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Abstract: *This study examines the conflict in the Democratic Republic of Congo and observed that it violated the principles of International Humanitarian Law, in that millions of lives and properties have so far been lost as a result of the killing of women, children, refugees, internally displaced persons and extra-judicial execution. It analyzed the intervention and conflict resolution approaches by various agencies like the United Nations, African Union, Red Cross and so forth on how to improve adherence to the rules of armed conflict in international law. Our findings revealed that internal and external influences exacerbated the armed conflict in Congo DR, thereby affected the grave breaches on the Geneva Conventions and Protocols. It concludes that parties and stakeholders to conflicts should adhere to the rules of international law and learn to explore avenues for peace so as to transform, rebuild, reintegrate and rehabilitate their lost glory.*

Key words: *Conflict Resolution, Rules of International Humanitarian Law, Geneva Convention and Protocols*

1. Introduction

All African countries have faced post colonial political violence and mismanagement of their economy. The Democratic Republic of Congo (DRC) could be regarded as “tumultuous” in that inspite of the conflict, they are still facing political violence, social and economic instability. The conflict has claimed over five million lives and might be the deadliest conflict after World War 11.

The study will enable us to know whether the principles of adherence to rules of International law was enforced in the DRC armed conflict and whether it encompasses the responsibilities of parties engaged in armed conflict as regards the treatment of wounded and sick soldiers in the field of battle and at sea; the protection of civilian persons in time of war and the treatment of prisoners of war. It is the principles of International Humanitarian Law as

embodied in the Geneva Conventions and Protocols that determines whether the conflict in Congo DR has been conducted in consonance with these principles of international law.

2. History of the Democratic Republic of Congo

The country is officially known as the Democratic Republic of the Congo, but its alternative titles are: *Congo-Kinshasa*; *DRC*; *Republic of the Congo*; *République Démocratique du Congo*; *République du Congo*. It is located in Central Africa., and it has a 25-mile (40-km) coastline on the Atlantic Ocean but is otherwise landlocked. It is the second largest country on the continent; only Algeria is larger. The capital, Kinshasa, is located on the Congo River about 320 miles (515 km) from its mouth. The largest city in central Africa, it serves as the country's official administrative, economic, and cultural centre. The country is often referred to by its acronym, the DRC, or called Congo (Kinshasa), with the capital added parenthetically, to distinguish it from the other Congo republic, which is officially called the Republic of the Congo and is often referred to as Congo (Brazzaville) (Encyclopaedia Britannica).



Source: Encyclopaedia Britannica (www.encyclopaedia Britannica.com)

The country is bounded to the north by the Central African Republic and South Sudan; to the east by Uganda, Rwanda, Burundi, and Tanzania; to the southeast by Zambia; and to the southwest by Angola. To the west are the country's short Atlantic coastline, the Angolan exclave of Cabinda, and Congo (Brazzaville).

3. Background of the Conflict

DRC gained independence in 1960 from Belgian colonization and its first and last democratic election was held in the same year which election led to the victory of the leftist Patrice Lumumba (Colonialism in the Congo: Conquest, Conflict and Commerce).

Fearing the increase of Soviet influence in the region, the CIA and Belgium backed a coup that brought Col. Joseph Mobutu to power. He advanced a sense of nationalism through the utilization of Western powers and created a cult of personality for himself. Mobutu's Western-backed misrule ravaged Zaire until 1991 when he was forced to make concessions to the opposition to retain his grim hold onto power. Mobutu's tenuous hold on power was made more precarious by the astute Judgment of the opposition that he would be easier to overthrow following the withdrawal of Western support.

The Rwandan genocide of 1994 and related violence in Burundi sparked a refugee crisis in the eastern part of Zaire following the displacement of hundreds of thousands of members of the Hutu ethnic group into Zaire and the consequent refugee camps became dominated by the *interahawwe* hutu militia that had carried out much of the genocide.

The first Congo war began in 1996 because Rwanda grew concerned that the *interahamwe* (those who fight together) who had been carrying out cross-border raids were planning a full-scale invasion of Rwanda. The Tutsi-dominated government of Rwanda saw the raids as violating her territorial integrity and consequently funneled arms and funds to the Banyamulenge of eastern Zaire.

In the same vein, Rwanda and Uganda concertedly to support the anti-sese seko Alliance of Democratic forces for the Liberation of Congo (ADFLC) under Laurent-De'sire Kabila whose forces marched on Kinshasa and overthrew Mobutu's crumbling regime on May 16, 1997.

The second Congo War erupted when Kabila turned against his Rwanda and Uganda allies and the two countries Switched to aid rebels attempting to overthrow him.

4. The Armed Conflict in Congo Dr: Specific Instances of Violations of International Humanitarian Law

On November 4, 1999, rebels of the RCD/Goma and Rwanda troops massacred civilians in the province of south kivu in Zaire. Similarly, on February 16, 2000, a Banyemulenge militia attacked a catholic mission in the kivu area of south kivu province. Two priests escaped but the militiamen captured and killed a third priest, a certain father Pepin Beta (History of the Conflict in the DRC).

The Zairian Armed Forces (FAZ) before fleeing the city of Kindu in February 1997 looted the General Hospital there and stole basic supplies and equipments meant for patients. The FAZ also indiscriminately bombarded the eastern Zairian cities of Bukavu, Shabunda walikale and Kenge which last bombardment led to over 200 civilian deaths according to Congolese Red Cross.

Further, the FAZ produced a pattern of looting resulting mainly from insufficient logistical support from Kinshasa for their military campaign against the ADFL. In November, 1996, U.N. Officials in North Kivu reported the loss of several hundred vehicles to looters who were predominantly FAZ soldiers.

In addition to large-scale killings of civilian refugees, ADFL troops also intentionally blocked humanitarian aid to civilian refugees, which resulted in many deaths. The refugees murdered by the AFDL were left unburied and in one instance, thrown into a well. It is pertinent to note that the civilians of eastern Congo are trapped between the armed contenders for power in the region and these belligerents have systematically violated International Humanitarian Law.

The conflict in the Congo DR has both international and internal dimension. To the extent that foreign powers like Uganda, Rwanda, Zimbabwe, Angola, etc, are involved, the conflict is international in nature. To the extent that the conflict involves the Congolese government forces and Congolese rebels, it is internal in nature. Accordingly, the parties are bound by the full regime of the Geneva conventions and its protocols (Kasaija, 2011).

In particular, the indiscriminate attacks and extra-judicial executions of civilians violate Article 3 common to the Geneva Conventions, 1949. The occupation of eastern Congo by authorities opposed to the Congolese government does not amount to a state of anarchy. Those occupying powers have a duty under the conventions and international customary law to maintain law and order and oversee the smooth running of the occupied areas (Rule of Armed Conflict, RULAC).

Contrary to Article 3 common to the Geneva conventions, Art. 4(2)(e) protocol II: Art II protocol to the African charter on Human and people's Rights and Art. 7 of the Rome statute of the international Criminal Court, there have been widespread cases of rape in the course of the Congo DR conflict. This and other acts of violence against women is a failure on the part of the belligerent parties.

In a reported case, combatants who killed her husband in her presence raped Sylvie, a young woman of 22 from rural south kivu in late 2002. As part of efforts to shield children from the ravages of war, Art 4(3)(c) Protocol II prohibits the recruitment into the Armed Forces of children who are under 15 years of age. Nor are they to be allowed to take part in the hostilities. In blatant disregard of this rule of armed conflict, the RCD-Goma forcibly recruited both children and adults in the course of the Congo wars. More worryingly, the RCD-Goma employed promises of reward to lure poor children into the armed forces (Kasaija, 2011). Humanitarian workers are protected by the Geneva conventions and protocols to the convention. In violation of the relevant provisions, 6 Red Cross staff were reported killed in eastern DR Congo on February 27, 2001 (Bloomfield, 1964).

5. Factors Responsible for Violations of International Humanitarian Law in the Congo DR Armed Conflict

- (A) **THE NATURAL RESOURCES OF THE CONGO DR:** The enviable natural resources of the Congo DR has been a huge factor kindling the conflict in the region. The intervention of the western powers in the politics of the Republic of Congo was not only ideological but also prompted by economic motives.

In the build up to the second Congo war, the lure of the country's abundant natural resources played prominently in the calculations of the contending parties.

The bitter struggle for the resources of the country created a division in the relations between Uganda and Rwanda, two countries that normally align against the Congo DR.

- (B) **THE HUTU AND TUTSI ETHNIC DICHOTOMY:** The ethnic violence between Hutu and Tutsi-aligned forces has fueled the conflict and also gave a flavour of ethnic cleansing thereto. Each ethnic group scared of annihilation perpetuates the conflict through any available means.
- (C) **THE CONDUCT OF THE WAR BY PROXY GROUPS:** In spite of the presence of trained soldiers from the national armies of the countries involved in the Congo DR conflict, the said nations have been loath to fully commit their armies in the conflict. Consequently, the Congo wars have been fought by irregular untrained forces who no nothing of (or do not care to fight by) the rules of armed conflict.
- (D) **WEAK JUDICIAL SYSTEM:** The weak judicial system of the country has ensured the lack of justice. In cases where an attempt has been made to administer justice, it normally goes to the highest bidder. This near lawless situation has encouraged the might-is-right mentality in all the parties to the conflict.

6. The Conflict in the Congo Dr: Improving Adherence to the Rules of Armed Conflict

Great adherence to the rules of armed conflict in the Congo DR conflict may be achieved by:

- (A) **TAKING URGENT STEPS TO ELIMINATE VIOLENCE AGAINST WOMEN:** All parties concerned and in particular the transitional government of the Congo DR should take all necessary steps to stop the violation of the rights of women by the parties to the conflict including bringing perpetrators of such violations to justice.

- (B) **STRENGTHEN THE JUDICIAL SYSTEM:** The strains of the conflict on a judicial system that has never been the model of efficiency has led to near anarchy. Steps need to be taken by all the relevant parties to strengthen the judicial system and consequently deter human rights violations.
- (C) **EXERTION OF DIPLOMATIC PRESSURES:** The international community should imperatively prevail on the countries in the region to reduce or extinguish interference in the Congo DR conflict. This will not only reduce violations but will signal a definite end to the conflict.
- (D) **EDUCATE THE PARTIES TO THE CONFLICT:** The international community must take steps to educate the parties to the conflict on the rules of engagement moreso as it has already been pointed out that the conflict is being largely conducted by untrained or ill-trained irregular forces who are obviously in need of such education.

7. The Geneva Conventions and Protocols

The signing of the first Geneva Convention from April 21 to August 12, 1949 to revise the Geneva Convention for the relief of the wounded and sick in Armies in the Field on July 27, 1929. Under the GCI, parties to a conflict shall without delay take all possible measures to seek for and gather the wounded and sick to protect them from pillage and ill-treatment. In favourable circumstances engagement may be suspended to permit the removal, exchange and transport of the wounded left on the battlefield. Hospital zones may also be established to protect the wounded and sick from the effects of war medical personnel engaged exclusively in the search for, collection, transport or treatment of the wounded or sick as well as army chaplains shall be respected and protected at all times.

Similarly, members of the Armed forces specially trained for employment, should the need arise, as hospital orderlies nurses or auxiliary stretch-bearers, searching for, collecting transporting or treating the wounded and the sick shall also be respected and protected.

The staff of National Red Cross Societies and that of other voluntary aid societies are on the same footing as medical personnel mentioned above provided that the staffs of such societies are subject to military laws and regulations.

In the event of medical personnel or staff of National Red Cross Societies and that of other voluntary aid societies falling into the hand of the adverse party, they shall not be retained except as necessitated by the state of health, the spiritual needs and the number of prisoners of war.

Aircraft employed exclusively for the removal of wounded and sick and for the transport of medical equipment and personnel shall not be attacked.

The convention provides for the humane treatment and care of the wounded and sick without distinction howsoever founded and in particular, they shall not be murdered or

exterminated, subjected to torture or to biological experiments, unjustly denied of medical assistance or exposed to conditions of violence, contagion or disease.

The convention applies to the wounded and sick of:

- (a) The forces of a party of the conflict and members of militias or volunteer corps being part of such armed forces.
- (b) Other militia and volunteer corps including organized resistance movements belonging to a party to the conflict though not forming part of the armed forces.
- (c) Regular armed forces who profess allegiance to a government or authority not recognized by the detaining power.

Other protected categories of persons are people who accompany the armed forces but are not actually members thereof, members of crews, including masters pilots and apprentices of the merchant marine and civil aircraft of the parties to the conflict and inhabitants of a non-occupied territory who spontaneously take up arms to resist invading forces.

Belligerents who fall into enemy hands shall be prisoners of war subject to the protection of the relevant provisions of international law.

Article 3 of the convention governs armed conflict, which is not of an international character.

It imposes minimum standards for the conduct of such armed conflict and enjoins the parties to bring into force by special agreements all or part of the other provisions of the convention.

The rights secured by the convention may not be renounced partially or in its entirety by a beneficiary.

THE SECOND GENEVA CONVENTION:- (or GCII). The signing of the Second Geneva Convention followed to diplomatic conference held at Geneva from April, 21 to August 12 1949 to revisit the 10th Hague convention of October, 18, 1907 for the adaptation of maritime warfare of the principles of the Geneva Convention of 1906.

This convention extends the application of the principles of the first convention to conflict at sea. Both conventions contain largely similar provisions. However, where there are hostilities between land and naval forces of parties to a conflict, the provisions of the present convention applies only to the forces on board ship. Further, forces put ashore immediately become subject to the provisions of the first Geneva Convention.

Burial at sea is to be carried out individually as far as possible and preceded by a careful

examination to confirm death, establish identity and enable a report to be made. Landed dead persons are subject to the provisions of the first Geneva Convention.

THE THIRD GENEVA CONVENTION: The third Geneva Convention (or GCIII) followed the diplomatic conference held at Geneva from April 21 to August 12 1949 to revise the Geneva Convention on the treatment of prisoners of war of July, 27,1929.

Categories of wounded and sick persons protected under Articles 13 of the first Geneva Convention are the same categories of persons who may become P.O. Ws if they fall into enemy hands. Again, persons belonging or having belonged to the armed forces of an occupied country may be detained by the occupying power especially if they have made attempts to rejoin their colleagues who are engaged in combat or refuse to honor a summons made to them with a view to internment.

Prisoners of War (POWs) are the responsibility of the detaining power not the individuals or military units who have captured them. The detaining power is thus liable for any ill-treatment of the P.O.Ws.

Prisoners of war are to be treated humanely at all times and are not to be subjected to physical mutilation or to any unjustifiable medical and scientific experiments. P.O. Ws are equally protected against acts of violence, intimidation, insults and public curiosity. Unlawful acts of the detaining power causing death or endangering the health of a P.O.W seriously is prohibited and will be regarded as a grave breach of the convention.

Measures of reprisal against P.O. Ws are prohibited²².It is the responsibility of a detaining power to maintain and provide medical services free of charge to P.O. Ws in custody. Again all P.O.Ws are to be treated alike without distinction.

The physical or mental torture of P.O.Ws, the use of any form of coercion to obtain information from them is prohibited. P.O.Ws who refused to respond to interrogation are not to be threatened insulted or treated disadvantageously. Further, P.O. Ws are to be questioned in a language which they understand.

Prisoners of war are to be interred in hygienic places and may not be kept in penitentiaries. In camps where male and female P.O.Ws are accommodated separate dormitories shall be provided for them.

Where military considerations permit, P.O. Ws' camps are to be marked by the letters "PG" or "PW" so that the mark will be clearly visible from the air. The belligerents may decide on any other system of marking.

P.O. Ws are entitled to be given food rations of adequate quantity, quality and variety as to keep them in good health. Additional rations are to be given to P. O. Ws who work as may be necessary for the type for labour in which they are engaged.P.O. Ws are to be clothed adequately and if they work, clothing appropriately to the work should be supplied to them. P.O Ws camps are to be kept clean to avoid the outbreak of epidemics.Subject to military disciplinary routine, a P.O. Ws should enjoy complete latitude in matters of religion, intellectual and physical

activities. A P.O. W is not to be shut out from the external world. Accordingly, he is entitled to write and receive letters and cards and where these fail, may be permitted to send telegrams at his own expense.

The GCIII also contains provisions geared towards ensuring a fair trial for a P.O. W. In general, a P.O.W is subject to the laws of the Armed Forces of the detaining power. Where a prisoner of war escapes successfully and later is recaptured, he shall not be liable to any punishment in respect of the previous escape. A prisoner of war recaptured upon an attempt to escape shall be liable to disciplinary not judicial punishment and P.O. Ws who aid or abet an escape or an attempt to escape are liable to a similar punishment.

THE FOURTH GENEVA CONVENTION: (or GCIV). The signing of the fourth Geneva Convention followed the diplomatic conference held at Geneva from April 21 to August 12, 1947 to establish a convention for the protection of civilian persons in time of war.

This convention protects persons who at a given moment and in any manner whatsoever find themselves in case of a conflict or occupation in the hands of a party to the conflict or occupying power of which they are not nationals.

Where the conflict is not of an international character, persons taking no active part in the hostilities shall always be treated humanely and without any distinction whatsoever.

All judicial guarantees recognized as indispensable by civilized peoples shall avail persons protected under the convention.

Under this convention, the wounded, the sick, the infirm and the expectant mothers are the objects of particular protection. Civilian hospitals are not to be the object of attack and may be marked by the emblem provided for in article 38 of GCI such that the marks should be clearly visible to the enemy land, air and naval forces to further protect it from attack. Civilian hospitals remain protected unless used to commit, outside their humanitarian duties, acts harmful to the enemy of after reasonable warning of an impending attack goes unheeded.

Persons involved solely in the operation, administration of civilian hospitals, the search for, removal, transportation of land caring for wounded and sick civilian (including infirm and maternity cases) shall be respected and protected. Similarly, aircraft used exclusively for the welfare of wounded and sick civilians shall not be attacked. Children under fifteen who are orphaned or separated from their families as a result of the war shall be the responsibility of the conflicting powers.

Persons protected under the convention may correspond with their families and where this becomes difficult resort may be had to the central agency provided for in Art. 140 to facilitate such communication. Women are especially protected against attacks on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.

The treatment accorded to protected persons is the responsibility of the party to the conflict in whose hands they are in spite of any individual responsibility that may arise. Collective penalties, pillage, reprisals against protected persons and their property and the taking

of hostages are prohibited. An occupying power is to ensure food and medical supplies to the population and supply these where the resources of the occupied territory are inadequate.

Where an occupied territory is inadequately supplied with necessities, the occupying power shall agree to and facilitate the operation of relief schemes but such schemes shall not absolve the occupying power of its responsibility in Art. 55 of the convention. The activities of the relief societies are not to be hampered except for urgent reasons of security and any restriction must be temporary.

PROTOCOL I: This is the first additional protocol to the Geneva conventions of 12 August 1949 and relates to the protection of victims of international armed conflicts.

The protocol applies in the situations referred to in Article 2⁵¹ which is common to the Geneva conventions and include armed conflicts in which people are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self determination in consonance with the charter of the United Nations.

Under this protocol, all the wounded, sick and shipwrecked shall be respected and protected, treated humanely and are to receive medical care and attention befitting their condition.

Persons in the power of an adverse party are the responsibility of that party and are not to be endangered by any unjustified act or omission. In particular, they may not be physically mutilated, or be the subject of medical or scientific experiments, or have their tissue or organs removed for transplantation except any such act is carried out for the benefit of the person in question.

The protection given to medical units in the Geneva convention apply in this protocol. The essence of these articles is to safeguard persons, structures craft, etc. which are exclusively used for health purposes during an armed conflict.

The civilian population is to respect the wounded, sick and shipwrecked and just like aid societies may collect and care for the wounded even if they belong to an adverse party without incurring the liability of being harmed, prosecuted, convicted or punished for reason only of such humanitarian act.

The remains of persons whose deaths are linked to occupation or detention resulting from occupation or hostilities and those of persons not nationals of the country in which they have died as a result of hostilities shall be respected.

To this end, their gravesites shall be maintained, respected and marked in accordance with Article 130 of eth GCIV. Further, the remains of such deceased persons shall not be exhumed except for reason of overriding public necessity and notice of the intended exhumation and the site of reinterment are to be communicated to the deceased's home country.

The protocol limits the right of belligerents to choose the means and methods of warfare. Weapons that will cause unnecessary suffering are prohibited. Nor may weapons that may cause long-term damage of a severe nature to the natural environment be used. These considerations are also to guide the development, acquisition or adoption of a new weapon.

Combatants are required to distinguish themselves from the civilian population during preparations for, or military operations proper. Where he is unable to distinguish himself, he shall at all relevant times carry his arms openly. This provisions is to further protect civilians from the hostilities of war.

PROTOCOL II: This protocol develops and supplements article 3⁵⁹. common to the Geneva Conventions of 12 August 1949 but does not modify its existing conditions of application. It applies to all armed conflicts that are not covered by Article I or protocol I.

Internal disturbances and tensions⁶⁰ are not armed conflicts as envisaged by the protocol. The protocol guarantees humane treatment for all persons who do not take a direct part in the hostilities and prohibits inter alia violence to the life of the said persons, collective punishment, taking of hostages, pillage, slavery and slave trade in all forms.

Among other guarantees, the protocol forbids the recruitment into the armed forces of children who have not attained the age of fifteen years. Again, such children are not to be allowed to take any part in hostilities.

Article 13 of protocol II protects civilians from the dangers arising from military operations. Accordingly, the civilian population or individual civilians cannot be the objects of military attacks. To further the protection of civilians, starvation may not be used as a tool of war. Again, installations containing dangerous forces may not be attacked to avoid severe damage among the civilian population.

Attacking historic monuments, works of art or places of worship embodying the cultural or spiritual heritage of peoples and to use them in support of the military effort is prohibited.

8. Conclusion

The Congo DR is a vastly blessed country that has unfortunately been torn apart by great strife through the years. The ultimate focus of all stakeholders should be the rejuvenation of political will in this exhausted giant such as would stop gross violations of international humanitarian law, end the conflict and start the journey to true recovery. The study revealed that the rules of International law were not adhered to in the DRC armed conflict and that the responsibilities of parties engaged in armed conflict as regards the treatment of wounded and sick soldiers in the field of battle and at sea; the protection of civilian persons in time of war and the treatment of

prisoners of war as embodied in the Geneva Conventions and Protocols were completely disregarded, hence United Nations' establishment of International Criminal Tribunal to try the perpetrators of such war crimes, crimes against humanity and crimes against peace. It is worthy for African countries and their leaders to learn lessons from this conflict, more especially, the geopolitics trends in Nigeria.

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