
**KILLING THEM SOFTLY: HAS FOREIGN AID TO RWANDA AND UGANDA
CONTRIBUTED TO THE HUMANITARIAN TRAGEDY IN THE DRC?**Timothy B. Reid¹

Despite Rwanda's and Uganda's invasions of the Democratic Republic of Congo (DRC) since 1996 and the ensuing deaths, economic collapse, and cost of UN peacekeeping, Western Governments continue to provide significant military and development aid to Rwanda and Uganda. Since aid accounts for the majority of these countries' official budgets, donors could have had considerable leverage: the threat of aid withdrawal may have provided Rwanda and Uganda with the incentive to cease military operations in the DRC. Given the number of reports by the UN, international NGOs, and the press, it is impossible that donor countries were not aware of the activities being conducted by Rwanda and Uganda in the DRC. With the creation of the International Criminal Court (ICC), a strong case can be made that knowingly giving aid to countries that will use it directly or indirectly to wage wars of aggression, would make donors complicit in war crimes and crimes against humanity. The Alien Tort Claims Act may provide some remedy in American courts.

Introduction

It is likely that more people have died (either directly or indirectly) as a result of the conflict in the Democratic Republic of Congo (DRC) from 1996 to the present, than in the Rwandan and Cambodian genocides¹. The Ugandan and Rwandan invasions of the DRC lie at the heart of the gross violations and serious abuses of human rights, including potential crimes of genocide, that have occurred in the DRC. This paper will contend that the invasions and ensuing deaths occurred at a time when there was considerable Western support to both Rwanda and Uganda, even after the human right violations had come to light.

This paper will briefly describe (i) the human cost of the war in the DRC, (ii) the relation of foreign aid to Ugandan and Rwandan defense budgets, and (iii) the economic gains accrued to both countries. It will show that there has been ample documented evidence from 1997 onwards of Rwandan and Ugandan responsibility for gross human rights violations, and that major donors should have been aware of these crimes. This paper will demonstrate that the occupation of the DRC can not only be considered partly as an investment that provided high returns for both

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countries, but also that the continuation of Western aid implicitly condoned both their occupation of the DRC and the associated human rights violations. Arguments by the donor community about the futility of suspending aid to both countries were disproved when temporary aid suspensions were either threatened or implemented. Even if suspending aid had been ineffective, it seems hard to understand why countries that have the resources to invade their neighbors would need donor support.

The paper will conclude with an analysis of whether donors bear a legal responsibility for their support to Rwanda and Uganda. It will argue that an attempt should be made to hold donors accountable, preferably by exercising prior due diligence.

The Conflict in the DRC: a Brief History

In 1996, Rwanda and Uganda led a group of neighboring states to invade what was then Zaire, officially to fight their own rebels who had taken refuge there. However, as the regime of Zaire's President Mobutu collapsed, both countries took the war to the capital, Kinshasa, and installed a new government, with Laurent Desiré Kabila, a former comrade in arms from the 1960s², as President and General James Kaberebe, a Rwandan, as chief of the armed forces. The country was renamed the Democratic Republic of Congo. When relations with



President Kabila soured, Rwanda, Uganda (and Burundi) again invaded the DRC in 1998, once again purporting to fight rebels that had taken refuge in the DRC³. Kabila's government fought back with the help of Angola, Zimbabwe, Namibia and the Mai Mai⁴ in the East, and the war turned into a stalemate. Uganda and Rwanda then fought over control of the diamond trade in Kisangani, a city in northern DRC, in August 1999 and their mutual relations have been strained ever since. Kabila was assassinated in 2001 and his son Joseph assumed the presidency. After tortuous peace negotiations and with the presence of a small UN mission (for the size of the country), the DRC is now moving fitfully toward elections, scheduled for the summer of 2006. Rwanda and Uganda continue to intervene in the country's affairs, however⁵.

The Human Cost of the War in the DRC

According to the International Rescue Committee's most recent study ending in July 2004, over 3.8 million were estimated to have died (directly and indirectly) in the DRC since 1998 as a result of the second invasion and occupation, and that 31,000 were still dying monthly⁶. Given that conflict is ongoing, this is unlikely to have abated completely.

There are no exact figures for the death toll of Rwanda's and Uganda's preceding invasion in 1996-1997. The UN High Commissioner for Refugees (UNHCR) has a figure of 213,000 Rwandan Hutu (thus not including Congolese) refugees unaccounted for⁷. The first report of the UN Special Rapporteur, Roberto Garreton, published in July 1997, listed 134 allegations of massacres, "most of them carried out by AFDL⁸ and the Banyamulenge rebels"⁹. A UN Team sent to investigate was stymied and blocked by the then Rwanda-controlled Congolese government, but was able to do enough research to determine that "...the killings by AFDL and its allies, including elements of the Rwandan Patriotic Army¹⁰, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu refugees. The members of the Team believe that some of the killings may constitute genocide, depending on their intent, and call for further investigation of those crimes and of their motivation"¹¹:

Economic Aspects of the Occupation

This section of the paper argues that in purely financial terms, Rwanda and Uganda benefited from their invasions of the DRC. The argument starts with Rwanda and then turns to Uganda. The income and cost figures referred to in the rest of this section are summarized in Table 1. The author acknowledges at the outset that the analysis here considers purely financial costs and benefits.

Rwanda's Return on Investment

Since 1997, the official Rwandan military budget has never exceeded US\$100 million per year, but that likely bears no relation to actual military expenses. A UN expert panel report published in April 2001, which investigated illegal exploitation and other forms of wealth accumulation in the DRC¹², estimated that the Rwandan army was probably spending at least US\$51.6 million a year in the DRC on troops and flights¹³ to which can be added an estimated US\$8.4 million yearly for ammunition, equipment and maintenance in the DRC¹⁴. This gives a total cost of US\$60 million. A later Panel Report in 2001, extrapolating from a source at the Rwandan Ministry of Defense,

estimated the total defense budget (including the DRC operation) at up to US\$400 million¹⁵ of which 80% was paid for by the Rwandan army's Congo operations¹⁶, meaning that both costs and returns were likely to be considerably higher. According to the UN Panel, *“Rwanda’s military appears to be benefiting directly from the conflict. Indeed, the Panel has noted a great integration between the military apparatus, the State (civil) bureaucracy and the business community. RPA finances its war in the Democratic Republic of the Congo in five ways: (a) direct commercial activities; (b) profit from shares it holds in some companies; (c) direct payments from RCD-Goma; (d) taxes collected by the “Congo desk” and other payments made by individuals for the protection RPA provides for their businesses; and (e) direct uptake by the soldiers from the land.”*¹⁷

Table 1: Estimates of Rwandan and Ugandan Finances for War in DRC

	Rwanda Low Estimate 2000	Rwanda High Estimate 2000	Uganda High Estimate 1999
	US\$ million	US\$ million	US\$ million
Diamond Trade	1.8	40.0	1.8
Authorization Payments	4.0	4.0	0.0
Gold	-	15.0	104.9
Coltan	167	191.0	6.2
Niobium	0.0	0.0	0.8
Timber	0.0	0.0	0.7
Tax revenue transfers			60.0
Total Income	172.8	250.0	174.4
Troops (including ground transport)	30.0	30.0	23.6
Ammunition, Equipment and Maintenance	8.4	8.4	3.8
Flights	21.6	21.6	0.0
Total Cost	60.0	60.0	27.4
Net Income	112.8	190.0	147.0

Source: Author based on sources cited in the text.

After 1997, Rwandan exports of coltan¹⁸, a mineral used in making cell phones and other high tech devices, increased substantially. Most of the coltan was mined in the DRC in areas under Rwandan control before being shipped abroad through Kigali under control of the informal administrative department in charge of the DRC, the “Congo Desk”, and two companies: Rwanda Metals and Grands Lacs. Documents were even signed by a former head of the Congo desk, Dan

Munyuneza, and key partners of Rwanda Metals appeared to be top military officers¹⁹. In addition, the Rwandan army often appeared to attack Mai Mai militias just when these had collected coltan in areas under their control.²⁰ There were a number of reports that the Rwandan army brought in prisoners from Rwanda who were offered a reduced sentence and/or some small pay to labour as coltan miners. An independent researcher, Bjorn Willum, reports five mining sites from where the Rwandan army transported the coltan directly to Rwanda via plane or helicopter.²¹ Along with former Canadian UN Ambassador Robert Fowler²², he also alleges that Angolan diamonds were exported by the rebel União Nacional para a Independência Total de Angola (UNITA) through Rwanda, undoubtedly providing payments to the Congo Desk²³, in breach of a UN embargo on buying or selling Angolan diamonds. The Panel never provided any global figure for all the resources that Rwanda or other parties amassed in the DRC, nor for all the damage done by the invasion to the Congolese economy. However, extrapolating from the Panel and other sources such as Willum²⁴, the Rwandan take from the DRC for 2000 can be estimated as follows:

- **Diamonds:** though Rwanda produces no diamonds, it exported US\$1.8 million of the precious stones in 2000²⁵. It also earned at least US\$4 million from granting authorization to diamond dealers, such as Messrs. Nassour and Arslanian, operating in areas under its control, providing on average US\$2 million per year each directly to the Congo desk²⁶. Willum estimates that the total diamond trade could have been worth anywhere from US\$1.8 million to US\$40 million in 2000, as per Table 1.
- **Coltan:** based on figures provided by the Panel²⁷, the take in coltan revenues must have been at least US\$167 million for 2000 (the year of highest prices), while Willum provided a conservative estimate of US\$191 million.
- **Gold:** the Panel does not give an estimate for gold or all the other taxes, licensing schemes, monopolies etc. that the RDF set up in the Eastern DRC, though Willum has an estimate of at least US\$15 million for gold that went to Rwanda.

Based only on information from the Panel, the Rwandan take from the DRC must therefore have been at least US\$172.8 million for 2000 as per Table 1, though Willum believes that US\$250 million would be a conservative estimate²⁸. This compares to a monetary cost of US\$60 million for the Rwandan army's DRC operations, giving a net income of between US\$112.8 million and

US\$190.0 million. If Rwanda's military operations in DRC are viewed as an investment, they had an estimated return of 188-317%.

Uganda's Return on Investment

Uganda generally had a smaller footprint in the DRC than Rwanda, though it was equally ineffective at achieving any "progress" against its rebel groups based there. According to the Panel, Uganda had approximately 10,000 troops in the DRC at any one time²⁹. Given a total force of 50,000 in the Ugandan army and an overall personnel budget of US\$41 million in 1999³⁰, this would give a basic cost of US\$8.2 million plus bonuses³¹ worth US\$2.4 million for a yearly total of US\$10.6 million in total personnel costs. The UN Panel estimated transport costs at approximately US\$13 million. Using the same extrapolation that was applied to Rwanda, we estimate another US\$3.8 million in purchase, maintenance and replacement of equipment. The total estimated cost of Uganda's presence in the DRC for 1999 was therefore about US\$27.4 million, as per Table 1³².

According to the Panel, the Ugandan exploitation of resources in the DRC differed from that of Rwanda in that it was less "systematic" and "pyramidal" and more the work of "...individuals, mainly top army commanders, using their hold over their collaborators and some officials in rebel movements... exploiting the resources of the DRC. However, this is known by the political establishment in Kampala"³³. This is not surprising given that atop the list of those most implicated were President Museveni's brother, Major General Khaleb Akandwanaho (aka "Salim Saleh"), Saleh's wife Jovia Akandwanaho, and Brigadier General James Kazini, former Chief of Staff of the Ugandan army and former Commander of Military Operations in the DRC³⁴. *"The Panel has received very reliable information clearly showing how General Kazini ... assisted in training different Hema militia, and manipulated those groups to fight each other. ... There are strong indications that some UPDF (the Uganda army) elements may spark violence so as to remain in the region in an attempt to control the gold-rich area and the potentially coltan-rich areas There is, therefore, a clear intent of the military commanders to control these mineral-rich areas and keep them for long-term exploitation."*³⁵.

As with Rwanda, Uganda's take from the DRC is difficult to estimate. Nonetheless, there is enough information for 1999 to suggest a conservative estimate:

- **Gold:** based on the discrepancy between Ugandan gold exports and Ugandan production, we obtain approximately US\$104.9 million³⁶.
- **Diamonds:** Uganda has no known diamond production, but exported approximately US\$1.8 million worth in 1999.

- **Nobium:** Uganda also has no production of the niobium mineral, but its exports increased to US\$0.8 million in 1999.
- **Coltan:** exports of this mineral from Uganda similarly rose from 2.6 tons before the conflict in 1997 to 69.5 tons in 1999³⁷. At US\$40/lb, that would give US\$6.2 million for 1999. Other reports estimate Uganda's production of coltan for 1999 at 256.3 tons³⁸ rising to 2,712 tons in 2000³⁹, before dropping to almost zero in 2001 (Whether this was because the trade died down or Uganda avoided reporting following bad publicity is not known).
- **Timber:** based on the figures from the Panel and the type of wood most commonly exported, we obtain a rough estimate of timber of approximately US\$0.7 million taken to Uganda in 1999⁴⁰.
- **Tax:** another important way in which the Panel alleges Uganda benefited was that export taxes normally due to the Congolese government were not charged to corporations controlled by top Ugandan commanders and their proxies operating in the DRC. Instead these taxes were paid upon export from Uganda, effectively transferring in 1999 at least US\$60 million that was supposed to have gone to the DRC treasury to the Ugandan treasury.

Not including other items like cassiterite (a mineral), coffee and any other appropriation of resources, we obtain a conservative estimate of Uganda's take from the DRC of approximately US\$174.4 million as per Table 1. This compares to monetary costs of the military incursion of US\$27.4 million, giving net income of US\$147 million. If the Ugandan military activity in DRC is viewed as an investment, it had an estimated 536.5% return for 1999.

Playing the Aid System

Not only did Rwanda and Uganda benefit financially from their invasion of the DRC, but according to the Panel, their creditworthiness also improved during this time⁴¹, which allowed both countries to obtain debt relief. Ugandan debt service fell from approximately US\$88.6 million in 1999 to US\$47.1 million in 2000 following a substantial debt write-off earlier in the year⁴², while Rwanda paid approximately US\$30.4 million in debt service in 2000, falling to US\$14.8 million in 2001⁴³.

Cancelling debt can be considered as another way of effectively giving unconditional aid to a country⁴⁴. Of course, even conditionality to aid can be got round through fungibility: if a donor pays for all the schools and hospitals (either through the Government or NGOs), that leaves more money for military expenditure⁴⁵.

According to the OECD, the main donors to Rwanda over the past ten years have been the US, UK, EU and the Netherlands⁴⁶. It is disquieting to see that during Rwanda and Uganda's period of greatest appropriation of resources in the DRC, the development community appeared to hail these two countries as models of economic development⁴⁷, and promoted the introduction of unconditional aid. For example, the UK aid agency (DFID) announced in September 2000 a grant of £63 million (US\$95 million) over a three-year period to support "*the [Rwandan] government's own policy issues, including the reduction of poverty, economic growth and good governance initiatives*"⁴⁸.

Military aid

In addition, Rwanda and Uganda have benefited from military aid⁴⁹. The US, for example, has military cooperation agreements with both countries. Astonishingly, the agreement with Rwanda was signed right after a rebel army with strong links to Rwanda sought to take control of Bukavu, the capital of South Kivu province, in May-June 2004⁵⁰. The US Department of Defense has also admitted that its special forces provided basic training to the Rwandan army in the late 1990s⁵¹. A US-based NGO, Human Rights Watch, alleges that at the time the US government actively opposed the UN investigation into atrocities in the DRC and privately requested President Laurent-Désiré Kabila not to cooperate with the investigation⁵². Though military financing funding to Uganda is supposed to cease in 2006, both Rwanda and Uganda will continue to receive training support, and will continue to purchase arms from both public and private US sources. As recently as 2004-2005, US military assistance amounted to US\$4.8 million for Uganda, while weapon purchases from the US amounted to US\$7.7 million. The equivalent figures for Rwanda were US\$0.6 million⁵³ and US\$0.5 million⁵⁴ (in 2005), respectively.

Could Suspending Aid Have Had an Effect?

Many donor organizations⁵⁵ have claimed that suspending aid to Rwanda or Uganda would not have any effect and that it would be the poor people of those countries that would suffer. However, it is questionable how much aid was actually going to the poor in both countries in the first place. According to the World Bank, before the genocide in Rwanda in 1994, 39% of national income went to the 20% (predominantly Hutu) richest and 10% to the 20% (predominantly Hutu) poorest. At present, 51% of national income goes to the (now predominantly Tutsi) 20% richest and just 5% to the (still predominantly Hutu) poorest⁵⁶. Most of the returns from the occupation of the DRC appear to be appropriated by the Tutsi elite in Kigali, the capital, which has taken on the look of a boom town in recent years⁵⁷.

Uganda's social record is somewhat better. For example, the country has made good progress on HIV/AIDS, decreasing its infection rate from 14% of adults in the early 1990s to 9% by the end of the 1990s⁵⁸. However, the Global Fund to Fight AIDS, Tuberculosis and Malaria, an independent non-profit organization, suspended US\$367 million in grants to Uganda in August 2005, after discovering that \$45 million had been diverted to sham NGOs created by local politicians⁵⁹. The funds were only restored in December 2005⁶⁰. Furthermore, a recent IMF paper found that the overall level of poverty increased from 1999 to 2002⁶¹. From 1996, when it first invaded the DRC, to 1999, its Gini coefficient, which measures the level of inequality on a scale of 0 to 1, deteriorated, from 0.37 to 0.43⁶².

Foreign donors should also have considered the damage that their aid to Rwanda and Uganda has caused to their other efforts in the neighboring DRC. As the International Rescue Committee, an independent NGO, said in reference to the conflict in that country: *"In a matter of six years, the world lost a population equivalent to the entire country of Ireland or Los Angeles. How many innocent Congolese have to perish before the world starts paying attention?"*⁶³. In addition, almost all the remaining infrastructure paid for by foreign donors in the DRC was destroyed and looted during the two invasions⁶⁴.

After factoring in the net returns from Rwanda's exploitation of the DRC's resources (US\$112.8-190.0 million) in 2000, a suspension of the US\$322.0 million in gross foreign aid that year would have meant a net loss of US\$132.0-209.2 million (220.0–348.7%). If the US\$15.6 million of debt relief for that year is included, the net loss would have been a US\$147.6-224.8 million (246.0-374.7 %). This was equivalent to 7.3-11.6% of GDP for 2000⁶⁵. As a Rwandan rebel said in 2002: *"We haven't fought much with the RPA [the Rwandan army] in the last two years. We think they are tired of this*

war, like we are. In any case, they aren't here in the Congo to chase us, like they pretend. I have seen the gold and coltan mining they do here, we see how they rob the population. These are the reasons for their being here. The RPA come and shoot in the air and raid the villagers' houses but they don't attack us anymore. If you are lucky and you have a big brother in the RPA, he might be able to get you some food and ammunition⁶⁶”.

In 2000, the new Bush administration threatened to deny support for IMF aid to Rwanda if the latter did not withdraw its troops from the DRC⁶⁷. Rwanda subsequently pulled out of the DRC in September 2002 but this did not prevent it from continuing to interfere in that country. Rwanda sought to block the Congolese peace process and keep its proxies in power: it stymied the repatriation of its Hutu rebels, it encouraged Congolese separatist movements, and it supported warring militias in the Ituri province of the DRC⁶⁸. Despite years of war and pillage, on April 14, 2005, the IMF and the World Bank agreed to write off US\$1.4 billion of Rwandan debt under the Heavily Indebted Poor Countries (HIPC) initiative⁶⁹. April 15, Kagame met President Bush in the White House and April 19, he again threatened to invade the DRC despite an ongoing peace overture by the FDLR at the time⁷⁰.

According to the earlier estimate, Uganda earned net profit of US\$147 million (536.5%) for 1999, in a year when it received US\$590.4 million in development assistance, and received another US\$41.5 million in debt relief. Had aid been suspended, and assuming the country would have maintained its presence in the DRC, that would have represented a net loss of US\$443.4 million (1618.0%). If debt relief for that year is included, the net loss would have been US\$484.9 million (1769.7%), equivalent to 8.1% of Uganda's GDP⁷¹. If we included all future years of debt relief, the loss would be considerably higher. It is therefore no surprise that Uganda chose to leave the DRC in 2003 under threat of losing aid⁷².

The Current Situation

Today, Rwanda continues to interfere in the DRC while maintaining repression at home. Revenue still comes in from proxies in the DRC even after the Rwandan army's official withdrawal: for example Rwanda claimed to have mined 283 tonnes of cassiterite in 2003 but officially exported 1,458 tonnes. Nonetheless, the World Bank just gave Rwanda another US\$55 million grant on November 10, 2005 while the IMF subsequently extended total debt relief the month after⁷³ Rwanda is attempting to get the donor community to guarantee its aid budget in exchange for specific domestic reforms while some donors try to tie aid to certain sectors such as education in case they have to cut off aid because of the country's policies⁷⁴, though this would not solve the problem of fungibility. Despite the continued flow of arms into Ituri from Uganda after the UPDF left, Uganda continues to receive very generous aid, though some donors are starting to hesitate because Museveni has been cracking down on his opposition, much like President Kagame. In December, 2005 the IMF announced a 100% write off of Uganda's debt to it⁷⁵ and the Global Fund for AIDS, Tuberculosis and Malaria has restored the US\$360 million previously suspended⁷⁶. Uganda has also allowed the political HQ of a new group of Rwandan rebels [Rassemblement du peuple Rwandais (RPR)] to be established in Kampala which regroups both Tutsi and Hutu opponents of Kagame. Rwanda, for its part has been accused for a while of supporting Ugandan rebel groups the Lord's Resistance Army (LRA) and the People's Redemption Army (PRA)⁷⁷.

Is There A Legal Case?

Are there National Responsibilities?

The International Court of Justice (ICJ) already found against Uganda in December 2005, stating that the country "*is under obligation to make reparation to the DRC for the injury caused*":

- "*by engaging in military activities against the DRC Congo on the latter's territory, by occupying Ituri and by actively extending military, logistic, economic and financial support to irregular forces having operated on the*

territory of the DRC, violated the principle of non-use of force in international relations and the principle of non-intervention;

- *... by the conduct of its armed forces, which committed acts of killing, torture and other forms of inhumane treatment of the Congolese civilian population, ...; as well as by its failure, as an Occupying Power, to take measures to respect and ensure respect for human rights and international humanitarian law in Ituri district, violated its obligations under international human rights law and international humanitarian law;*
- *...by acts of looting, plundering and exploitation of Congolese natural resources committed by members of the Ugandan armed forces in the territory of the DRC and by its failure to comply with its obligations as an occupying Power in Ituri district to prevent acts of looting, plundering and exploitation of Congolese natural resources, violated obligations owed to the DRC under international law⁷⁸.*

The DRC has asked for US\$10 billion in reparation and the two countries are currently in the process of negotiation⁷⁹. Given the equal or greater amount of evidence against Rwanda, the ICJ would probably have found against it as well but Rwanda refused the jurisdiction of the ICJ beforehand and the Court decided that it was not competent to hear the case⁸⁰.

Are there Individual Responsibilities?

Individual crimes of such nature are now under the jurisdiction of the International Criminal Court (ICC), established in July 2002,⁸¹ which has commenced processing cases and developing a jurisprudence. Its statute has not been ratified by all countries but already Thomas Lubanga, the leader of the rebel Congolese movement, Union des patriotes congolais, who has been supported by both Uganda and Rwanda at different times, has appeared before it⁸². Should Western leaders who assisted some of these individuals also be indicted?

Article 5 of the Rome Statute setting up the Court lists the crimes of genocide, aggression, war crimes and crimes against humanity as within the Court's jurisdiction. Subsequent articles elaborate on these. Article 7 lists crimes against humanity when committed as part of a widespread or systematic attack directed against any civilian population. War crimes are defined to include grave breaches of the Geneva Conventions of 1949 as well as other serious violations of the laws and customs applicable in international armed conflict including intentionally directing attacks against the civilian population, attacking hospitals, pillaging, enlisting children under fifteen, etc. All of these crimes were committed in abundance during the invasion of the DRC, as already noted in the judgment by the ICJ against Uganda cited above.

Article 25 of the Rome Statute outlines individual criminal responsibility for the above crimes: *“for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission”*. Article 30 adds that a person shall be criminally responsible and liable for punishment only if the material elements are committed with intent and knowledge. The statute goes on to say a person *has* intent where he means to engage in the conduct and in relation to consequence, the person means to cause it or *is aware that it will occur in the ordinary course of events*. Furthermore, under the Rome Statute, there is no immunity for office holders⁸³.

Are there donor responsibilities?

Even if they did not actively participate in Uganda and Rwanda’s invasions and massacres as some allege⁸⁴, foreign donors certainly provided financial means to Rwanda and Uganda and should have been aware that these countries were committing the crimes included in the statute. There was enough available documentation for them to know about the situation in the DRC. Already in 2001, the UN Panel stated that: *“The link between the continuation of the conflict and the exploitation of natural resources would have not been possible if some entities, not parties in the conflict, had not played a key role, willingly or not. Bilateral and multilateral donors and certain neighboring and distant countries have passively facilitated the exploitation of the resources of the DRC and the continuation of the conflict”*⁸⁵ The Panel reached the conclusion that *“the increase in revenues of the Rwandan army from coltan sales was made easy by ... the political legitimization provided by some developed countries”*⁸⁶. The Panel also suggested that *“the problem is that expenditures and services which were supposed to be provided and covered by the Governments of Rwanda and Uganda and which are covered by the bilateral aid constitute savings in the national budget”*⁸⁷. Were these savings used to finance this war?.

Multilateral institutions also have a case to answer for. Regarding Uganda, notes exchanged between World Bank staff clearly show that the Bank was informed about a significant increase in gold and diamond exports from a country that produces very little of these minerals⁸⁸: *“Internal discussions confirm that “a staff member warned his colleague that the World Bank silence would blow up in the Bank’s face.”*⁸⁹ *“The Bank not only encouraged Uganda and Rwanda indirectly by defending their case, but equally gave the impression of rewarding them by proposing these countries for the Highly Indebted Poor Countries debt relief initiative.”*⁹⁰ Furthermore, the Panel stresses that the pillaging of resources in the DRC also allowed both countries to increase borrowing and raise absolute defense budgets while still maintaining the same percentage of the budget for defense spending.⁹¹

So far, donors have refused to admit responsibility. A spokesperson for the British Foreign Office, for example, has admitted that if Rwandan involvement in the eastern DRC were proven, the UK's position would have to be reconsidered but “so far, [they had] seen no evidence that Rwanda [was] funding militia groups within the DRC. We were concerned by reports of Rwandan involvement during the Bukavu crisis in May-June 2004. The United Nations Mission in the DRC could not confirm these reports, and the Rwandan Government categorically denied them”⁹². However, MONUC staff personally and regularly informed the British Ambassador in Kigali of such facts and a report by a panel of experts had formally made the point in a report published in July 2005⁹³. Ironically, Prime Minister Tony Blair is also behind the Extractive Industries Transparency Initiative which “aims to ensure that the revenues from extractive industries contribute to sustainable development and poverty reduction”⁹⁴. Not surprisingly, neither Rwanda, Uganda nor the DRC have signed up yet.

In the author's opinion, donor governments do have a case to answer, since their behavior can reasonably be construed as assistance. Given credible reports by international organizations and NGOs, they should have known the nature of the activities of the governments they were assisting and that their help might facilitate criminal acts. As the DRC is a party to the Rome Statute, the crimes committed there are potentially within the jurisdiction of the ICC⁹⁵. Even where the other states implicated are not signatories, the ICC still theoretically could have jurisdiction⁹⁶.

Despite official US hostility to the ICC, US law contains some remedies for such acts under the Alien Torts Act (ACTA)⁹⁷: (1) ...*The Alien Tort Claims Act confers upon the federal district courts “original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations.” ... (2) ... We have recognized that torture, murder, and slavery are jus cogens violations and, thus, violations of the law of nations. (4)We hold that the standard for aiding and abetting under the ATCA is, as discussed below, knowing practical assistance or encouragement that has a substantial effect on the perpetration of the crime”.*

Will senior officials in western donor countries or multilateral institutions ever be held accountable? This is unlikely. The Rome Statute does not apply retroactively to its entry into force in 2002⁹⁸. Under US law, foreign states and multilateral institutions are normally protected against prosecution for acts committed abroad. Furthermore, the DRC would probably not want to upset the foreign donors whose support is critical. Past experience is not encouraging either: though Yugoslavia, a Russian parliamentary commission and others tried to bring a case against NATO for its bombardment during the Kosovo campaign of 1999, it was dismissed by the International Criminal Tribunal for the Former Yugoslavia⁹⁹.

Conclusion

How come after spending so much money for so many years on development, so much of Africa is as poor or poorer than it was at independence? Why are there so many wars in Africa? In the end, it is all about incentives. In any system, one normally expects aggressors to be punished, not rewarded. In the somewhat Hobbesian world that is found in many contemporary African countries, not only are some leaders tempted to appropriate what belongs to their fellow citizens either by force or through corruption, they also sometimes take what belongs to their neighbors. When such behavior is condoned - explicitly or implicitly - why is anyone shocked that war and poverty persist? Sometimes the way to put out the fire is simply to stop buying gasoline for the arsonists.

In closing, several clear policy recommendations emerge from the case of Rwanda's and Uganda's involvement in the war with DRC, and donors' relative inaction:

- donors should conduct a genuine due-diligence of where their aid money is going and what it is used for, directly or indirectly;
- donors should accept a responsibility for due diligence before providing military or economic aid to a country involved in war or gross violations of human rights against its own citizens;
- development aid be conditional on peaceful behavior. If these basic conditions are not followed, development aid must be suspended and humanitarian aid must be critically evaluated;
- it is imperative that donors be held publicly accountable for failing to follow these guidelines, if not in the courts, then at least before public opinion.

END NOTES

¹ Estimates for the Rwandan genocide usually range from 500,000 to 800,000. Demographer William Seltzer estimates the figure at 657,000 – SEE Human Rights Watch. “Numbers” <http://www.hrw.org/reports/1999/rwanda/Geno1-3-04.htm> (accessed April 14, 2006), Cambodian numbers for the Pol Pot era range from 1 million to approximately 3 million. SEE White, Mathew. Historical Atlas of the Twentieth Century <http://users.erols.com/mwhite28/20centry.htm> (April 14, 2006). At most, we obtain 3.8 million people for these two genocides combined. The Congolese (direct and indirect) death toll from 1998 to 2004 is 3.8 million and counting according to the International Rescue Committee (IRC) mortality survey. SEE International Rescue Committee. http://www.theirc.org/pdf/DRC_MortalitySurvey2004_RB_8Dec04.pdf

² SEE Che Guevera’s memoirs of his time in the eastern Congo during the 1960’s. Guevera, Che. *The African Dream: The Diaries of the Revolutionary War in the Congo*. Harvill Press: July 2000.

³ Initially, the Rwandan Government formed the Rassemblement congolais pour la démocratie (RCD) but this later split into numerous factions, principally the RCD-G (Goma) which remained the main Rwandan proxy followed by the RCD-K (Kisangani) and RCD-ML (Mouvement de libération) which merged to form the RCD-KML. The RCD-KML subsequently received support from Uganda before allying itself with the Congolese Government. The Mouvement de libération du Congo (MLC) was a Ugandan backed group which briefly merged with the RCD-KML. The RCD-N (national) later carved itself a breakaway territory from the RCD-KML as did numerous other smaller groups financed by the Rwandan Government or rival factions of the Ugandan military.

⁴ Mai Mai (also spelt “Mayi Mayi”) are traditional Congolese self defense militias, particularly active in the Eastern Congo. Generally, they are locally based though as the latest war went on, they received equipment from the Government in Kinshasa and gradually adapted more formal military structures. As part of the agreement that ended the war, they were included in the transitional army [“Forces armées de la république démocratique du Congo” (FARDC)].

⁵ Source for the map: http://en.wikipedia.org/wiki/Democratic_Republic_of_the_Congo (accessed April 8, 2006).

⁶ International Rescue Committee. Mortality Survey Op cit.

⁷ SEE Human Rights Watch World Report 1998 –Democratic Republic (Formerly Zaire) p2 downloaded from www.hrw.org/worldreport/Africa-04.htm#P394_99843 (accessed December 04, 2005).

⁸ AFDL is the Alliance of Democratic Forces for the Liberation of Congo, a front group widely considered to have been created and controlled by the Rwandan government. Pomfret, John. “Rwandans Led Revolt In Congo”. Washington Post , July 9, 1997 <http://www.washingtonpost.com/wp-srv/inatl/longterm/congo/stories/led070997.htm> (accessed March 17, 2006).

⁹ Banyamulenge are Congolese Tutsis living in South Kivu, though the term is often used to refer to all Tutsis living the DRC.

¹⁰ The Rwandan Defense Forces (RDF) were called the Rwandan Patriotic Front (RPF) when they first invaded Rwanda from Uganda before the genocide. After taking power, they became the Rwandan Patriotic Army (RPA) and changed their name again around 2000. In many articles, the old names are used

¹¹ Letter dated 29 June 1998 from the Secretary General addressed to the President of the Security Council. S/1998/581 English

¹² Presidential Statement dated 02 June 2000 (S/PRST/2000/20).

¹³ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of Democratic Republic of Congo (S/2001/357), para 113. p27.

¹⁴ Extrapolating from the regular budget, based on percentage shares.

¹⁵ Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of Democratic Republic of Congo (S/2002/1146) para 71. p15.

¹⁶ The Congo Desk was the bureau organized by the Rwandan Army (RPF) from 1998 to manage revenues from the DRC. SEE paras 126-134 in Panel Report S/2001/357 Op cit. for more details.

¹⁷ S/2001/357 Op cit. para 126 p29.

¹⁸ Columbite/tantalite or columbium/tantalium – tantalum

¹⁹ S/2001/357 Op Cit, para 82 p 16.

²⁰ S/2001/357 Op Cit, para 177, p37.

²¹ See S/2001/357 Op Cit, para 60, p12. See also Willum, Bjorn. Foreign Aid to Rwanda, op cit p 43. Even street children have been reportedly been used for this purpose. Amnesty International, *Democratic Republic of Congo: Rwandese-controlled east: Devastating human toll*, 19 June 2001, Report No. AFR 62/011/2001, at

<http://web.amnesty.org/ai.nsf/Index/AFR620112001?OpenDocument&of=COUNTRIES%5CRWANDA>, unpaginated version

²² BBC News. "UNITA 'allies in the firing line'. March 15, 2000. <http://news.bbc.co.uk/1/hi/world/africa/678273>

²³ Willum, Bjorn. Foreign Aid to Rwanda, Op cit, p 39.

²⁴ S/2001/357 Op Cit, and Willum, Bjorn. Foreign Aid to Rwanda, Op cit, pp 58-60.

²⁵ S/2001/357 Op Cit Table 5, para 104, p25.

²⁶ S/2001/357 Op cit para 127, p29.

²⁷ S/2001/357 Op Cit para130 p29.

²⁸ Willum, Bjorn. Foreign Aid to Rwanda, Op cit pp 58-59.

²⁹ S/2001/357 Op cit, paras 115-117, pp 27- 28.

³⁰ Based on a percentage of the total

³¹ US\$20 per soldier per month

³² S/2001/357, Op cit para 117, p 28.

³³ S/2001/357, Op cit para 85, p 17.

³⁴ Ibid, paras 87-89, p17-18.

³⁵ S/2001/357 Op Cit para 180 p 37.

³⁶ Using figures for gold exports taken from S/2001/357, we obtain 11.45 tons -0.0047 tons(Ugandan gold production) = 11.4453 tons x 32,150.7 troy ounces per ton x US\$285 per ounce=US\$ 104.9 million

³⁷ For amounts of coltan taken to Uganda, see S/2001/357 Op cit. Note that other sources give even higher figures for a "Ugandan" coltan production that was virtually inexistent before the war. For coltan prices, see for example Helen Vesperini, *Congo's Coltan Rush*, BBC, August 1, 2001 <http://news.bbc.co.uk/1/hi/world/africa/1468772.stm>. According to the same source, the price of Coltan rose to US\$380 /lb by December 2001, before falling to US\$100/lb by July 2001. It later fell even further to US\$10/lb according to *Final Report of the Panel of Experts on the Illegal Exploitation* (S/2002/1146) Op cit para 109 p21.

³⁸ Uganda Investment Authority. Investing in Uganda's Mineral Sector (Source: Department of Geological Survey and Mines) <http://www.ugandainvest.com/mining.pdf> (accessed February 10, 2006).

³⁹ Republic of Uganda –Ministry of Energy and Mineral Development Annual Report 2001, <http://www.energyandminerals.go.ug/AR2001body.pdf> (accessed February 10, 2006). But see also <http://www.energyandminerals.go.ug/dataandinfo.html>.

⁴⁰ See S/2001/357 Op cit para 102, p21 for amounts. For types of timber generally taken and prices, see Baker, M.; R.Clausen; R.Kanaan.; M. N'Goma; T. Roule, Forensic & J. Thomson. *Conflict Timber: Dimensions of the Problem in Asia and Africa - Volume III: African Cases* - Final Report Submitted to the United States Agency for International Development <http://www.rainforestfoundationuk.org/files/ARD%20report%20vol3afr.pdf> (accessed February 10, 2006). Given that, according to this report, *Khaya anthotheca* and *Entandophragma utile*, accounted for the majority of the wood exported, we averaged the prices paid for these two species. Average Euro to US\$ conversion rate for 2001 taken from Goldmoney <http://goldmoney.com/en/commentary/2004-02-18.html> (accessed February 14, 2006)

⁴¹ S/2001/357, Op cit. para 138 & 142, p 31.

⁴² WDI Op cit. and International Monetary Fund. "HIPC Debt Relief for Uganda Increased to a Total of US\$ 2 Billion: Additional Relief Vital for Uganda's Poverty Reduction Programs". Press Release No. 00/6 February 8, 2000 <http://www.imf.org/external/np/sec/pr/2000/pr0006.htm> (accessed February 16, 2006).

⁴³ WDI Op cit and International Monetary Fund. "Rwanda to Receive US\$810 Million Op cit.

⁴⁴ Human Rights Watch, 'Rwanda: The Search for Security and Human Rights Abuses', *Country Report Africa* Vol. 12, No. 1 (April 2000), also available at <http://www.hrw.org/reports/2000/rwanda>

⁴⁵ For a more complete description of fungibility see World Bank, "Assessing Aid: What Works, What Doesn't, and Why", *World Bank Policy Research Report* (New York, Oxford University Press, 1998), also available at <http://www.worldbank.org/research/aid/aidtoc.htm>, p. 60 and Willum, Bjorn. *Foreign Aid to Rwanda...* Op cit pp 105-121.

⁴⁶ All aid figures come from the OECD 2004 Development Co-operation Report –Volume 6, No.1 – ISBN 92-64-000735. OECD 2005. See also World Development Indicators at web.worldbank.org. Figures for Uganda range from 70.6% in 1999, 92.6% in 2000, 80.222 in 2001 and 55.4% in 2002 following the large debt write offs. Similar figures are not published for Rwanda, but rough calculations comparing the amount of aid given compared to official government expenditure show that in every year, the amount of aid exceeds what is spent for government, even after the large debt write off in December 2000. See WDI Op cit and International Monetary Fund. "Rwanda to Receive US\$810 Million in Debt Service Relief: The IMF and World Bank Support Debt Relief for Rwanda Under the Enhanced HIPC Initiative" Press Release No. 00/84 December 22, 2000 <http://www.imf.org/external/np/sec/pr/2000/pr0084.htm> (accessed February 16, 2006) Even after subsequent debt write offs such as the one announced last November 2005, donor aid

will still account for more than 50% of government resources according to the Economist Intelligence Unit. See EIU Rwanda Country Report February 2006 downloaded from www.eiu.com 2006 p9.

⁴⁷ See *The Economist*. “Economics Focus: Lion cubs on a wire”. August 16, 2003. p 68 and “Aid Policy: Short Change”. November 02, 2002. p59.

⁴⁸ United Kingdom, Department for International Development, *Building Support* at <http://www.dfid.gov.uk/public/news/pr26sept00b.html>

⁴⁹ Source: US Department of State. Country Reports on Human Rights Practices - Appendix E: Economic and Security Assistance. from www.state.gov/g/drl/rls/hrrpt/ (accessed April 14, 2006). See also Association of Concerned Africa Scholars. U.S. Military Programs in Sub-Saharan Africa, 2005-2007, <http://www.prairienet.org/acas/military/military06.html> (accessed April 14, 2006).

Information on the UK is more difficult to obtain though they seem to be giving significant aid, at least to Uganda, since the official web site the Ugandan Ministry of Foreign Affairs states that specific areas of British assistance in 2004/05 were “education, civil service, transport, health, judiciary, defence, and police.”

<http://www.mofa.go.ug/FYAchievements.php> (accessed April 14, 2005). The BBC alleged some armored vehicles recently sold may have been using in suppressing opposition rallies. See “UK attacked for Uganda arms deal”.

<http://news.bbc.co.uk/2/hi/africa/4762386.stm> (accessed April 14, 2006). According to the United Kingdom Strategic Export Controls Annual Report, in 2004, £2 million of sales to Uganda were approved but one request for sale to Rwanda was refused.

<http://www.fco.gov.uk/Files/kfile/Annual%20Report%20on%20Strategic%20Export%20Controls%202004.pdf>

⁵⁰ Associated Press. “U.S. and Rwanda sign first ever deal on military cooperation”. July 13, 2005.

⁵¹ Human Rights Watch World Report 1998 Op cit. See also Madsen, Wayne. “Prepared Testimony and Statement for the Record of Suffering and Despair: Humanitarian Crisis in the Congo before the Subcommittee on International Operations and Human Rights Committee on International Relations.” United States House of Representatives Washington, DC May 17, 2001 Articles for Publication\US Role in Central Africa\Madsen testimony on US in Central Africa1993 to 1999.htm SEE ALSO Snow, Keith Harmon. “Rwanda’s Secret War: US-Backed Destabilization of Central Africa” downloaded from Global Policy Forum at www.globalpolicy.org/security/issues/congo/2004/1210 (accessed December 04, 2005).

⁵² Willum, Gunnar. “500,000 Refugees Disappeared in One Day”. Information (Denmark) July 25, 2000. willum.com (accessed December 04, 2005). See also Willum, Bjorn. Foreign Aid to Rwanda: Purely Beneficial or Contributing to War?, October 2001, pp 11-17. www.willum.com (accessed December 04, 2005).

⁵³ Source: US Department of State. Country Reports on Human Rights Practices - Appendix E: Economic and Security Assistance. from www.state.gov/g/drl/rls/hrrpt/ (accessed April 14, 2006).

⁵⁴ Association of Concerned Africa Scholars. U.S. Military Programs in Sub-Saharan Africa, 2005-2007 <http://www.prairienet.org/acas/military/military06.html> (accessed April 14, 2006)

⁵⁵ Discussions with the author, particularly with DFID, USAID and diplomats from western nations; but for donors’ reluctance in general to cut aid in such situations, SEE OECD (Organization for Economic Cooperation and Development). *The DAC (Development Assistance Committee) Guidelines: Helping Prevent Violent Conflict..* Paris: OECD, 2001. p 67.

⁵⁶ Ouerghi, Azedine. “Comparative Analysis of four Case Studies- Protecting the Vulnerable: The Design and Implementation of Effective Safety Nets”. World Bank Institute. November 29, 2004

<http://info.worldbank.org/etools/docs/library/111328/Case%20Studies.pdf> (accessed December 06, 2005)

⁵⁷ The core leadership of the RPF came from Tutsi refugees who grew up in Uganda and served in the Ugandan People’s Defense Force (UPDF). For a fairly detailed account of current goings on, see The Economist Intelligence Unit. Rwanda Country Report. August 2005

⁵⁸ See UNDP. Human Development Report 2002: Deepening democracy in a fragmented world New York, 2002 <http://hdr.undp.org/reports/global/2002/en/pdf/complete.pdf> (accessed February 14, 2006)

⁵⁹ Eichstaedt, Peter.. “A donor-nation darling, Uganda is backsliding”. *San Francisco Chronicle*, Sunday, February 5, 2006.

⁶⁰ International Crisis Group. Maintaining Momentum in the Congo Op cit and The Economist Intelligence Unit. Uganda Country Report: Uganda at a Glance 2006-2007. Downloaded from www.eiu.com.

⁶¹ International Monetary Fund. “Uganda: Poverty Reduction Strategy Paper-Joint Staff Advisory Note”. August 2005. *IMF Country Report* No. 05/308 <http://www.imf.org/external/pubs/ft/scr/2005/cr05308.pdf> (accessed April 14, 2006).

⁶² For 1996, See UNDP. *Human Development Report 2002: Deepening democracy in a fragmented world* New York, 2002 downloaded from <http://hdr.undp.org/reports/global/2002/en/pdf/complete.pdf> (accessed February 14, 2006) For 1999, SEE World Development Indicators at web.worldbank.org (accessed February 12, 2006).

⁶³ “IRC Study Reveals 31, 000 die monthly in the Congo Conflict and 3.8 Million Died in the Last 6 Years. When Will the World Pay Attention?” www.theirc.org/index.cfm/wwwID/2132 (accessed December 03, 2005).

- ⁶⁴ Interview by the author with the former US Ambassador to the DRC, William Swing, visits by the author and interviews with staff.
- ⁶⁵ GDP at for 2000 was US\$1.8 billion, according to World Development Indicators (WDI) at web.worldbank.org
- ⁶⁶ *Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo*. UN Document: S/2002/1146. p14.
- ⁶⁷ SEE for example Mail & Guardian. "South Africa; Congo Peace: So Far, So Good" October 4, 2002, Africa News Service, Inc. SEE ALSO Economist Intelligence Unit. *Rwanda Country Report – Main report*: November 1st 2002 http://portal.eiu.com.ezp1.harvard.edu/index.asp?layout=displayIssueArticle&issue_id=935681293&article_id=945681294 (accessed April 14, 2002)
- ⁶⁸ In the Kivu provinces, Rwanda armed and encouraged RCD-Goma (especially Banyamulenge) officers not to participate in the new, unified Congolese army and it stoked ethnic conflict between rwandaphones and non-rwandaphones with incendiary radio broadcasts. In May-June 2004, this erupted in full scale fighting for Bukavu, the capital of South Kivu province. Furthermore, Rwanda continued its invasion threats to "resolve the FDLR problem".
- ⁶⁹ International Monetary Fund. "International Monetary Fund and World Bank Support US\$1.4 billion in Debt Service Relief for Rwanda". Press Release No. 05/84 April 13, 2005 Downloaded April 14, 2006 from <http://www.imf.org/external/np/sec/pr/2005/pr0584.htm>
- ⁷⁰ *San Francisco Chronicle*. "Rwanda may send troops into Congo - Hutu rebel violence still plagues border, president says" Tuesday, April 19, 2005.
- ⁷¹ According to World Development Indicators at web.worldbank.org, GDP for 1999 was US\$ 5,965,599,744
- ⁷² International Crisis Group. *Maintaining Momentum in the Congo: The Ituri Problem*. ICG Africa Report No 84, 26 August 2004.
- ⁷³ World Bank. "World Bank Supports Rwanda's Poverty Reduction Program". News Release No: 2006/149/AFR November 10, 2005 and International Monetary Fund. "IMF to Extend 100 Percent Debt Relief to Rwanda under the Multilateral Debt Relief Initiative". Press Release No. 05/301 December 23, 2005 <http://www.imf.org/external/np/sec/pr/2005/pr05301.htm> (accessed February 16, 2006)
- ⁷⁴ SEE The Economist Intelligence Unit. *Rwanda Country Report. August 2005*. www.eiu.com
- ⁷⁵ International Monetary Fund. "IMF to Extend 100 Percent Debt Relief to Uganda Under the Multilateral Debt Relief Initiative" Press Release No. 05/305 December 23, 2005 <http://www.imf.org/external/np/sec/pr/2005/pr05305.htm> (accessed April 14, 2006)
- ⁷⁶ International Crisis Group. *Maintaining Momentum in the Congo* Op cit and The Economist Intelligence Unit. *Uganda Country Report: Uganda at a Glance 2006-2007*. Downloaded from www.eiu.com.
- ⁷⁷ *Uganda Country Report: Uganda at a Glance 2006-2007* Op cit. SEE ALSO Rwanda New Agency. "Rwanda can't support Ugandan rebels - President's envoy" Kigali, April. 04, 2006 <http://www.ari-ma.co.rw/> (accessed April 14, 2006)
- ⁷⁸ International Court of Justice. Press Release 2005/26 re "Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) dated 19 December 2005 located at <http://www.idocket/icoframe.htm>
- ⁷⁹ The Economist Intelligence Unit. *Uganda Country Report: Uganda at a Glance 2006-2007* Op cit.
- ⁸⁰ International Court of Justice. Press Release 2006/4 re "Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda) dated 03 February 2006 <http://www.icj-cij.org/icjwww/idocket/icrwframe.htm>
- ⁸¹ Rome Statute of the International Criminal Court circulated as document A/CONF.183/9 of 17 July 1998 and corrected by proces-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 17 January 2001 and 16 January 2002.
- ⁸² The Economist. "War Crimes: Bad news for Africa's warlords". March 25, 2006 p52.
- ⁸³ Rome Statute of the International Criminal Court Op cit art 27
- ⁸⁴ Human Rights Watch World Report 1998 Op cit. SEE ALSO Madsen, Wayne. Op cit and also Snow, Keith Harmon. "Rwanda's Secret War Op cit.
- ⁸⁵ S/2001/357 Op cit. para 181 pp 37-38.
- ⁸⁶ S/2001/357 Op cit. para 184 p 38.
- ⁸⁷ S/2001/357 Op cit. para 185 p38.
- ⁸⁸ S/2001/357 Op cit paras 185-190 pp 38-39.
- ⁸⁹ S/2001/357 Op cit para 188 p 39.
- ⁹⁰ S/2001/357 Op cit para 189 p 39.
- ⁹¹ S/2001/357 Op cit paras 185-190 pp 38-39.
- ⁹² Holt, Kate and Hughes, Sarah. Independent "Are Their Guns Paid For With British Aid?" August 11, 2004. Global Policy Forum at www.globalpolicy.org/security/issues/congo/2004/0811gunsaid.htm (accessed December 04, 2005). See also Lynch, Colum. Washington Post. "UN Report Denounces Rwanda: Support for Congo Rebels Is Called Violation of Sanctions". July 17, 2004. www.globalpolicy.org/security/issues/rwanda/2004/0717denou

⁹³ Letter dated 15 July 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council. S/2004/551.

⁹⁴ See www.eitransparency.org/ The Initiative was launched by Blair at the World Summit on Sustainable Development in Johannesburg, September 2002.

⁹⁵ Rome Statute of the International Criminal Court Op cit art 12 2. a)

⁹⁶ Rome Statute of the International Criminal Court Op cit art 13 c)

⁹⁷ Alien Tort Claims Act (“the ATCA”), 28 U.S.C. § 1350. *John Roe X, v. Unocal Corp; Union Oil Rswl Co of California*, United States Court of Appeals for the Ninth Circuit, filed 18 September 2002, at 14210

⁹⁸ Rome Statute of the International Criminal Court Op cit art 24 para 1).

⁹⁹ Office of The Prosecutor Press Release Prosecutor’s Report On The NATO Bombing Campaign The Hague, 13 June 2000 PR/ P.I.S./ 510-e <http://www.un.org/icty/cases-e/index-e.htm> (accessed April 04, 2006).