

Forum: International Committee of Justice

Issue: Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi)

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Introduction:

The Second Congo War, also known as the Great African War, was a major conflict involving multiple African nations and various armed groups from 1998 to 2003. The Democratic Republic of Congo (DRC) and neighbouring countries, including Burundi, Rwanda, and Uganda, were central to this complex and multifaceted conflict.

On June 23rd, 1999, The Democratic Republic of Congo initiated legal proceedings at the International Court of Justice against Burundi, along with Rwanda and Uganda. The DRC alleged that these countries engaged in military activities on its territory, violating The United Nations Charter and the Charter of the Organization of African Unity through their violent actions during the Second Congo War. In 2001, The DRC sought to address these alleged violations, seeking compensation for the damage caused by these activities and the return of its national property and resources. The specific case of "Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi)" focusses on the accusations against Burundi. The DRC contends that Burundi's military actions violated its sovereignty, caused extensive human rights abuses, and resulted in significant economic damage. Conversely, Burundi denies these allegations, arguing that any military presence was justified by legitimate security concerns and that the DRC's claims lack sufficient evidence.

Definition of Key Terms:

1. **Armed Aggression:** The use of armed force by a state against the sovereignty, territorial integrity, or political independence of another state.

2. **Hutu:** Hutus, also known as Abahutus, make up one of the largest ethnic and social groups of the African Great Lakes region. They are part of the Bantu grouping of ethnicities, and speak their titular language, Bantu. Mostly found in Uganda, Rwanda, and Burundi, the Hutus were the instigating side during the Rwandan genocide.
3. **Tutsi:** Tutsis, also known as Aba Tutsis, are the second largest ethnic and social groups of the African Great Lakes regions. Similarly to Hutus, they are mainly found in Rwanda, Burundi, and Uganda, and are part of the Bantu grouping. As the Tutsis are a minority that held the power in government before colonisation, they were considered the elites, which largely contributed to the tensions between Tutsis and Hutus.

Background Information

Brief timeline of events

1996-1997: First Congo War	November 1996: The First Congo War begins as a rebellion against Zaire's President Mobutu Sese Seko, supported by neighbouring countries, including Rwanda and Uganda.
	May 1997: Mobutu is overthrown, and Laurent-Désiré Kabila becomes President of the newly renamed Democratic Republic of the Congo (DRC).
1998-2003: Second Congo War	August 1998: The Second Congo War begins as President Kabila's former allies, Rwanda and Uganda, support new rebel groups against him. This conflict quickly escalates, involving multiple African nations, including Burundi.
	1998-1999: Burundi, along with Rwanda and Uganda, is accused of sending troops into the DRC, resulting in widespread violence and human rights abuses.
1999: Initiation of Legal Proceedings	June 23: The DRC initiates legal proceedings at the International Court of Justice (ICJ) against Burundi, Rwanda, and Uganda. The DRC accuses these countries of military aggression and violations of international law, including the United Nations Charter and the Charter of the Organization of African Unity.

First Congo War (1996-1997)

Mobutu's long reign in Zaire (now the DRC) was marked by corruption, economic decline, and political repression. In 1996, a coalition of Congolese rebel groups supported by Rwanda and Uganda, began a campaign to overthrow Mobutu. Mobutu's regime faced increasing opposition, leading to a coalition of Congolese rebel groups forming to overthrow him. The deteriorating conditions under Mobutu's rule set the stage for the First Congo War, as various factions sought to end his grip on power.

The Rwandan Genocide

Largely due to the influence of Belgian and German colonialists, tensions between the Rwandan Hutus, the majority ethnic group, and the Rwandan Tutsis had been rising for years in Rwanda. This tension came to a breaking point when the President was assassinated in April 1994, and Hutus, in retaliation, commenced a 100 day spree of nation-wide atrocities committed by Hutus against their Tutsi constituents. Around 500 000 to 800 000 people died in what is considered to be the catalyst of the First, and by extension, Second Congo War, as thousands of Tutsis seeking asylum fled to the DRC. When the Tutsi-led Rwandan Patriotic Front finally took over the government and put an end to the bloodshed, placing leader Paul Kagame at the head of it, the Tutsi emigrants were quickly followed by thousands of Hutu emigrants, seeking protection after it was made clear that Kagame wanted all Hutus held accountable for the genocide.

Emergence of Rebel Groups

In 1996, a coalition known as the Alliance of Democratic Forces for the Liberation of Congo (AFDL) was formed. This group, led by Laurent-Désiré Kabila, received significant support from neighbouring Rwanda and Uganda. Their collective goal was to overthrow Mobutu and bring about a new political order in Zaire (the DRC). The ADFL's campaign was successful and swiftly executed. By May 1997, Mobutu was ousted from power, and Kabila declared himself the president of the newly renamed Democratic Republic of Congo in what is largely considered the beginning of a new era for the country.

The Rise of Tensions

Initially, Kabila maintained strong relationships with his allies, Rwanda and Uganda, who supported his rise to power. However, tensions soon emerged due to disagreements over influence and control within the DRC. Kabila began distancing himself from his former allies, starting by expelling Rwandan military advisors and reducing Rwanda's influence in the DRC.

Deterioration of alliances

Rwanda and Uganda expected to have significant say in the governance and administration of the DRC, given their crucial support in bringing Kabila to power. However, Kabila, keen on asserting his sovereignty and independence, grew increasingly resistant to foreign influence in the internal affairs of his country. The tensions continued to grow as Kabila decided to expel Rwanda's military advisors who had been crucial in helping Kabila maintain control and stability in the country, particularly in the eastern regions. Kabila's decision was seen as a direct affront to Rwanda and a move to consolidate his own power, free from external influence.

Strategic Shifts and Military Build-Up

As Kabila's relationships with Uganda and Rwanda strained, both countries began to reassess their strategic positions. Rwanda and Uganda started to provide support to rebel groups within the DRC, such as the Rally for Congolese Democracy (RCD), which opposed Kabila's government. This military build-up and realignment of alliances significantly increased tensions and set the stage of the Second Congo War to begin.

Outbreak of the Second Congo War (1998-2003)

In August 1998, tensions boiled over into a full scale conflict. Rebel groups supported by Rwanda and Uganda launched an offensive against Kabila's government. These rebel groups, primarily the Rally for Congolese Democracy (RCD) and the Movement for the Liberation of Congo (MLC), sought to overthrow Kabila and establish a government more aligned with Rwandan and Ugandan

interests. The initial stages of the conflict were marked by rapid advances of rebel forces towards the Congolese capital, Kinshasa. The war drew in multiple African nations, including Angola, Namibia, and Zimbabwe, which supported the DRC government, while Rwanda, Uganda, and Burundi supported various rebel factions. The war was not simply a conventional battle for control over The Congo, but also began to drive significant guerrilla warfare, making it hard for any one side to achieve a decisive victory.

Regional Dynamics

Burundi, facing its own internal ethnic conflicts and security concerns, became actively involved in the Second Congo War. The Burundian government, dominated by Tutsi elements, was concerned about the presence of Hutu rebel groups such as the Forces for the Defense of Democracy (FDD) and the National Liberation Forces (FNL), operating from bases in the eastern DRC. These groups posed a direct threat to Burundi's stability and were responsible for cross-border attacks and incursions. To address these security threats, Burundi aligned itself with Rwanda and Uganda, both of which had similar interests in the region. This alignment was part of a broader strategy to counter the Hutu rebel groups and secure regional stability. Burundi's involvement included deploying troops to support the RCD and other rebel factions fighting against Kabila's government. This military engagement was aimed at neutralising the threats posed by Hutu militias and ensuring that the DRC did not become a safe haven for anti-government forces.

Broader regional involvement

The Second Congo War drew in many African Nations, creating a complex web of alliances and rivalries. On one side, Angola, Namibia, and Zimbabwe provided military support to the DRC government led by Kabila. These countries were motivated by a mix of ideological solidarity, economic interests and regional security concerns. On the opposing side, Rwanda, Uganda, and Burundi supported various rebel factions fighting against Kabila's government. Rwanda and Uganda had interests in maintaining influence over the DRC, and Burundi being driven by security concerns

related to Hutu militias. The war became a proxy battleground for regional powers, each pursuing its own agenda in extremely violent form.

Burundian Involvement in Conflict

The DRC lists Burundian involvement in the acts of armed aggression as six-fold. (A single example will be provided for each facet, but the Congolese government alleges multiple instances of each perpetrated violation, all of which can be found in the Institution of Proceedings.)

List of Violations provided by the DRC (Verbatim)	
Massacres	On 24th of August 1998, 856 individuals, mostly unarmed non-combatants like women and children, were murdered in three different localities of the Province of Sud-Kivu.
Rape	The multiple instances of rape on women and children were reported to have taken place on the 22 September 1998 in Bukavu.
Abductions and murders of human rights activists	A period of time in which the events took place in particular is given, in this case the first three months of the invasion, but no specific instance is given.
Arrests, arbitrary detentions, inhuman and degrading treatment	These events are said to have taken place in and around Bukavu, though, once again, no specific instance is given.
Systematic looting of public and private institutions, theft of property of the civilian population	The Mumba Health centre was looted on the 15th of September 1998 by Burundian troops.

Human rights violations committed by the invading Burundian troops and their “rebel” in the major cities of Orientale province	While no specific instance is provided, the DRC does define the reason for this void of information as the systematic destruction of telecommunication facilities and the forced repatriation of any and all international humanitarian organisations on site.
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Current Situation

Impacts of the Second Congo War

The Second Congo War had profound and far-reaching impacts on the Democratic Republic of Congo (DRC), Burundi, and the broader region. As one of the deadliest conflicts since World War II, it resulted in a severe humanitarian crisis, with millions of people displaced and widespread human rights abuses committed by all parties involved. The economic devastation caused by the war disrupted trade, agriculture, and infrastructure, further exacerbating the suffering of the affected populations.

Humanitarian Crisis

The Second Congo War had resulted in one of the worst humanitarian crises in modern history. Millions of people were displaced, creating vast numbers of refugees and internally displaced persons. These populations faced severe hardships, including a lack of access to food, clean water, and medical care. Humanitarian organisations struggled to provide aid due to the ongoing conflict and insecurity exacerbating the suffering of the affected communities.

Human Rights Violations

Both the Democratic Republic of Congo (DRC) and Burundian forces were accused of committing serious human rights abuses during the conflict. These included mass killings, rapes, and forced conscriptions of child soldiers. The DRC government forces and allied militias were implicated in atrocities against civilians suspected of supporting rebel factions. Burundian

troops, in their efforts to combat Hutu rebel groups, were accused of similar atrocities, contributing to the widespread violence and insecurity.

Economic Devastation

The economies of the DRC and Burundi took serious hits. In the DRC, the conflict disrupted trade and agriculture, leading to food shortages and economic decline. Infrastructure, including roads, bridges, and schools, were destroyed or severely damaged. The exploitation and looting of natural resources, such as minerals or timber, by various armed groups, including Burundian forces, further pressed the economic crisis. In Burundi, the economy of the nation was disrupted as crucial resources were diverted to fund military operations, leading to financial strain and reduced investment in essential services. The conflict disrupted regional trade and agricultural activities, contributing to food shortages and economic instability. Additionally, the influx of refugees and the broader regional instability further strained Burundi's resources and infrastructure.

Legal action by the Democratic Republic of Congo

Continental proceedings

On March 8th, 1999, the DRC appealed to the African Commission on Human and Peoples' Rights (ACHPR), alleging that Rwanda, Uganda, and Burundi had committed human rights violations on the DRC's territory. In the past, the DRC had accused the Burundi of armed aggression on their territory during the First Congo War, and Burundi had not only denied involvement, but also denied the possibility of there being any proof of involvement. The letter, through which the appeal was made in this instance, clearly states that there is proof of Burundi's involvement. When the case was closed in May 2003, the ACHPR found all three states guilty of armed aggression and in violation of the African Charter, the United Nations Charter, among others. Immediate withdrawal of troops and reparations to the DRC were demanded.

International proceedings

On June 23rd, 1999, the DRC initiated legal proceedings at the International Court of Justice (ICJ) against Burundi, Rwanda, and Uganda. The DRC sought to hold these countries accountable for their military actions and human rights violations. The DRC's legal documents were based on violations of International Law, including the United Nations Charter, which prohibits the use of force against the territorial integrity or political independence of any state, and the Charter of the Organization of African Unity, which emphasises the sovereignty and territorial integrity of member states.

The DRC however discontinued the proceedings they had instituted against Burundi and Rwanda on the 15th of January 2001, claiming the right to institute new cases against these countries pertaining to different accusations.

Major Parties Involved and Their Views

The Democratic Republic of Congo (Applicant)

At the time, The DRC accused Burundi of engaging in armed aggression against its territory. The DRC's stance would assert that Burundi, in alignment with Rwanda and Uganda, had supported various rebel groups operating in the eastern DRC, thereby violating the DRC's sovereignty and contributing to the conflict's escalation. The DRC was very heavy leaning towards their own sovereignty and wanted that to be highlighted throughout their stance.

Breach of International Law

The DRC appealed to the court, pursuant to article 40, paragraph 1 of the Statute of the ICJ, and article 38 of the Rules of the Court, "*on account of acts of armed aggression perpetrated by Burundi on the territory of the Democratic Republic of the Congo, in flagrant violation of the United Nations Charter and of the Charter of the Organization of African Unity*", as the Application Instituting Proceedings states. As well as the violation of these charters, Burundi's alleged armed aggression in the DRC violates the latter's sovereignty and territorial integrity, in addition to

international humanitarian law and human rights. The DRC sought, through the institution of proceedings, the immediate cessation of armed aggression committed by Burundi, payment of reparations for “intentional destruction and looting”, and restitution of national property and resources taken by Burundi.

Burundi (Respondent)

Burundi’s stance at the International Court of Justice in response to the Democratic Republic of the Congo’s accusations centred on justifying its military involvement in the DRC as a necessary measure to counter Hutu rebel groups threatening its security. Burundi argued that its alignment with Rwanda and Uganda was part of regional efforts to address common security challenges and stabilise the region. It contested the DRC allegations of human rights violations, challenged the ICJ’s jurisdiction and sought dismissal of the case and presented counterclaims against the DRC. Burundi’s position emphasised regional cooperation and security concerns as key justifications for its actions during the conflict

Unjustified appeal

In Burundi’s memorial, it denies acceptance of the Court’s jurisdiction in this case, and likewise, denies consenting to its presentation before the Court. It also repudiates the relevance of the DRC’s cited documents, The New York 1984 Convention against Torture and the Montreal 1971 Convention on Civil Aviation. Finally, it criticises the lack of precision in the DRC’s accusations.

It refutes, using the prior arguments, the DRC’s claims of the Court holding jurisdiction and of the case having any merit, while contesting the allegations of violations that the DRC is posing.

UN Involvement, Relevant Resolutions, Treaties and Events

- United Nations Security Council Resolution 1234, 9 April 1999([S/RES/1234](#))
 - This unanimously accepted Security Council resolution called for an immediate end to the conflict and a ceasefire, while reminding all countries to respect the territorial integrity and sovereignty of the countries involved. Following this resolution’s passing, most of the

countries involved signed the Lusaka Ceasefire Agreement, promising to end the conflict, repatriate prisoners of war, and agree to a UN peacekeeping force having jurisdiction in the area. This ceasefire unfortunately did not last.

- African Charter on Human and Peoples' Rights ([Link](#))
 - This charter is fundamental to the legal framework within the African continent, emphasising the protection of human rights, peoples' rights, and holding states accountable for violations.
- Lusaka Ceasefire Agreement (1999) ([Link](#))
 - This agreement was signed by the DRC, Angola, Namibia, Zimbabwe, Rwanda, Uganda, and rebel groups, aiming to end hostilities and establish a framework for peace and reconciliation. The agreement's failure and subsequent breaches are key to understanding the ongoing conflict
- United Nations Charter (1945) ([Link](#))
 - Article 51: States the right to self-defence. A major reason for which Burundi had been fighting the DRC.

Possible Arguments

Applicants (The DRC)

The DRC's goal is to argue that Burundi's military involvement in its territory constitutes a breach of its sovereignty and territorial integrity, and that Burundi's actions were unauthorised and constituents of armed aggression on a sovereign state.

Specific use of the articles of law that the DRC submitted to the court as part of their case, including the UN Charter, the New York Convention of 10 December 1984 against Torture or Other Cruel, Inhumane or Degrading Treatment or Punishment, and the Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation, is highly recommended, as it can give advocates direction when choosing witnesses and evidence. A reminder to the advocates of the Applicant that their goal is to convince the judges beyond reasonable doubt.

Respondents (Burundi)

Burundi could argue that its military involvement in the DRC was a justified response to security threats posed by the Hutu rebel groups operating from the eastern DRC. It could also contend that these actions were necessary for protecting its national security and stability.

For reference, Uganda's first counter-claims to justify their actions during the case *Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda)*, which was found inadmissible, was the DRC's finance of anti-Ugandan militias and rebel groups. The second counter-claim of maltreatment of Ugandan nationals on the DRC's territory was however given credibility.

Advocates for the Respondent are encouraged to take advantage of the lack of precision, if any, in the DRC's accusations, as specificity is paramount in any proceedings of a legal nature. An individual approach to each of the six aforementioned counts of violations to discredit them or justify them is another possible argument.

*These are suggested arguments

Bibliography

Useful Links

- [Second Congo War | 3 Minute History](#)
- [Timeline: Eastern Congo: A Legacy of Intervention](#)
- [Second Congo War - The African World War](#)
- [Armed Activities on the Territory of the Congo \(Democratic republic of Congo v. Uganda\) - International Court of Justice](#)
- [Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against Civil Aviation](#)
- [United Nations Charter](#)
- [New York Convention of 10 December 1984 against Torture or Other Cruel, Inhumane or Degrading Treatment of Punishment](#)
- [Communication 227/99: DRC v. Uganda, Burundi and Rwanda - ACHPR](#)

- [Statute of the ICJ](#)
- [Rules of the Court \(ICJ\)](#)

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