

DEMOCRATIC REPUBLIC OF CONGO CRISIS: AN ASSESSMENT OF AFRICAN UNION'S PRINCIPLE OF NON-INDIFFERENCE.

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Abstract

Democratic Republic of Congo (DRC) has a troubling history of civil wars since gaining political independence from Belgium in 1960. All DRC's civil wars had external dimensions who got involved to either defend ideological client or protect economic or strategic interests. The 1998 unsuccessful attempt to oust President Laurent Kabila attracted two blocks of opposing multi-national forces into DRC. It was an instance of interference in internal affairs of DRC by neighbouring states and their allies. The status of pro-Kinsasha forces was clear in international law because they were invited by a legitimate government. While that of anti-Kinsasha group cannot be situated within the ambit of any international law hence making their presence in DRC at the time of the civil war illegitimate. Activities of anti-Kabila forces were not covered by AU's July 2000 principle of non-indifference. Interference by foreign forces on the side of the rebel was a brazen act of aggression and flagrant disrespect for the territorial integrity of DRC. AU must act to safeguard abuse of the non-indifference clause by member states and stiffer sanctions imposed on belligerent actors. Their involvement prolonged the civil war and caused collapse of every state institution in DRC.

Keywords: AU, Non-indifference, Aggression, Sanction, Territorial integrity

Introduction

Democratic Republic of Congo (DRC) is one political entity in continental Africa with a troubling history of many civil wars and sundry forms of skirmishes with disastrous internal and trans-borders consequences. Barely two weeks of becoming a sovereign in June 1960, DRC experienced a mutiny that catalysed a chain of events that ended with a full-blown civil war and an attempted breakaway of mineral rich Katanga province. The first Congolese war rolled-off with a power tussle between the Marxist Prime

Minister Patrice Lumumba and President Joseph Kasavubu. Cold War Ideological differences were piqued to be the root cause of the fracas between President Kasavubu and Prime Minister Lumumba. Through a high wired conspiracy between the Belgians, CIA, and the local defence forces Prime Minister Lumumba was arrested and killed in mysterious circumstances. The first Congolese civil war occurred at the peak of the ideological war between the West and East, with former Superpowers (United States of America and former Union Of Soviet Socialists Republics) and their ideological club members pushing and pulling the strings through proxies in the Congo and neighbouring countries (BBC News November 2012). The Congolese early 60s war made history in multifaceted fronts: first, it was first of its kind in an independent country in the continental Africa; and two, the war gave birth to the first United Nations (UN) peacekeeping mission since the creation of the global body after the Second World War in 1945. Sundry narrations even holds that Prime Minister Lumumba was killed while under the custody of United nations peacekeepers, a force he trusted much thereby throwing and any speck of doubt about their sincerity and neutrality to the wind.

After the assassination of Prime Minister Patrice Lumumba, President Kasavubu took hold of power but was unable to stabilise a country as large as the size of Western Europe with some of the world largest deposit of mineral resources. Congo is also blessed with rivers that can generate hydro power to the entire Africa and beyond. Added to these numerous natural endowments is the huge and talented population that has a large labour force for companies and agricultural sectors which employs more over 95% of the people in the Congo. Colliding and contradictory forces were so overwhelming for President Kasavubu to handled or stabilise. By 1965 the boat of Kasavubu's leadership in the Congo capsized through a coup by one Joseph Mobutu later Mobutu Sese Seko after his 1971 cultural revolution that saw changing of the name of persons, towns and even the country. Democratic Republic of Congo was baptized with a new name called Zaire as well as cities like Kisangani and Lubumbashi. Gen. Mobutu ruled the west Congo for 32yrs, a reign that was characterized by irredentism, predation, clientism, repression, and suppression of citizen's fundamental human rights. Because of massive looting of public treasury during his years the word KLEPTOCRACY was specifically invented to describe naked and brazen acts of *brigandism* by Mobutu, members of his immediate family and top government officials. While pretending to be advancing the sense of nationalism, he also created a cult personality in the Congo (Oregon, 2002).

Pundits postulated that Mobutu tarried longer in power despite not providing total stability or respect for human rights because of the Cold War

politics that supports clients irrespective of their democratic or undemocratic credentials. Gen. Mobutu benefited from that ideological cover provided by the West who made him their man Friday not only within his region but in the entire black world. All his maladministration, abuses and predatory antics were brazenly disregarded by the West because in a Cold War situation such and allied undemocratic dispositions don't constitute an aberration so long as the long standing interest of curtailing the spread of communism in the continent is religiously observed. Added to this was unhindered access the kleptocrat had to facilities provided by world lending bodies like the World Bank and International Monetary Fund (IMF) along some bi-lateral facilities provided under sundry undercover policies and operations of CIA and their other Western security agencies (Pike, 2007). The Western Man Friday violated trade and financial facilities conditionalities without attracting reprimand associated with violators of debt services. It was all bed of roses for Mobutu while the Cold War raged on because of the strategic interest he was protecting in his region and in African as a whole.

In 1991 the Cold War officially ended with the balkernization of USSR and adoption of liberal democracies of the WARSAW PACT countries of Eastern Europe. The end of the Cold War triggered changes in foreign policies of the ideological war victors in tandem with the reigning ethos and tenets of liberal democracy. Clients like Mobutu Sese Seko were told to change course or rather avail themselves with realities of a post cold war world and relationships. This was too hard a nut to crack by chronic dictators like Mobutu and quite a bitter pill to swallow without grumbling. Gen. Mobutu was told in clear terms to expand the democratic space to accommodate other parties, respect human rights, cleanse the system of corruption and clientism, and other policies concomitant in a liberal democracy (Young, 1985). The maximum ruler of Zaire couldn't breast up with conditions set up by people he spent his entire life protecting and advancing their interest. His resistance instigated a triple action from the United States, France and Belgium through withdrawal of their financial aid (Weiss, 2000). International financial institutions and donor agencies followed suit, thereby plunging the kleptocratic Mobutu and his Congo-Zaire into political and financial isolation.

Because of over three decades of economic mismanagement and the predatory abuse of public funds and state owned enterprises, the economy went on its knees (Richard and Christian, 2008). Mobutu the Western puppet was terribly crippled and became an embarrassment to international community that had supported his long reign in the Congo. At some points the despot was left in the eye of the storm because he was no longer an asset but a huge liability they can't afford to continue to carry or shield. As Mobutu's international support was diminishing his domestic foes increased

astronomically. Most of his adversaries were longstanding opposition leaders who kept his government on its toes right from the time he staged his coup in 1965.

Understanding his unfortunate fate, democratic space expanders stepped up their advocacy by organising protests and rallies in support for democratic reforms in a one party political system that had been entrenched since 1965. Protests in defiance of police and military order became a constant drama frequently staged in the streets of cities like Kisangani, Kinshasa, and Lubumbashi. The situation went from bad to worst that even the ever loyal army joined the rank of protesters and mutinied (Adam, 2007).

As democratic forces engaged Mobutu's government in the streets through sundry forms of civil disobedience his longest enemy and a diehard Lumumbaist Comrade Laurent Desire Kabila was assembling combatants with the support of his DRC's two neighbours Uganda and Rwanda (Bangura,1999). Kabila's two backers didn't only provide logistic support but gave his fighters instructors and advisers who guided the troops from Goma and Kivu provinces bordering their countries down to Kinshasa. The speed at which the forces marched to Kinshasa was unbelievable because of the sheer size of the country, poor road networks and infrastructures. There were very few functional airports or airstrips to facilitate speedy projection of forces from very far flanks to Kinshasa. Captured areas where there were such facilities, they are unusable due to long years of neglect by Mobutu's armies and commanders. Non repairs or keeping of functional bases was considered a deliberate ploy by Mobutu to cripple the military might vis a vis his special forces carefully drawn and trained to safeguard the regime. Gen. Kabila and his rebels marched down Kinshasa without firing a single shot and were welcomed by hundreds of thousands of cheering citizens of the capital city.

Because of the nature of his emergence and multiple security challenges associated with managing the country and the city of Kinshasa, President Kabila officially handed over some sensitive physical and administrative security management of the country to Rwandans and Ugandan military personnel that walked the troop up to victory. Their legality at that point was not in doubt because their presence was recognised by a legitimate government of a sovereign nation. After a while their presence started eroding the popularity of Kabila's government especially in Kinshasa. People started questioning the entire concept of the liberation song sung by President Kabila while fighting Mobutu and advancing to the capital city, their presence was viewed as replacing a local dictator with foreign ones. The most irritating aspect of it all to residence of Kinshasa is the realisation that these military officers came from very tiny political enclaves that their sizes and potentials can't be compared to one single region of

DRC. The foreign military advisors themselves did not help matters because they behaved unruly to the people they helped liberate from the clutches of Mobutu's dictatorship.

Another factor that angered the Congolese was occupation of strategic political offices by friends and allies of Rwandan and Ugandan governments and all of them Tutsis. President Kabila a Tutsi was appointed the leader of Alliance des Forces Pur la Democratic du Congo (AFDL) the ruling party. Others were appointed to head ministry of foreign affairs, secretary of the ruling coalition, Vice Governor, Mayor of Bukavu, and Governor of North Kivu. Majority of the Congolese who were not Tutsi ethnic nationalities saw a gradual replay of Tutsis domineering tendencies everywhere they found themselves. Others started raising questions regarding their having more than enough fair share of government's positions despite their identity crisis (Danfulani, 2011).

At a point it became clear to President Kabila that he must decide to either continue to accommodate foreign friends that supported him or tell his advisors thank you, but it is time to go home. Before making a final decision on this he signed military ties with China, Angola, and Zimbabwe to enable him build a force of over 600000 combatants that will provide internal and external security to the entire nation (Baregu, 2002). To get additional security cover he joined Southern African Development Association, his joining gave him other collective security privileges member states were enjoying. After taking such measures, President Kabila sacked his foreign military advisors and told them to leave the country to their countries of origin (Lannote, 2005)

Angered by an action they viewed as ungrateful, Rwanda and Uganda immediately formed another rebel group to oust President Kabila in a similar manner they helped Kabila dethrone Mobutu. Their strategic plan did not differ with the one they had during their first mission. Gen. James Kabarehe that was sacked and directed home by Kabila commanded an airborne operation, weapons and ammunitions from Goma to Kitona with the sole aim of launching a flash-war operation that would dethrone Kabila in a matter of days. The operation was launched under the banner of Congolese Rally for Democracy. A few days after commencing the operations, they realised that it takes more than their imagination to execute their war plan and it is bad strategic and tactical philosophy to repeat the same strategy in two different campaigns.

Aside the strategic blunder there was the issue of lack of popular support by the new Congolese Rally for Democracy from native Congolese. A fierce propaganda was launched by Kinshasa against the rebel and the propaganda massaged the ego of majority of Congolese who believe that Rwanda and Uganda are too small states that should have no business trying

to dictate the pace of political events in a big Congo. The Lack of support from locals in campaigns that were like guerrilla warfare is the surest avenue to defeat or lack of achieving the objective of the campaign.

Apart from lack of support and strategic lameness there is the issue of intervention from Angolan and Zimbabwean armed forces who came in on invitation of Kinshasa and through military ties entered at the verge of the sacking of Ugandan and Rwandan military advisors. Angolan and Zimbabwean fighters along with their Congolese counterparts halted advances of the rebels towards the capital and froze their advance beyond territories captured before their full involvement. Not long after that Namibia, Chad Republic and Southern Sudan Liberation Movement joined the Kinshasa group and formed a large multinational force in the Congo. Rally for Congolese Democrats also invited friendly states like Burundi and Dr. Jonas Savinbi's UNITA join them in the battle. These two formations assembled from armed forces of many nations made an analyst to describe the civil war in the Congo first African World War. Along with these countries and bigger rebel groups are many local groups who are fighting or supporting one of the two grand formations.

Massive international and internal involvement threw spanner in the entire game plan of anti Kinshasa groups. Disagreement suddenly surfaced between the two major backers of the rebel group that is Rwanda and Uganda. It went so bad that the group balkanised to two rebel groups, one under Rwandan control while the other under Uganda. They groups were RCD Goma and RCD Kisangani. There were instances where the two groups left their common foe and engaged themselves in fierce battle with full involvement and command of their headquarters in Kampala and Kigali. This totally sealed their hope of victory and installing their stooge in Kinshasa as president and commander in chief of Congolese armed forces.

Pro and anti Kinshasa military campaigns deadlocked without either side achieving the goal of total defeat of their opponents. Much of the negative consequences of the deadlock was in the camp of anti Kinshasa formation because at junction the world's attention has been drawn to the human suffering through large Internally Displaced Persons (IDP) and refugee camps in and outside the country as the case may be. The world community got to know about events and actors in the Congo because of information supplied by activities of numerous local and international Non Governmental Organisations (NGOs) operating in the country as well as reports of host countries of hundreds of thousands of refugees that fled DRC because of the war and abuse of rights by foreign combatants and kids soldiers the two camps recruited or conscripted into their armed forces (OXFAM, 2001).

At the end anti Kinshasa group couldn't achieve their ultimate mission of dethroning the regime of President Laurent Kabila but the president himself lost his life through the bullet of an aide on 2000 while preparing for a foreign summit. The assassin couldn't live to face trial and possibly confess on whose mission he acted because he had been a long-time aide of Kabila. Like most high profile assassinations that assailants do not live to face trial, Kabila's murder has been surrounded with conflicting conspiracy theories that some don't tally with commonsense and logic. His friends especially Angola and foes Uganda and Rwanda have all been accused of the plot that annihilated President Kabila. After much diplomatic talk amongst and between the pro Kinshasa groups who are charged with the security of the seat of power and other sensitive areas, the murdered leader's son Gen. Joseph Kabila, a commander in one of the regions away from Kinshasa was called and handed over the power to lead the nation.

United Nations mediation effort

On assuming power young Kabila embarked on and adopted a different approach from his father on how to quell the crisis in the Congo. His father's hawkish disposition was replaced with subtle diplomacy and invitation to the combatants to come to a negotiating table. That triggered resolved by the Kisangani based rebel groups under Prof Wamba dia Wamba and supported by Uganda to freeze action and begin to adopt a receptive attitude to talks and peaceful resolution. The same call for peace by the government could not generate a similar reaction on the part of RCD Goma under Jean Pear Bemba, a group strongly under the control of Kigali (Lonatte, 2003).

President Kabila's willingness to talk and positive response by a faction of his opponents paved a way for moves by key players in the region like United States, France and Belgium to set-in-motion peacemaking sessions through United Nations. The French were instrumental to Security Council Resolution 1304 that ordered uninvited forces to withdraw from the Congo. The French sponsored resolution was subjected to hot debate by others that all foreign troops irrespective of on whose invitation they came to the Congo. But the French position was adopted on simple logic and commonsense that any force invited by a legitimate government via a bilateral or multilateral agreement, are legitimate guests. Since the second camp were not invited by Kinshasa that made their involvement illegal and affected by the French sponsored resolution. Resolution 1304 inflicted legal and moral crises in Rwandan, Uganda and Burundi forces in the Congo. And when such allied campaigns are resolved to be illegal through resolution of United Nations Security Council it dampens morale of fighters and also

make the political leadership tread with caution because of the likely repercussions their non conformance might generate.

United Nations initial effort ended with another resolution to send a small contingency troop of 5537 consisting of mainly French clients in Africa. For a country the size of Western Europe without a serious peace agreement on ground, a military contingency of 5537 is absurd. The small troop can't even manned major streets of Kinshasa. When crises happens in Africa United Nation's response is usually slow and when they want to act they act as if they were forced to take such actions. The same thing happened in Liberia and Serria Leone in West Africa, Nigeria had to mobilise sister States and formed Economic Community of West Africa Monitoring Group (ECOMOG) to restore order in those two nations. Much of such lackadaisical action was displayed during the Rwandan crisis between majority Hutus and Minority Tutsis in the early 90s. United Nations refused to act until the crisis degenerated to genocide by Hutu Extremists against their fellow moderate Hutus and minority Tutsis. However if similar incidences happens elsewhere, they are quick to intervene, a good case to support this allegations was how they intervened in crises that erupted in Eastern Europe after the end of the Cold War. When former Yugoslavia disintegrated into many independent political units, and ethno-religious crises broke out United Nations key players especially the veto power holding monsters influenced many resolutions within the body and the North Atlantic Treaty Organisation into mobilising nations to act against Serbia. Their timely intervention minimized the human calamity in the Balkans.

African unions policy of non-indifference

Organisation of African Unity later African Union played a role in ceasing arms confrontation in the Congo through the Lusaka peace Talks with the warring factions. That came after the United Nations had wadded into the conflict through the body's Security Council. Among the various initiatives embarked by the African Union only two were remarkable and led to a breakthrough in tackling the crisis in the Congo viz the SIRTE and LUSAKA summits (Danfulani, 2011). The two Summits actually recorded successes because they created opportunities for the warring factions to begin a series of dialogues on how to resolve the crisis that had attracted armed forces of many countries in the Congo. African Union could not record instant ceasing of hostilities and observance of a major resolution which is foreign troop's withdrawal in Congo but the involvement of the body in peacemaking effort is a major shift in its principle of non-interference with internal affairs of member states.

A re-think of Africa Union's principle of indifference was necessitated by the 1994 Rwandan civil war that ended with genocide of

almost a million Tutsis by Hutus Interehenwe fighters. When the crisis started the whole continent looked the other way despite clear signs of gross violations of human rights and features of ethnic cleansing. After the crisis was over through overthrow of the Hutu regime by Rwandan patriotic Front of Gen. Paul Kagame, African Union formed an investigation panel to look into the genocide claims and the panel indeed confirmed most of the claims and tactically indicted neighbouring countries for not acting or drawing the attention of the world to the pogrom in Rwanda.

However the shift of the philosophy of indifference to non-indifference was officialised in February of 2004 under a constitutive act of the union. The right to intervene as stipulated in the constitutive act comes in two way: One, the body can wade into a crisis on request of the government of any member state, and Two, they can intervene without invitation if they are sure of gross violation of human rights and other calamities. The circumstances that could mastermind intervention were enumerated in chapter for (h) and (j) of the act.

This constitutive Act of African Union have been subjected to many legal interpretations vis a vis other global protocols, especially powers invested on United nations Security Council as the only body charged with authorization to deploy forces to enforce or make peace in any troubled part of the world(Kioko,2003). Areas bordering enforcement is a sole schedule embedded in the functions of Security Council can be found in chapter VII of United Nations Charter. References have been made to operation by North Atlantic Treaty organisation (NATO) in Kosovo and Economic Community of West Africa State (ECOWAS) in Liberia and Sierra Leone. These two operations were not ordered by United Nations but very little condemnations were heard. The curious fact is the NATO's operations because three out of the five permanent members of the Security Council members are NATO's members and took frontal roles in the operations of the body. That of ECOWAS was purely a sub-regional initiative masterminded by Nigeria to curtail crisis in some of its member's state.

Apart from legal questions raised by African Union's non-indifference Act the issue of territorial sovereignty came up for analyses. Scholars also took time advancing how the entire concept of sovereignty suffered setback and lost its original meaning and feature. Kioko quoted Collier and Sturman like this: "the concept of Sate sovereignty, on which international system and the OAU were founded, presumes that each state has the power, authority and competence to govern its territory. For many African States, however, sovereignty is a legal fiction that is not matched by governance and administrative capacity". The narration is neither here nor there because it talks of the generally known assumption and the reality of African States.

The war in focus started before the African Union invented the principle of right to intervene on invitation or otherwise in affairs of member states on humanitarian grounds or stopping of gross violations of human rights. If the law was on ground before the war, there is no doubt it would have helped in tackling the crisis right before degenerating to what some called African World War. It would have encouraged others to openly mobilise for intervention through the relevant organ of African Union, but lack of it made states steer clear for fear of found wanting of violating a long standing principle of respect for territorial integrity of member states.

However I believe that even if the non-indifference law was there, the political will and other logistic problems would have overwhelmed the mission. On political will, strategic states like Uganda, Rwanda, Burundi, Zimbabwe, Chad, Namibia and Angola were already participants in the war. They are large enough to polarise any attempt to sponsor a motion in the relevant organ of the body that will warrant sending of troops to the Congo. This point can be supported by the sharp disagreement on the Chief mediator of the crisis; the Congolese government were not ready to accept any person except that person has a French touch or background.

Another hard one will be finances and logistics because Congo is such a large country that only two to three hundred thousand troops can effectively enforce or make peace. With such a huge force, who will pick the bills? There is no doubt that African Union would not have been able to mobilise resources and men to breast up with such a mission. Closely related to this is, the peacemakers or enforcement contingents must cover all the nooks and crannies of the Congo consequent to the fact that no regions is free of conflicting groups fighting themselves.

Conclusion

African Union's philosophical shift from indifference to non-indifference has altered a long standing principle and engineered debates that were approached from legalistic and moralistic angles. African Union's Institutive Act of 2004 also challenged the traditional perception of sovereignty and sanctity of respecting territory of member States. Beyond the legalistic approach it is a welcome development because of avalanche of political instability in Africa. The only point desiring stressing is putting enough mechanism to making sure that the Act is deployed in instances where developments meets set criteria for intervention. Recent senseless ethno-religious killing in Central African Republic is a good case where non-indifference suits.

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