of salary.
Moreover, government services function largely according to informal rules based on neo-patrimonialism. The DRC can best be described as a 'political marketplace', meaning that political loyalties at any level are up for sale to the highest bidder (Waal 2009). The present state, under the Third Republic, retains many of the characteristics of the state under Mobutu – in spite of the new constitution. Members of the coalition government have a strong interest in simultaneously preserving the government of national unity and preserving its weakness. The preservation of government gives them access to state resources and donor funds and maintains their formal political power (Bayart 2000 in Eriksen 2009). At the same time, the state's very weakness is a resource, because it enables elites to get access to economic resources (Eriksen 2009).

The current governance situation in the DRC is formally based on the new constitution of 2005. After the 2006 elections the winner, Joseph Kabila, formed a fairly broad coalition with part of what had been, until then, the opposition. Despite the seeming inclusiveness, western provinces are largely under-represented at the higher echelons, with almost all key positions held by easterners and southerners. Also, the opposition (notably Jean-Pierre Bemba's Movement for the Liberation of Congo/MLC) was virtually excluded from governorships despite winning five provincial elections, apparently because representatives voted for candidates of the presidential coalition in exchange for money. The broad coalition led to government paralysis on crucial dossiers such as security sector reform and decentralization. This undermined the fundamental principle of the new constitution upon which the government's legitimacy was based, namely a cap on presidential power through the creation of relatively strong provinces, with governors elected by provincial assemblies and controlling 40% of national tax revenue. Already in 2007 it became apparent that the government's preferred course of action was political and military domination, not the negotiation and compromise that are the trademarks of peace-building and democratic governance (ICG 2007).

[4] http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22636373~pagePK:64257043~piPK:437376~theSitePK:4607,00.html consulted on 7 July 2010.

This trend has persisted. Currently, the consolidation of democracy in the DRC has stalled on almost all fronts, the Congolese regime remains fragile, and a trend towards authoritarianism is observable. Checks and balances barely exist, as the president's office has curtailed the powers of the government, parliament and judiciary. Civil liberties are regularly threatened, and key institutional reforms have still made no significant progress. The regime has undermined the independence of the judicial branch by running a politically biased anti-corruption campaign. It has used money and coercion to eliminate challenges to its authority and to fight against the local rebellions that have occurred since 2006. Kabila is contemplating amending the constitution on the pretext of addressing difficulties in implementing decentralization. However, any such constitutional amendment designed to concentrate more power at the level of the presidency or to control dissenting voices would pose a threat to the already weakened mechanisms of checks and balances. It is unlikely that local elections will be held before the end of parliament's first term, putting the prospect of general elections in 2011 at risk (ICG 2010).

In the provinces of the east, the stalled reforms have meant that the government has become neither more effective nor more legitimate since 2006. It has not lived up to the expectations of peace and development that had prompted the massive electoral support for Kabila in 2006 in this part of the country. In fact, it is still largely absent and there are large 'ungoverned spaces' filled by local or regional power-brokers, kept under control to some extent by MONUC. The government is absent, except in the case of those dossiers closest to its own interests, such as mining contracts that are negotiated at the national level, and direct chains of command from the presidential level to local administrators or military commanders.

6. Current security and development context in Ituri

General

Ituri is one of four districts of Oriental Province in the north-east of the DRC, bordering Uganda and Sudan. The 2005 constitutional provisions for decentralization foresee that Ituri will become one of 26 provinces. Ituri District, whose capital is Bunia, covers an area of 65,658 km^2 and estimates of its population range between 4 million and 6.6 million.[5] It is divided into 5 territories (Aru, Mahagi, Djugu, Irumu and Mambasa), 45 *collectivités* and 5 *cités*. Mahagi and Djugu are the most densely populated territories, with respectively 335 and 267 inhabitants/km^2 (RCN Justice et Démocratie 2009). Ethnically the population is very heterogeneous. All the major ethno-linguistic groups of Africa are represented (Pygmies, Bantus, Sudanese and Nilotics), subdivided in some 18 tribes/communities. The various ethnic groups settled in the area from the 16th to 18th centuries onwards. In Djugu and Irumu two important communities are those of the Lendus and the Hemas, representing 24% and 18% respectively of Ituri's population.

Security

The current security situation in Ituri is relatively stable in most parts, although it remains fragile, as was immediately apparent when in May 2010 MONUC started preparing for the drawdown of its troops from Ituri. It led to instant rumours that a remaining armed group, the Front Populaire pour la Justice au Congo (FPJC), had started to re-recruit militants in the territories of Djugu and Aru (OCHA 2010b). Also, several non-governmental organization (NGO) workers were sent threats by anonymous text messages.

Furthermore, there are indications that conflicts over land, which have never been absent, have intensified since 2007 (ICG 2007, RCN Justice et Démocratie 2009, key informants in Ituri), partly as a result of the return of refugees and displaced persons (DPs), which in itself is a sign of increasing stability. A recent study enumerated more than 1,300 current land conflicts (Mongo, Nkoy Elela and van Puijenbroek 2009).

[5] ICG 2008 cites approximately 4 million, while RCN Justice et Démocratie 2009 cites 6,587,584 inhabitants.

The exception to the relative security of Ituri is an area around Gety in the *collectivité* of the southern Lendus (Walendu Bindi), some 65 km south-west of Bunia in Irumu. Two armed groups, the FPJC and the Forces de Résistance Patriotique en Ituri (FRPI), regularly attack this area from their bases around Poto Poto, inside the *collectivité*. The current composition and agendas of the two groups, which appear to operate together, are not quite clear, although the FRPI seems to consist mostly of southern Lendus and the FPJC seems to have gathered together the remnants of various former militias. Military action against the groups by the Congolese army supported by MONUC has resulted in their dispersal and in increased looting. Their numbers are estimated at 2,000 armed men (IRIN News, 15 April 2010). Since January 2010, almost 17,000 people have been displaced in Irumu (among them Hemas who lived in the *collectivité* of the Walendu Bindi [OCHA 2101a]) and 100,000 DPs were unable to return because of the attacks by militias or the military operations against them. It led Senator John Tibasima, who comes from the area, to publicly invite the FPJC to lay down their arms (Radio Okapi, 9 April 2010). Since December 2009, 5,000 people had been trapped in the area following a major government offensive against the rebels. After the government opened a humanitarian corridor on 19 March, almost 4,000 of them were able to leave the zone and settle nearby in Aveba (OCHA 2010e). Renewed fierce confrontations between the Congolese army and FPJC/FRPI led to closure of the corridor on 12 April. Moreover, on 27 April the Congolese army closed the camp in Aveba, dispersing the 4,000 people who had only just settled there. The army justified its action by stating that militants had infiltrated the camp (OCHA 2010d). Military operations continue for the time being in the region around Poto Poto where the rebels are based. As it happens, the *collectivité* of Walendu Bindi is also the site of a persistent land conflict between the southern Lendus and southern Hemas; it is very rich in gold, coltan and iron ore, according to Walendu Bindi leaders.

The current violence is still mainly local in character and caused by (unresolved) local issues concerning the problematic organization of access to land, a lack of protection for communities, the weakness of administrative institutions, the struggle for local resources, the behaviour of the Congolese security forces, etc. (Vlassenroot, informal communication). However, there is also interference in local conflicts by leaders of Ituri communities who reside outside Ituri, such as provincial and national deputies, ministers or government officials, or leaders residing in Uganda. For instance, deputies who consider their community to be under-represented at provincial and national level will block negotiated solutions to conflicts and may even consider resorting to violence again. Another factor is the disappointment felt by the rank-and-file of former armed groups who resent the failure of the community re-insertion programme, which has left them without regular livelihoods, and as a consequence they have taken to the forest again.

Recently the approaching withdrawal of MONUC has clearly added a national political element to these tensions once again. Colonel Matata Banaloka, better known as Cobra Matata, has allegedly rejoined the FPRI. This ex-leader of the FRPI had joined the Congolese army, but now apparently he has come back to Ituri, accompanied by some ten others. Their strategy would be again to fight for a 'frank political dialogue' with the central government, now that the exit of MONUC might force the government to deal with the armed groups through negotiation (*Bimensuel d'informations confidentielles*, 15 June 2010).

This development would be exactly in line with expectations. "In DRC (…) we would expect the departure of MONUC to lead to provincial elite leaders staging new rebellions to demand a better deal" (Waal 2009).

Development

Ituri District is rich in resources. It has goldfields, extensive forests, and oil in Lake Albert. Some of the resources, such as gold and timber, can be exploited by local artisanal miners as well as large companies. Furthermore, Ituri is favourably located as a regional trade hub. Politico-economic elites extract benefit from these advantages, sometimes with recourse to military means. Industrial exploitation of resources, such as the planned oil-drilling in Lake Albert and industrial gold mining, are managed directly from the national level, although Ituri elites probably get their share of the revenues. Most of the population, however, are excluded from almost any socio-economic opportunities other than the traditional livelihoods of agriculture, cattle husbandry and fisheries.

The five territories of Ituri have distinct economic characteristics and land conflicts. In Irumu and Djugu territories the economy is based mainly on agriculture and livestock, although Djugu also has goldfields. The territories are marked by historical inequalities between the Hemas and the Lendus, reinforced by demographic pressures. The Hemas form the economic and politico-administrative elite of the areas, and dominate all important positions, in administration (including the land services), in the judiciary, and even in churches and civil society. In the course of history the Hemas were able to obtain property rights to large land concessions (former commercial plantations), which are often contested by Lendus who base their claims on customary law.

Aru Territory (including northern Mahagi), on the contrary, thrives mostly on regional trade. It is dominated by local business elites, in collusion with former militiamen who still control the government services. They have important links to the Governor of Orientale Province, who is from Aru, and to the Ugandan business community. This commercial–political network also controls land management, to the frustration of the local population.

Mahagi Territory is the most densely populated part of Ituri, with the greatest proliferation of land conflicts. It is ethnically almost homogeneous, being 90% populated by the Alur. The Alur are the largest community in Ituri and have some leaders in important positions. Land conflicts are mostly about concessions owned by institutions such as churches and schools. Illegal migration to another district occurs and it may cause conflict in future.

And finally, Mambasa is the least populated territory. It consists of sparsely populated forest area. Conflicts in the area centre around the anarchic exploitation of the forest, partly by Nandes from Kivu, destroying the habitat of the original inhabitants (some of them Pygmies) (Puijenbroek 2010).

As in the rest of the DRC, the government services in Ituri are severely limited in terms of effectiveness and legitimacy, owing to the prevalent political order, a lack of national support,

capacities, funds and political will. NGOs have taken over part of the development work. Since the end of the war, international organizations have supported government efforts. However, their mandate is limited to humanitarian or rehabilitation assistance. The short-term engagement that this implies severely limits the NGOs' potential impact on both peace-building and development.

7. Governance situation in Ituri – foundational factors

The current governance situation in Ituri is influenced by a number of historical and structural factors – the 'underlying' factors – that shape the transformation processes affecting the district over the years. The legacy of historical national governance systems has already been sketched (Chapter 3), as has the history of war in eastern Congo (Chapter 4). In this chapter some implications for the current governance situation in Ituri will be explored.

Horizontal inequalities

Governance in Ituri is marked by the historical entrenchment of profound horizontal inequalities between the Hema and Lendu population groups in Irumu and Djugu territories.

Since the settlement of the various population groups in the 16th to 18th centuries, their agricultural practices (shifting cultivation and livestock herding) implied regular moving to new areas. The various groups increasingly intermingled and exchanged goods and services. Hema communities, like most nomadic herdsmen across the world, were (and are) organized in a hierarchical manner, with a chief heading a large community. The Lendus, on the other hand, like agriculturalists across Africa, are organized at much lower levels – family or clan level. This led to a process of social stratification, with every Hema family gathering Lendu clients around it. It was from here that Hema (and Alur) chiefs claimed the right to rule over certain areas and their people (Pottier 2003, p. 8). On the eve of colonialism, the Hemas had thus come to dominate the political and economic spheres. During colonial times, these dividing lines gradually developed into the main dividing lines of local economic and political competition (Vlassenroot and Raeymaekers 2004, p. 180). Hemas started to displace Lendus from their land (Pottier 2003, p. 8). Clashes began to occur between the groups from the beginning of the 20th century (Puijenbroek 2010). The Belgians then decided to separate the ethnic communities and settle them permanently in *collectivités*. To that end they introduced a system of land registration and private ownership, allowing plantations to be carved out of communal land. The Hemas better understood the advantages of the new system and participated in education, in local administration, in commerce, in acquiring land concessions and other opportunities. As a result, the Hema elite was very well positioned at

independence, and could easily enforce their access to the inner circles of the Mobutu regime (Vlassenroot and Raeymaekers 2004, p. 181).
Moreover, the democratization process started by Mobutu in 1990 led to the exploitation by local politicians of these longstanding tensions based on land issues. Leadership became more ethnically than ideologically based because leaders relied on their ethnic group to position themselves politically.

These processes entrenched patron–client relations between Hemas and Lendus, and profound created deep superiority and inferiority complexes as well as inequalities that that persist today. They also led to cycles of conflict that erupted in 1911, 1923, 1966, 1993 and – the most violent – from 1998 to 2003. Land was the trigger for many of the conflicts.

Hybrid political order

With regard to the issues identified in the Issues Paper, the political order in Ituri has long been an ineffectual hybrid order, where large areas have consistently remained outside state control. The experience of living through the recent wars has led the great majority of the population to rely on their customary leaders for governance and the resolution of conflicts. Customary leaders meanwhile have been integrated into formal government through the state's recognition of the position of *collectivité* chief. But the boundaries of the *collectivité* do not always coincide with those of the land occupied by the ethnic group, creating confusion and tensions over the chief's various roles. To which chief should a group pay allegiance when it has settled in the *collectivité* of another ethnic group? Also, there are clear gaps in chiefs' powers that are not readily filled by effective government services. Customary chiefs have no competence in matters that go beyond their traditional sphere of influence, i.e., the *collectivité* or ethnic group. Moreover, in matters of land use there has been a disconnect between traditional law and modern law[6] since 1973, with the competencies of customary land management recognized but not specified in formal law. This reduces the effectiveness of traditional leaders as well as modern administration and judiciary in solving land conflicts.

Another important feature of the hybrid political order is the persistence of neo-patrimonial patterns of governance in modern, formal state institutions. Clientelism rules decision-making, nepotism rules appointments, and the level of institutionalization is very low, leading to arbitrary decision-making. And, as in the days of early democratization by Mobutu, political leaders are tempted to rely more on ethnic than on ideological support. Likewise, collusion between ethnic, political and economic interests persists. Political power in Ituri has long been dominated by cattle-raising, trade and mining networks, with the northern Hemas occupying a dominant position. A more recent network is formed by (multi-ethnic) business elites dominating trade in Aru. Many Lugbaras were appointed to crucial positions in the administration by the Governor of Orientale Province. Some Alurs also hold important positions. The networks have links to both the central government and Ugandan business elites.

[6] The law referred to here is the Bakajika law, introduced in 1973 by the Mobutu government within the framework of his Zaïreanization policies. It establishes the principle that that all land belongs to the state (see Chapter 9 below).

The continued existence of local militias would seem to be partly related to the ineffectiveness of the hybrid order, since groups that are consistently disadvantaged by this order see few other means at their disposal to defend their rights.

Geographical situation

Ituri District borders on Uganda and, in its northernmost part, also touches Sudan. It lies at the heart of a region which in the 1980s and 1990s occupied a strategic position in the confrontation between the Ugandan and Sudanese governments, with the Mobutu regime supporting the latter. While Kampala supported the Sudanese rebellion of the Sudan People's Liberation Army (SPLA), Khartoum supported Ugandan rebellions that had bases in Congo/Zaïre, such as the LRA and the National Army for the Liberation of Uganda (NALU) and the Allied Defence Forces (ADF).

In 1996 and 1998 the district provided a natural entry point for the Ugandan interventions in Congo, which were undertaken under the partly justified pretext that Ugandan rebel groups were present in the Congolese border regions. But these interventions could also be understood as serving the geopolitical ambition and development vision of the Ugandan president Museveni, who dreamed of controlling a regional economic area of which Ituri was part.

Furthermore, trans-border ethnic relations help to explain the alliances that were formed between the commanders of the Ugandan forces and Ituri ethnic groups, mostly with the Hemas but also with some Lendus.

Finally, Ituri's frontier location and its endowment of natural resources made the lucrative control of the border checkpoints an important bone of contention (Villers 2009, pp. 173–174).

Natural resource wealth

Ituri's natural resource wealth has generally not been regarded as the cause of the wars that have affected the area; rather it has been a contributing factor. The wars did lead to new regional economic ties and a reorientation of the Ituri economy towards the eastern neighbours, especially Uganda, which still persist today.

In general, access to the natural resources is controlled by the dominant political networks, which of course are reinforced by this access. Struggle for the control of access is an enduring driving factor in the local political and military dynamics, and is closely related to access to land. For instance, it is said that the recent re-recruitment of FPJC militia members in Mongbwalu – the site of a gold mine in Ituri – in response to news that MONUC was to withdraw part of its forces, was carried out in collusion with the Congolese army. The idea behind this supposition was that FPJC and the Congolese army could exploit the gold mines together, once MONUC had left (OCHA 2010b).

However, industrial exploitation of natural resources (gold, oil) is traditionally largely controlled by the central state, and the contracting processes as well as their repercussions on the local political dynamics are notoriously opaque.

Exploration for gold at Mongbwalu is being carried out by Anglogold Ashanti Kilo, a joint venture between Anglo Gold Ashanti and the state company Okimo. Competition between the company and artisanal miners is a constant source of tension in the area, even though the company also engages in community development projects (CAFOD 2010). Likewise, exploitation of the miners by local protection rackets controlled by whoever currently wields power locally is an enduring feature.

The forest resources of Ituri, concentrated in Mambasa territory, are a more recent target of predation. Once the war was over the timber trade increased enormously, as did the immigration of Nandes from the neighbouring North Kivu province. Tensions soon developed with the local Pygmies. But local chiefs as well as government officials also got involved in the illegal sale of land or usage rights. Exploitation of the forests takes place in a totally anarchic manner. The local population of Mambasa remains basically defenceless against this predation (Puijenbroek 2010).

The fact that Ituri in principle has at its disposal substantial revenues from these natural resources means that it has a large stake in the decentralization stipulated in the constitution. If decentralization were implemented effectively, Ituri would be authorized to retain 40% of its locally produced revenues. This explains why some elites and population groups alike have recently put pressure on the government to carry out the decentralization (see below).

Demography

Finally, another underlying factor, mentioned by many local key people, is the rising demographic pressure, further exacerbated by the return of refugees and DPs. Population density in Ituri varies across the territories, and is highest in Mahagi and parts of Djugu. In parts of Mahagi, densities have risen to 500 inhabitants per km^2, which is very high, even in comparison with those in other countries in the region. The *de facto* preponderance of customary land titles among those who lack the means to obtain formal land rights impedes the migration of poor people from overpopulated to less populated areas.

8. Legacies of war in Ituri

In addition to the foundational factors highlighted in Chapter 7, the war itself and the way peace was restored left some legacies with implications that have lasted until the present day.

Type of conflict

In essence the Ituri war of 1998–2003 started in response to persistent inequalities between the Lendus and the Hemas which increasingly threatened the livelihood and survival of the Lendus. It was not so much a question of either greed or grievance, as the struggle for survival. Restrictions on the access to land, the primary means of economic survival, triggered the war. Once the war had begun, other conflict factors also came into play, such as access to natural resources and competition between regional powers, as well as a struggle for a stake in the national power structures. A remaining legacy of the war is that the problem of unequal access to land as the basis of economic livelihood has not been solved.

How the armed conflict ended

A crucial element of the peace deal was a *geographical power-sharing agreement (decentralization)*. The various power-brokers in the national Congolese peace process agreed to a distribution of power between the president and the provinces. However, the relevant provisions of the constitution detailing the decentralization were never implemented, and the deadline for their implementation – 14 May 2010 – has passed. Linked to the decentralization are local elections, which also have been postponed, it seems indefinitely. At the national level, this non-implementation of the essential peace deal threatens political stability.

At the Ituri level some specific issues are at stake. According to the constitution Ituri is to become a province, within the framework of the decentralization. In the current political context, local key actors are divided as to whether it would be good for the district if the decentralization law were implemented at short notice. On the one hand, Ituri could profit from the constitutional provision that 40% of locally generated revenues are to be retained by the province. The provincial deputies from Ituri – in the Orientale provincial assembly in Kisangani – have publicly lobbied for the creation of Ituri Province, and so has Ituri civil

society. But other key people warn that bringing a provincial government to Ituri now would raise the stakes in the struggle for political and economic power in Ituri, forcing the new provincial leaders to take decisions on various contentious matters, which could seriously destabilize the district. They also refer to the general concern in the country that such a major constitutional transformation requires a carefully monitored preparation and transfer plan, which so far is lacking. The customary chiefs of Ituri are believed to have sent a letter to the provincial authorities in which they ask for Ituri not to be raised to the level of province, because they fear it would again lead to war.

Another legacy of the way the conflict ended is that in Ituri the armed conflict in fact has not fully ended, although the armed violence has been largely brought under control by the international military interventions. Local key individuals are unanimous in their view that the presence of MONUC (now MONUSCO) is still necessary to control violence.

Not only have the problems that caused the war not been solved, other factors fuel the tensions also. The way in which the international intervention in the end managed to stabilize the district, and especially the sequencing of the disarmament, co-optation of leaders in the transition government, and sanctions against militia leaders, left many combatants and leaders frustrated. The process started with disarmament (in September 2004), but this effort met with little success. Then an effort was made to co-opt leaders into the national government and army, with some success, since in December 2004 five Ituri militia leaders were appointed as generals in the newly formed army (two from Hema groups, two from Lendu groups and one from an interethnic group) (Villers 2009, p. 312), although their lieutenants remained active and sometimes acted in concert with their former commanders. MONUC simultaneously stepped up military action against the militias, and shortly thereafter it arrested some of the co-opted militia leaders, on doubtful legal grounds. In the end the disarmament process got under way (June 2005) after MONUC sent an ultimatum to remaining leaders (Veit 2008). After the majority of militia had disarmed and disbanded, the UN Security Council imposed sanctions on a number of leaders, including two of the reintegrated army generals and one leader who had renounced violence in favour of political participation at national level. Eventually four former leaders were indicted by the International Criminal Court (ICC); three of them had by that time abandoned the armed struggle.[7]

This mixture of co-optation and subsequent legal action against the leaders did nothing to encourage the remaining leaders to enter into or abide by peace agreements (Veit 2008, p. 292). Moreover, there was a great deal of frustration among lower-rank leaders and the rank-and-file about the terms of the disarmament and reinsertion programmes. The leaders were not satisfied with the ranks they were given after integration into the Congolese army, while the rank-and-file were disappointed because the promised community reinsertion, meant to provide them with alternative livelihoods, did not materialize or failed to meet their expectations.

[7] In March 2004 the Congolese government had referred the situation in all of its territory, including Ituri, to the ICC. Eventually Germain Katanga, Matthieu Ngudjolo, Thomas Lubanga and Bosco Ntaganda were indicted.

The general feeling is that the leaders of the current militias are not the power-brokers. Rather, political actors are using them for their own political purposes. This is really a continuation of the situation during the war, when Congo's power-brokers were not the militias or warlords themselves, but instead emerged from the informal trade networks that had historically controlled the relationship between the rural production centres and eastern Congo's towns (Raeymaekers 2009, p.17).

Type of international intervention

International intervention in the DRC, as implemented through MONUC and through political support to the peace process and transition phase, has aimed at supporting peace-building and state-building. However, its successes have been, on the whole, limited to stabilization of the country. Progress on the democratization and state-building fronts has largely stalled. A main reason for this limited success is the entrenched political order in the DRC (described in Chapters 3 and 5). In 'political marketplace' political orders, where the distribution of power is regulated through a market of loyalties, rather than through formal democratic institutions, key actors have very little incentive to act in the public interest. In such circumstances, the MONUC state-building intervention cannot achieve its objectives in the short or medium term, especially if the international community is providing the means (aid, economic cooperation and political support) that allow the national government to continue to dominate the political market. De Waal warned that giving peace operations the task of establishing liberal-democratic governance risks creating a 'mission without end' (De Waal 2009). The troops will never be able to withdraw without endangering the results achieved to date. The current international concerns after the Congolese pressure to withdraw MONUC seem to prove his point.

The lack of international effectiveness may also be linked to the interest that powerful global actors have in a weak Congolese state: not only national, but also various international actors, prefer to negotiate with a weak Congolese state, notably to get a share in the exploitation of Congo's natural resources.

Transformation of society through war

The 1998–2003 Ituri war and its aftermath of continued threat from armed groups, as well as the national wars and continued instability, have deeply transformed Ituri society. A short summary follows:

Although hard to prove, it would seem that the war further *entrenched politicization of ethnicity*. This can be seen, for example, in the way in which land conflicts are consistently framed as conflicts between ethnical groups rather than in class terms, and in the election of provincial and national deputies along ethnical lines.

The wars led to repeated *population displacements*. At the start of the war people moved to form more ethnically homogeneous groups. The repeated episodes of violence led to repeated episodes of population movements, which have continued to this day. Many people fled to other parts of Ituri or Congo, or to Uganda. At the end of April 2010 some 150,000 internally displaced persons (IDPs) remain in Ituri. The number of Ituri refugees still in Uganda is unknown. Nevertheless, the improving security situation has resulted in the return of many IDPs and refugees. Often the returnees will find that others have taken the land they left, which creates *new tensions and conflicts over land*.

The wars led to the *institutionalization of violence*. This in turn facilitates the return to armed conflict when tensions arise. The high level of youth unemployment, frustration among ex-combatants over the unsatisfactory community reinsertion programme, and general dissatisfaction about the lack of development, make many (young) men willing candidates for (re-)recruitment into armed groups.

The legacies of the war led to the formation of a number of *active women groups*. These focus on awareness-raising in relation to the capacity of women to help prevent further conflict and contribute to reconciliation and development, as well as on support to victims of sexual violence.

These women's groups are part of a larger *mobilization of civil society to contribute to local conflict-resolution, peace-building and reconciliation*. For example, a strong local network of civil society organizations, *Réseau Haki na Amani* (RHA), developed a 'peace architecture' of community-level interethnic peace committees, and community *barzas*, or mediation fora, at higher levels where hundreds of people meet with local authorities and security services to discuss issues of concern. It is supported by international NGOs. In the absence of functioning formal conflict-resolution mechanisms the main option open to the network is to resort to mediation in community-level conflicts. Its consistent activities over the years have contributed to increased stability, and the network has gained substantial credibility among the population. Even leaders have started to realize that they need to work with RHA on the resolution of conflicts if they are to retain support among the population. Deputies have recently sought contact with RHA to discuss a conference on peace-building in Ituri.

Finally, the wars and the ways in which they were partially ended have *seriously impaired development* in the district. This was reinforced by the fact that most of the international aid supplied to Ituri failed to recognize the increased stability of the district and was *limited to humanitarian and rehabilitation aid*. The short timeframes to which these aid modalities are bound seriously limit the effectiveness of aid for peace-building, state-building and development in the district.

Post-conflict regimes: political marketplace and ineffectual hybrid order

The wars reinforced the political order of the marketplace, accompanied by *nepotism, corruption, predation and exclusion*. The business networks in Aru largely benefited from the war, and have benefited from the subsequent lack of effective regulation and customs services. The Hema political-economic network lost out during the war, but seems to be recovering, thanks to its dominant position in administration, business, judiciary and civil society. The Lendus generally seem to be on the losing end, and may see maintaining the threat of armed violence as the only really effective means to defend their interests. The political marketplace extends to the national level and also has regional ramifications, mainly in connection with Ugandan power-brokers.

The position of the local power-brokers is reinforced by the fact that the *national government to a large extent leaves a power vacuum* in Ituri, partly because its institutions have been destroyed or weakened by the wars, partly because it has more serious security problems in the Kivus or political problems in Kinshasa, and partly because its interest in Ituri mainly concerns the potential benefits it could obtain from the industrially exploitable natural resources. It follows that the power vacuum is filled by local actors.

The *weakness of the administrative services and the judiciary*, the fact that either business or ethnic elites and related former militias have gained control over them, and their susceptibility to corruption, all restrict the effectiveness of the services, especially for the weaker and poorer parts of Ituri society. Many competent staff fled during the conflicts and have still not returned. Archives, land titles, maps, etc. were destroyed, which seriously constrains the role of the administration or judiciary in the resolution of conflicts. Local administration is fragmented. District commissioners seldom hold meetings with territorial administrators, who in turn seldom meet with chiefs of *collectivités*. Each functions on his or her own, without interaction between themselves or with the population (Puijenbroek 2010).

If the population had the choice, it would opt for customary rule instead of the modern administration. It views the latter as an alien, externally imposed structure. Since the appointment of territorial administrators from elsewhere (in 2008), an increase in their predatory behaviour has been observed, presumably due to the fact that they know very well they will only be in their posts until the local elections. On the other hand, in various cases coalitions have been formed between the population, customary leaders and local administration against the Congolese army.

A customary leader (*collectivité* chief) has a dual power base and a dual loyalty, since he is both appointed by customary rule and recognized by the state. However, the state has very little effective power over a customary leader. Customary power has managed to survive from the colonial era. The competencies of a customary chief relate mainly to the management of lands and local conflicts, through customary courts. *Collectivités* also have the formal right to levy taxes. Although a customary chief usually has a fair amount of legitimacy, his legitimacy is not necessarily uncontested. Especially where succession is hereditary, his legitimacy has no popular base. And if customary chiefs participate in the patrimonial predatory political system, e.g., by selling community land for private gain or involving themselves in resource

plundering or even armed conflict, their legitimacy is at stake. Customary rule is not at all sensitive to gender issues. Also, the level of education of customary leaders and their awareness of formal laws are generally weak (Puijenbroek 2010).

The relationship between the territorial administrator and the chiefs of *collectivités* can be quite ambiguous. On the one hand, the chiefs are recognized by the state. On the other hand, the territorial administrators cannot select chiefs or give them direct instructions, they can only approve the candidate proposed by the community. This creates room for negotiation and disagreement, and in various cases the state has refused to recognize customary chiefs. In many cases the administrator will bypass or manipulate the customary rule, e.g., in issues of land sales.

During ten years of conflict in the eastern Congo state structures have seriously declined and their functions have been taken over by a *multitude of parallel structures*, including traditional authorities, local armed groups, NGOs, church-based organizations, private entrepreneurs, and international relief agencies. These structures continue to function as long as the state is not effective. Some of these structures have become politicized and part of power networks, with many NGOs and churches having supported the then president and anti-Kinyarwanda sentiments (Vlassenroot and Romkema 2007).

9. Land issues

Land in the political marketplace

The fact that land conflicts continue is due to inadequate formal and informal rules, and weak formal agencies. These weaknesses persist because they are an integral part of the workings of the political marketplace. The mechanisms responsible for making it so difficult to resolve land conflicts are explained below.

The *legal imbroglio* that has reigned since Mobutu's issuance in 1973 of incomplete new legislation in land matters, serves the interests of the stronger players in the market by reducing the land security of the vast majority of rural farmers. The 1973 Bakajika land law did away with people's automatic right to ancestral land. It stipulated that, whether vacant or occupied, all land belongs to the state and can be appropriated by the authorities for the purpose of private sale. In the case of appropriation and sale by the state, occupants can be evicted after a two-year period of grace. However, the constitution recognized (and still recognizes) the right to property acquired under customary law. To reconcile the two principles, the 1973 law includes two transition articles. One states that customary law is still applicable to the lands of local communities pending the act that is to organize the management of these lands. The second states that usage rights of customary lands will be regulated by a Presidential Act. But this Presidential Act has failed to materialize.[8] Moreover, customary law is deficient in matters that exceed the jurisdiction of the chief, typically confined to the *collectivité*. Conflicts between *collectivités* are therefore hard to resolve. Since *collectivités* are predominantly mono-ethnic, such conflicts tend to involve different ethnic communities, contributing to the ethnicization of land conflicts.

Moreover, the relevant *state agencies lack legitimacy and effectiveness* as a result of the destruction caused during the war and the continuing lack of (qualified) staff and budgets as well as the over-representation of Hemas and Lugbaras. Again, this situation is purposely maintained in the interest of the powerful. In addition, land services have resorted to recruiting informal extra staff (RCN Justice et Démocratie 2009, p. 50), selected on ethnic or political grounds (Vircoulon and Liégeois 2010, p. 10) and allegedly mainly from among ex-militia members. In these circumstances it is almost impossible for the poorer segments of

[8] According to the current constitution this act would be issued by the Prime Minister (RCN Justice et Démocratie 2009, p. 27).

society lacking connections to secure their land rights. Even the judiciary concedes that taking land conflicts to court may aggravate the conflict instead of solving it (Puijenbroek 2010; Vircoulon and Liégeois 2010 p. 19). In this situation of extremely low institutionalization, land distribution has come to be regulated by an informal market, where the stronger/richer parties tend to win.

The current land management practices maintain *vertical as well as horizontal inequalities*. There is a distinct class element involved. The Bakajika law has led to the emergence of a vast class of landless or land-insecure people, creating large-scale poverty, insecurity and spiralling violence (Pottier 2003, p. 1). The "war is not between Hemas and Lendus, but between the rich Hemas and the rest of us".[9] People feel that at the local level the Lendus and Hemas would be able to reach an agreement, but the richer Hemas do not allow it. There is clearly still an ethnic element at play though, since the Hemas generally have richer elites.

Another form of horizontal inequality in access to land is a marked gender inequality. Under the constitution women have equal rights to men, e.g., with regard to inheritance. In customary law, however, women have no rights to inherit land. Women may be given access to cultivate certain lands, but their position remains at all times very insecure.

But the strongest link between land issues and the political order possibly derives from the fact that *control over land gives control over people.* Pottier describes how the historical process that impoverished people drove them into dependency on the landowner (Pottier 2003, p. 8). Since the 1973 Bakajika law rural communities have been faced with insecure land tenure and an ever-present threat of eviction. As a result, entire communities were plundered to make way for plantations and cattle ranches and the majority of people became extremely poor. The insecurity and poverty generated a need for protection, which was offered by powerful elites, often the very same elites who were responsible for the existing conditions of insecurity. Through this protection the elites gained control over both land and the local population. People could be forced to work in the plantations or mines, or be recruited for militias. The stark reality was that young thugs/militias swore allegiance to powerful elites and warlords because they themselves were too poor and too insecure not to do so (Pottier 2003, p. 10). This link between control over land and control over the people's allegiance still seems to be very strongly perceived. It is revealed, for example, in a number of current land conflicts where the issue is not so much that other ethnic communities have occupied land in a *collectivité*, but rather that they do not pay allegiance to the chief of the *collectivité*. This perceived link could have worrying implications if local elections were taking place.

Control over land also increases economic power, through a number of mechanisms.
One direct mechanism relates to the fact that access to land may generate substantial revenues, in the case of mineral resources or significant market-oriented agriculture (coffee, cattle). In the partly monetarized political marketplace, elites have a clear interest in protecting their access to productive land. In an increasingly tight market this would include the protection of access to land that is not yet productive – such as the concessions that

[9] Hema woman quoted in Pottier 2003, p. 8; exactly the same thing was said in 2010 by a Lendu elder in Nombe.

Hema leaders leave fallow yet do not want to cede for use by Lendu farmers, since the price of the land might well increase in future.
Through another mechanism, leaders at all levels can make money out of their power to allocate land, or help resolve conflicts. Customary chiefs may – defying customary law – sell off ancestral lands, and territorial administrators and other officials may demand to be paid for their services. Again, the revenues thus obtained may strengthen their bargaining power in the political marketplace or mainly provide them with a livelihood and working budget, since these are not regularly provided by the state. Another important point is that users of this mechanism have a strong interest in the continuation of land conflicts.

Nevertheless, since democratization there has also been a reluctance on the part of politicians and elected government officials to take decisions in land conflicts, since that might cost them votes. The Governor, for instance, while preparing his campaign for the next elections, is likely to distance himself from any land conflicts.

The political marketplace governing the management of Ituri's land has *links to politics at provincial, national and regional level*. Ituri leaders residing elsewhere, as well as non-Ituri leaders, participate in the market. For example, following the war there are still Hemas living in Uganda, some of whom are there with their cattle and would like to return, while others are now part of Ugandan business networks trading in, e.g., cattle, gold and other minerals. All of these Hemas obviously have an interest in issues of access to land in Ituri. Another example is that of Ituri leaders having entered the national arena of power, as politicians or government employees, at the same time retaining their politico-economic networks. National and provincial deputies and ministers from Ituri, and officials such as the Governor of Orientale Province, keep a close watch on their own (land) interests in Ituri, since their network's control over land influences their bargaining power in the marketplace. The link between control over land and control over people may partly explain this keen interest in land issues at home. The power base of leaders residing outside their home area is often an ethnic community, but it is also linked to the land that that community controls. Their relative distance from the day-to-day problems that land conflicts pose allows them to be more intransigent than their local followers in negotiations to resolve the conflicts.

But there are also non-Ituri stakeholders influencing the market, either national, regional or international. Their interests focus mainly on the exploitation and trading of Ituri's resources. Congo's central government dominates the contracting for the exploitation of gold and oil, and hesitates to implement the decentralization process entitling Ituri to 40% of the revenues. Nande business networks are interested in the exploitation of Ituri's forests. Ugandan business networks have a great stake in trade in Ituri. International companies – backed by their governments – seek a share in the exploitation of oil, gold and other minerals.

Improvement in land management as entry point for peace-building and state-building?

Since land issues have often triggered armed conflict, and land management has been found to be an integral part of the political order, it would follow that an improvement in the land conflict resolution mechanisms would contribute to both peace-building and state-building. But what would be the conditions and entry points for making such an improvement?

Is mediation the only way? All recent and current initiatives addressing land issues in Ituri rely mainly on mediation. This is perfectly logical in a marketplace order, since markets function through negotiation. Mediation can support negotiation, thus avoiding violence. Training on relevant laws (land, forestry, mining) and leadership for peaceful conflict resolution can further enhance the skills of the market parties. Increased insight into the underlying interests and motives of parties can help define win-win situations to replace perceived zero-sum games.

Considering the implication of stakeholders residing outside the district, this approach of mediation, leadership training and analysis of interests and potential win-win situations should be expanded to include these external stakeholders, starting with, e.g., the provincial and national deputies who have shown an interest in discussing peace-building in Ituri (UN Habitat, 2009 p. 4).[10]

However, as all these initiatives have found out, there are limitations to what mediation can achieve. This is because it can improve the working of the market but not fundamentally change the terms of trade. The outcome of a negotiation will reflect the bargaining power of the parties, and if the weaker party does not accept the outcome, no deal can be made. In other words, the market will not correct inequalities. For example, an important effort to improve land management was the creation of the Ituri Land Commission (*Commission foncière de l'Ituri*) in 2008, under a European Union (EU) project. This Commission is charged with carrying out prevention and sensitization activities over land disputes. It brings together political leaders, leaders from civil society, the Congolese army, the police and representatives from the international community. Although it started out as a promising initiative, it lost impetus when the EU soon after pulled out of the district. Moreover, there is no government budget set aside for the Commission. It is now seen as just one of many mediation efforts, and not the most effective at that, and biased in favour of Hema interests (Vircoulon and Liégeois 2010, p. 22).

A more successful programme is led by RHA – the network of Ituri civil society organizations – since 2004. Through its sustained support to mediated non-violent resolution of conflicts, engaging both communities and authorities, it has gained substantial legitimacy among population and leaders. It is gradually broadening its approach to include training on relevant laws and leadership, context analysis, etc. But in some conflicts it is also brought up short by the limitations of a mediation-based approach and the realities of the market.

[10] RHA was recently approached by Ituri deputies to discuss an Ituri pacification conference.

The questions then are whether the management system of land issues can be moved away from a market-regulated system towards a government-regulated, rules-based system, and whether changes in the market conditions can be expected to alter interests and balances of power among main stakeholders.

Could *a more government-regulated, rules-based system* be developed? Many recommendations on improving rules-based land management have been made by experts, the most substantial being the establishment of the long-awaited ministerial decree that would regulate the management of customary land (RCN Justice and Démocratie 2009, p.10). Other experts, however, warn that such legal reform seems premature, considering the current context in the Congo. In the absence of a political solution to the conflicts, launching a process of land reform risks creating tensions and contributing to control of the process being taken by one group at the expense of another. Land conflicts should instead be incorporated in broader peace negotiation processes undertaken in the country (Vircoulon and Liégeois 2010, p. 24).

While regulation of the legal imbroglio is awaited, other intermediary measures have been advocated, such as a campaign of simplified registration of land occupation, regulation of rights, administrative formalization, collective recognition or any other form of *de facto* securitization of existing legitimate rights (RCN Justice and Démocratie 2009, p. 68, Vircoulon and Liégeois 2010, p. 24). A key person in Ituri suggested following the example of North Kivu, where the communities have codified the rules of customary land management, and introduced a draft law to the Provincial Assembly that reconciles the principles of customary law and the 1973 Bakajika law (Agriterra 2006).[11]

And finally, institutional and capacity development for both the relevant administrative services and the judiciary have been proposed, although the challenges in this domain are recognized. For example, the lack of documentation in the land services might mean essentially starting afresh. More importantly, the problem of corruption in the services and judiciary would have to be addressed (RCN Justice and Démocratie 2009, p. 65).

The problem in gathering support for this type of Ituri-level gradual improvement is that any formalization of the rules tends to reinforce the existing inequalities unless special provisions are made. It means that interests that are perceived as conflicting have to be reconciled through reference to a higher-level interest, such as a shared interest in sustained security or economic development. For example, in the interest of preserving stability, the more powerful networks could allow greater access by rural communities to their ancestral lands, while traditional leaders could accept that the domain of customary law is circumscribed by formal law. And if women were involved from the outset, their rights could be strengthened by a formalization process that would integrate the gender equality mandated by the constitution.

[11] The fate of the North Kivu draft law is still uncertain.

10. Emerging opportunities?

Any political marketplace is inherently unstable, and responds to any changes in the market conditions. In this chapter a number of expected changes in the Ituri context will be explored for their potential impact on the political marketplace.

Start of MONUSCO withdrawal

In response to the wishes of President Kabila, the UN decided that MONUC should become a stabilization mission (MONUSCO) in June 2010, when up to 2,000 troops were to be withdrawn from the west of the country. The peacekeeping was to continue in the east, and future drawdowns were to be guided by a joint monitoring mechanism. News about the MONUC drawdown in Ituri sparked unrest and rumours of renewed recruitment by militias in April 2009, and although MONUC's departure has apparently been postponed, it is not impossible that in the not-too-distant future the stabilization mission will leave Ituri.

Such a departure could have destabilizing effects in various parts of Congo, with possible spill-over effects in Ituri. In Ituri it could also create a power vacuum which could reignite mainly local competition for access to the main economic resources. However, Ituri's population is tired of the wars, and the threat of a return to large-scale armed violence just might also provide a strong incentive to Ituri's leaders – both in the district and elsewhere – to band together and agree on political arrangements that would de-escalate (land) tensions and marginalize the militias.

Debt relief

Since the DRC qualified for international debt relief under the HIPC initiative, more than US$8 billion will no longer have to be paid by the government to service its debts (roughly equivalent to 80% of the country's 2009 gross domestic product). As already stated, this could free up funds for expenditure in other areas of the economy. But in a political marketplace, this is far from certain. The government will be less dependent on domestic revenues and support from local leaders, which might reduce its interest in the country outside the capital. This in turn could mean provinces having less leverage over central power, but on the other hand it might also imply a reduction in central interference and

more space for local arrangements. It might create a conducive environment for provinces to claim progress on the decentralization front, since the government will have less need for revenues from the provinces. With presidential elections on the horizon for 2011, some of the available funds are likely to be spent on securing support for the presidential network.

For Ituri, the developments around decentralization are important, presenting both opportunities and risks. The same goes for the decrease in interest from central government. Although this, together with reduced international protection (MONUSCO withdrawal), will give more room for local arrangements, at the same time there will be little protection when things get out of hand.

Presidential and provincial elections

The presidential election, expected to take place in 2011, will somewhat raise the price Ituri leaders can negotiate for their loyalty, since the president needs support in order to be re-elected. They could negotiate for money, but also for other things like decentralization. Election times create instability, with factions threatening violence in order to boost the price of their allegiance, and this could also affect armed groups in Ituri, especially if MONUSCO as left by then.

The provincial elections create their own dynamics, which may be the most influential on the Ituri scene. Incumbent and candidate deputies will vie for the support of Ituri citizens, who can negotiate a price for their allegiance. And a key question is what form of reward key constituencies will demand and what rewards candidates will offer, in a potential context of reduced international protection and national interference. If leaders and constituencies go for ethnic mobilization, little change can be expected in local political dynamics, and there could be a heightened risk of violence. But if politicians and voters opt instead for more reconciliatory and development-oriented agendas, in order to stem confrontation politics, and possibly unite behind an Ituri-wide agenda, some local reform might be possible.

The start of oil exploitation and resumption of industrial gold-mining

In the current circumstances, Ituri citizens are unlikely to benefit from industrial exploitation of oil and gold reserves. Most of the revenues would probably go to central government, with local elites taking their share. The start of the operations would raise expectations among the population, and increase frustration over state predation. It might have much the same effect on Ituri elites, and possibly provide a platform for concerted action directed at central government, claiming decentralization and the right to retain 40% of revenues in the province. It would probably require making alliances with other provinces, and hard bargaining with central government, possibly in the run-up to the presidential elections.

Decentralization and local elections

The constitutionally agreed decentralization and the related local elections had not materialized by 14 May 2010, the deadline laid down in the constitution. Local elections will probably be postponed until after the presidential elections, and there are even signs that the president might consider changing the constitution on this point. The future of the crucial power-sharing deal concluded and confirmed through the popular referendum on the constitution is therefore very uncertain, and this question will probably be played out in the run-up to the presidential elections.

If decentralization were to be implemented and Ituri were to become a province, the stakes involved in obtaining provincial government positions will be substantially raised, and this could lead to fierce competition between leaders, heightened tensions, possibly violence and a deepening of divisions in society. Also, leaders will no longer find it so easy to delay resolving problems; they will be pressed to take decisions on contentious matters, and it is likely that their decisions will not be accepted by everyone. In the current context this prospect is making several key leaders in Ituri decide not to advocate for immediate decentralization, especially since no provisions for an orderly transfer of powers have been made. Yet many others in civil society do lobby for the implementation of decentralization in the hope that it will facilitate the solution of various issues and retain more revenues within Ituri that can be invested locally.

The constitution also provides for local elections, linked to the decentralization. Basically, in rural areas advisory councils supporting the chiefs of *collectivités* would be elected. This might mean dealing with the question of how the chief's formal or secular competencies relate to his customary powers. What if several ethnic groups live in the *collectivité* – would the councils be multi-ethnic?[12] Already there are local tensions where one ethnic group is living in another community's *collectivité* and does not pay allegiance to that other community's chief. The postponement of the local elections may be a blessing in disguise, creating the necessary time to manage these questions. Authorities and civil society should take up these challenges from now on, even if the path towards local elections is still uncertain.

From humanitarian to development aid

The majority of the international aid provided to Ituri by multilateral organizations (mainly UN agencies) is given as humanitarian or rehabilitation assistance, and the duration of these kinds of aid programmes is restricted to a few months, or one year at most. These timeframes make it impossible to support a process of sustainable development. Such a process is needed to fundamentally change the market conditions, and move from zero-sum games to win-win situations. If jobs were created for the unemployed youth, the pull of the armed groups would be much reduced. If economic opportunities could be diversified and agriculture could be made more productive, the pressure on the land would ease. Although Ituri

[12] As is the case on the *collectivité* of Kasenyi (southern Hema) where southern Hemas are now in the minority, since various other ethnic groups have settled there, and live peacefully, as the chief pointed out (cf. ICG 2008, p. 12).

basically should be able to raise the revenues for such a sustained development process from its own resources, neither the institutional capacities nor the necessary political compact between elites and communities are in place. Development aid could be designed as temporary support for both technical and political processes that would lead to a situation where Ituri's own resources would sustain development. To counter the strong temptation to use aid as a resource to enhance positions in the political marketplace, a results-based approach would have to be introduced, with aid phased-in as agreed results were being met. To counteract the inequalities that tend to fuel conflicts, it would be necessary to design activities that did not exacerbate inequalities and that possibly even reduced them, e.g., by increasing access to education and vocational training for marginalized groups.

Such aid could complement the important development work done by civil society. If development aid is to be effective, it is essential to recognize that interference from provincial and national levels helps to perpetuate local conflicts, inequalities and poverty. Multilateral and bilateral donors are eminently well placed to link their aid to engagement at the national level, and to make a real efforts to address these political challenges.

11. Conclusions

The recent reactions to preparations for MONUC's withdrawal from Ituri district, in the form of increased militia activity, return of militia leaders and anxiety among population and leaders, may function as a wake-up call that stability in Ituri can still not be taken for granted. As a result, leaders may be inspired to take the necessary steps towards achieving a lasting political solution to the lingering conflicts that are nowadays mainly local in character.

Conflicts in Ituri have always centred on the access to local economic resources. Economic tensions fed politically motivated hostilities, and vice versa. Access to resources meant the ability to buy weapons and reward troops, and thus to secure power. Political power, in turn, guaranteed access to land and resources. Although the recourse to weapons and troops has now been largely abandoned, this situation is by no means irreversible.

The political order in Congo is still a political marketplace working through neo-patrimonial patronage networks, in spite of the post-conflict democratization process. The democratic reform has stalled and tendencies towards increasing authoritarianism are visible.

The international interventions during the peace process, the transition period and the current constitutional democracy have largely failed in their aims of peace-building and state-building. Possibly the conditions necessary for achieving these aims were simply not present in Congo, since many members of the government have a strong interest in keeping the state weak. Certainly the international community did not manage to provide the necessary strong and coherent international input to turn around the political marketplace so that a common-interest state could be created. The international community ended up reproducing the pre-existing political order.

For Ituri, it will not be easy to carry out a sustainable process of peace-building and state-building without the protection of international troops, and much will depend on developments elsewhere in Congo. Yet, provided that local stakeholders, whether they reside in Ituri or elsewhere, have the political will to reach reconciliation and power-sharing deals in the interests of enduring stability and economic development, there are opportunities to realize local solutions to local problems. A number of (expected or possible) events will change the market conditions and open up opportunities as well as risks for peace-building in the coming months or year: the start of MONUSCO's withdrawal, agreement on debt relief,

presidential and provincial elections, contracts for oil-drilling in Lake Albert, decentralization and local elections.
In a scenario in which Ituri-led sustainable peace-building and state-building was taking place in the district, its leaders would heed the wake-up call of the threat of a return to violence. They would see the benefit of working together and would not politicize or ethnicize the economic issues at the root of conflicts. They would exercise their influence over armed groups to check the use of violence as a negotiating tool in the political market. They would work towards a managed process of decentralization, together with leaders from other provinces, lobbying the central government, making use of space created by the central government receiving debt relief, and making decentralization part of the bargain for their electoral support in the presidential elections. The leaders would not let the struggle for access to oil revenues degenerate into armed conflict. They would control the risks that decentralization poses for Ituri, curbing too-fierce competition over access to local government positions by means of power-sharing agreements acceptable to local communities. They would, in time, start a process of working out, in concert with the local communities, proposals for the boundaries of *collectivités* and the relations between the formal and traditional competencies of chiefs.

The power-sharing agreements would be helped by the allocation to the province of 40% of locally generated revenues. In the interests of long-term stability, there could be an agreement that disenfranchised groups are to be supported in gaining access to livelihoods. Another agreement could address the resolution of land conflicts, starting a participatory process of settling the main land conflicts between communities and of formalizing existing customary land rights.

Admittedly, the scenario could go wrong at every turn. It presents formidable problems of collective action and managing uncertainties. Nevertheless, for the population of Ituri and its civil society who are weary of war and committed to working at peace-building and development, the scenario might provide a road map for the long term. It provides an agenda for working with communities and formal and informal leaders at all levels, from local to national, and for making its vision (or a better one) come true through support to negotiations, mediation, leadership training, political analysis to identify win-win situations, etc.

The chances would be greatly increased if bilateral and multilateral donors supported the processes at every level, through political support and protection, and technical expertise, to both state and non-state actors. Donors would need to be committed to medium-term assistance, in order to allow local partners in turn to commit themselves to the necessary processes. At the same time the resource base of Ituri would eventually allow the phasing-out of external financial support.

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Annex 2: Abbreviations and acronyms

ADF	Allied Defence Forces
DRC	Democratic Republic of Congo
FARDC	Forces Armées de la République Démocratique du Congo
FPJC	Front Populaire pour la Justice au Congo
FRPI	Forces de Résistance Patriotique en Ituri
HIPC	Highly Indebted Poor Countries
ICC	International Criminal Court
LRA	Lord's Resistance Army
MLC	Movement for the Liberation of Congo
MONUC	United Nations Organization Mission in the Democratic Republic of Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of Congo
NALU	National Army for the Liberation of Uganda
NGO	Non-governmental organization
RHA	Réseau Haki na Amani
SPLA	Sudan People's Liberation Army
UN	United Nations