

<b>Forum:</b>	International Court of Justice
<b>Issue:</b>	Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) 1999-2022
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## Introduction

During the First Congo War (1996-1997), the Rwandan government supported Laurent-Désiré Kabila to overthrow Mobutu Sese Seko, the dictator of Zaire, which would later become the Democratic Republic of the Congo (DR Congo). When Laurent-Désiré Kabila became president, his sense of nationalism grew, and he expelled Rwandan officers and forces from the DR Congo in 1998.

In August, the Banyamulenge Tutsi, an ethnic group in the eastern region of the Congo rebel against Kabila, and they are immediately backed by Rwanda and Uganda. This resulted in the formation of the Rally for Congolese Democracy (RCD), a group aimed at unseating Kabila. The military support from Rwanda and Uganda rapidly escalated the rebellion into the Second Congo War.

Shortly later, Uganda and Burundi deployed their troops into the eastern region of the DR Congo, with distinct justifications. Rwanda and Burundi claimed to protect the Banyamulenge Tutsi in the Congo and believed that Kabila was planning a genocide against them. Uganda maintained that it was defending itself from revolutionary Ugandan movements, particularly the Allied Democratic Forces (ADF) which operated from bases in eastern Congo. In general, all three countries affirmed that they were exercising self-defense from rebel groups, which is legal under Article 51 of the United Nations Charter.

There have been reports of armed aggression by Rwanda, Uganda, and Burundi in eastern Congo, while the DR Congo had not allowed these troops to enter their territory. The DR Congo also accused Uganda of the exploitation of Congolese natural resources. Eventually, in June 1999, the DR Congo filed a case in the ICJ against Burundi, Rwanda, and Uganda for weaponed attacks in the Congolese territory, acts of violence against Congolese nationals and exploitation of Congolese resources, violating treaties not limited to the UN Charter and the OAU Charter (cf. Key Terms and Key Documents).

## Definition of Key Terms

### Banyamulenge

An ethnic group in the eastern region of the Congo, which was responsible for rebelling against Kabila and triggering the Second Congo War (by allying with Rwanda and Uganda). This group was declared as “enemy of the state” twice by two consecutive presidents, Mobutu Sese Seko (dictator of Zaire) and Laurent-Désiré Kabila.

### **Rally for Congolese Democracy**

A Congolese political party as well as a rebel group. During the Second Congo War, it was not a political party. It entered action when Rwanda and Uganda allied against the DR Congo, rebelling against Kabila, closely related to the Banyamulenge.

### **Breach of Sovereignty**

The violation of a country’s exclusive authority over its territory, especially the penetration of borders by armed forces from other states. It goes against article 2(4) of the UN Charter, one of the most important articles, which is mentioned in the Key Documents section.

### **Principle of Non-Intervention**

A law preventing states from intervening in the affairs of other states, including any support for rebel groups or movements.

### **Allied Democratic Forces**

A rebel group operating from eastern Congo, which was against the Ugandan government. It was also one of the justifications given by Uganda for the presence of Ugandan troops in eastern Congo.

### **Principle of non-use of Force in International Relations**

This principle is highlighted in the fourth paragraph of Article 2 of the Charter of the UN, stating that no country possesses the right to use force against another country in any way that does not align with the intentions of the United Nations.

### **Organization of African Unity**

The OAU is an international organization including exclusively African states, meant to defend the sovereignties of African states, and promote their interconnectedness and socio-economic progress. However, the OAU has two main weaknesses: only 33 of the 55 African states are members of the OAU, and the OAU does not dispose of an army and therefore cannot enforce its laws.

### **Militarization in Eastern Congo**

The process used by the alliance of Uganda, Rwanda, the Banyamulenge, and the RCD in order to escalate the conflict in Eastern Congo, mainly by reinforcing troops and providing arms.

### **Jus ad Bellum vs. Jus in Bello**

Jus ad Bellum is the set of laws determining the right for countries to enter a war (the right to war in Latin), while Jus in Bello is the set of laws determining the rights of countries during a war (the right in the war in Latin). For example, the DR Congo may argue that Uganda did not respect Jus ad Bellum when it intervened in the Tutsi rebellion, while Uganda may argue that the DR Congo did not respect Jus in Bello when fighting the Banyamulenge.

### **Restitutio ad Integrum**

The principle of fully repairing the damages caused by a country due to its violation of international law. It is done in two ways: restitution and reparation. The culpable country will have to undo the acts (e.g., giving back stolen arms or resources, etc.) first (restitution), and if that is not enough, the country will have to compensate the failed restitution through financial reparations, support, etc. Assurances of non-repetition may be required.

## **Timeline of Events**

### **DR Congo Files an Application to the International Court of Justice (ICJ): June 23rd, 1999**

On June 23rd, 1999, DR Congo filed in the Registry of the Court Applications to institute proceedings against the Republic of Uganda to the International Court of Justice (ICJ), due to a dispute regarding “acts of armed aggression committed [...] in flagrant breach of the UN Charter and of the Charter of the Organization of African Unity”. This application initiated the legal dispute between DR Congo and Uganda in regards to Uganda’s military involvement in DR Congo during the Second Congo War. However, in addition to the alleged acts, DR Congo sought reparation for acts of intentional destruction and the restoration of national property for the benefit of the respective respondent States. By bringing the case to the ICJ, the DR Congo sought to hold Uganda accountable for its actions and to seek reparations and a declaration that Uganda had violated international law.

### **DR Congo Requests for the Indication of Provisional Measures to Put a Stop to All Military Activities: June 19th, 2000**

On June 19th, 2000, DR Congo formally requested the ICJ to indicate provisional measures amidst the ongoing military activities by Uganda during the Second Congo War, where Uganda’s forces were accused of violating the sovereignty of the DR Congo. The DR Congo sought the court’s intervention to immediately stop Uganda’s military actions in its territory to prevent harm, specifically asking for an order directing Uganda to cease all military operations within DR Congo and to withdraw its forces. This was aimed at protecting DR Congo’s territorial integrity and preventing further violations while the court still considered the merits of the case.

### **The Court Finds Two of the Counter-Claims Committed by the DR Congo Against Uganda: November 29th, 2001**

On November 29th, 2001, the ICJ ruled on the counter-claims submitted by Uganda; Uganda had accused the DR Congo of committing acts of aggression and being responsible for attacks on Ugandan diplomatic premises and nationals in Kinshasa. The ICJ found that both counter-claims were valid legal claims that could be considered in the ongoing proceedings. The first counter-claim addressed Uganda’s allegation that the DRC had supported rebel groups in Uganda and engaged in attacks against Ugandan territory.

The second counterclaim focused on Uganda's accusations that the DR Congo had attacked their diplomatic buildings and personnel.

### **ICJ Issues an Order to Reject Uganda's Request: January 29th, 2003**

On January 29th, 2003, the ICJ issued an order to reject Uganda's request to remove the case from the court's list. Uganda had argued that the withdrawal of DR Congo from a related case involving Rwanda in the ICJ in 1999 indicated a lack of commitment to pursue legal proceedings. Despite this, the ICJ affirmed that DR Congo has consistently pursued its claims against Uganda regarding violations of sovereignty and human rights abuses during the Second Congo War.

### **ICJ's Judgment in the Case: December 19th, 2005**

On December 19th, 2005, the ICJ delivered its judgment, finding Uganda responsible for violating the sovereignty and territorial integrity of DR Congo by unlawfully deploying its military forces in Congolese territory during the Second Congo War. Uganda was held liable for "grave violations of international law", such as but not limited to human rights abuses including massacres, sexual violence, and more. Following this, the ICJ ordered Uganda to pay reparations for the harm caused even though there was no definite specific amount. However, the court rejected the DR Congo's claim that Uganda had committed genocide due to the lack of evidence.

### **The ICJ Rejects DRC's Request for Revision of 2005 Judgment (December 19th, 2005): November 29th, 2011**

On November 29th, 2011, the ICJ ruled on the DR Congo request for a revision of the 2005 judgment, which argued that new facts had emerged about Uganda's actions during the conflict. This warranted a revision of the court's findings, particularly regarding Uganda's responsibility for atrocities and resource exploitation. The ICJ rejected the request, finding that the alleged "new facts" were either already known during the original proceedings or not decisive enough to alter the judgment.

### **ICJ Orders DR Congo and Uganda to Resume Reparations Negotiations: May 13, 2015**

On May 13th, 2015, the ICJ ordered DR Congo and Uganda to resume their negotiations to determine the reparations owed by Uganda for its violations of international law during the Second Congo War. The court sought to expedite the resolution of the long-standing dispute, as the reparations issue had remained unresolved since the 2005 judgment.

### **ICJ Awards \$325 Million in Reparations to the DR Congo: February 9, 2022**

On February 9th, 2022, the ICJ issued its final ruling on reparations, ordering Uganda to pay \*\*\$325 million to the DR Congo. The amount was divided into three categories: loss of life and human rights violations, \$40 million for property damage, and the remaining for environmental harm. Yet, some

criticize the amount as insufficient to fully address the extensive damage suffered by the DR Congo during the conflict.

## Position of Major Parties Involved

### Democratic People's Republic of Congo (DR Congo)

DR Congo accused Uganda of violating its sovereignty, territorial integrity, and international law during the Second Congo War (1998–2003). Following this, DR Congo claimed Uganda invaded its territory, causing extensive human suffering and material destruction. Uganda was accused of committing human rights violations, including massacres, sexual violence, forced displacement, and the recruitment of child soldiers. Furthermore, DR Congo also argued Uganda destabilized the region by supporting rebel groups opposed to the Congolese government.

### Uganda

Uganda argued that its military actions in DR Congo were conducted lawfully and primarily as a medium of self-defense. Uganda claimed it faced security threats from rebel groups, such as the Allied Democratic Forces (ADF), operating from Congolese territory with the alleged support of the DRC government. Uganda also filed counter-claims, accusing DR Congo of acts of aggression, including support for insurgents targeting Uganda and attacks on its diplomatic premises in Kinshasa. It believes that its operations were necessary to stabilize the region and ensure its own security.

### International Court of Justice (ICJ)

The ICJ played a central role as the arbitrator in the case; acting as the principal judicial organ of their mandate was to address the DRC's claims of sovereignty violations, human rights abuses, and resource exploitation by Uganda. The court assessed Uganda's actions under international law and determined that Uganda's military presence in the DRC violated the DR Congo sovereignty, leading to accountability for atrocities such as massacres, sexual violence, and illegal resource extraction. It facilitated reparations discussions between the parties, reinforcing the principles of state sovereignty and reparative justice for affected nations.

### African Union (AU)

The African Union (AU), though not a direct litigant, emphasized its commitment to regional stability and diplomacy during the conflict. It supported the DR Congo's position on respecting state sovereignty and territorial integrity while urging all parties to engage in peaceful negotiations to resolve disputes. Additionally, the AU advocated for post-conflict reconstruction; by calling for adherence to international law, the AU sought to prevent future conflicts of this nature with its role as a mediator.

### United Nations (UN)

The UN played a pivotal role in addressing the Second Congo War through peacekeeping missions, investigations, and support for international justice. They also condemned the human rights violations documented during the conflict. Through MONUC (UN Mission in the DR Congo), the UN worked to stabilize the region and to provide humanitarian aid, as well as investigating allegations of resource exploitation, which contributed as evidence to the DR Congo's case at the ICJ.

## **Burden of Proof**

Under this court, the burden of proof lies on the Applicant Party (Democratic Republic of the Congo) in their case with the use of superior and predominant evidence. Advocates of DR Congo must prove that:

1. Violations of Sovereignty and International Law:

- That the Republic of Uganda committed violations of the DRC's sovereignty under international law.
- That Uganda engaged in acts of aggression, exploitation of natural resources, and human rights abuses as alleged.

2. Legal Jurisdiction:

- That the ICJ holds jurisdiction based on breaches of relevant treaties, customary international law, and applicable agreements.

All aspects must be proven in order for a judge to vote for the Applicant party.

For the Responding Party, no affirmative burden exists. Their responsibility is to refute the claims made by the Applicant Party, to prepare responses that may be brought up by the advocates of the Applicant Party, and to prevent them from proving their burdens of proof.

[Charter of the United Nations, Chapter VII, Article 51.](#)

This is the legal basis of the United Nations. It defines the framework of the UN and decides the most important laws. It was signed in June 1945. It is important because applicant countries in the ICJ often use it (here, it is Uganda claiming it is invading for self-defense).

[Charter of the United Nations, Article 2\(4\).](#)

This specific article of the UN Charter prohibits the use of force against the political independence of countries, as well as for any means which do not meet the cause of the United Nations.

[Statute of the International Court of Justice, Chapter II, Article 36.](#)

The Statute of the International Court of Justice regulates the functioning of the ICJ, defines its principles of law and structures its formation. It is also a part of the UN Charter, and therefore was signed with it (cf. precedent document). This article defines the jurisdiction of the ICJ, which the DR Congo refers to when applying.

[United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.](#)

The Convention against Torture is an international treaty aimed at eradicating cruel and unusual punishments, signed in February 1985. More specifically, it prohibits member states to have torture in their territory or to send citizens to countries where they could be tortured. This treaty was mentioned by the DR Congo in the case.

## [Charter of the Organization of African Unity.](#)

The Charter of the OAU is the base of the Organization of African Unity, a multi-governmental organization directed at structuring the links between African countries, signed in May 1963. It asks African countries to cooperate in their economies, having trade agreements etc. More importantly, it calls for them to peacefully settle conflicts and defend themselves collectively from aggression.

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## Appendix

- I. <https://www.icj-cij.org/case/116> (Site of the International Court of Justice)

*This webpage is a summary of the case Armed Activities in the territory of the Congo. It mentions all documents used by the two parties, and therefore is extremely useful. However, keep in mind that official ICJ documents or citations regarding the case cannot be used as evidence during debate.*

- II. [https://en.wikipedia.org/wiki/Second\\_Congo\\_War](https://en.wikipedia.org/wiki/Second_Congo_War) (Wikipedia, the Free Encyclopedia)

*This Wikipedia article is useful to a large extent, mainly for acquiring the adequate background information regarding the case. Reading the introduction is helpful, but you will need article such as this one in order to deepen your knowledge on the Second Congo War (or even to fully understand the introduction). Nevertheless, the student officers believe that knowledge on the case itself is more important than this article, so participants who have limited time are urged to read the precedent page in priority.*