



MONUSCO

The United Nations Organization Stabilization
Mission in the Democratic Republic of the Congo



**UNITED NATIONS
HUMAN RIGHTS**

OFFICE OF THE HIGH COMMISSIONER

**FINAL REPORT OF THE FACT-FINDING MISSIONS OF THE UNITED NATIONS
JOINT HUMAN RIGHTS OFFICE INTO THE MASS RAPES AND OTHER HUMAN
RIGHTS VIOLATIONS COMMITTED BY A COALITION OF ARMED GROUPS
ALONG THE KIBUA-MPOFI AXIS IN WALIKALE TERRITORY, NORTH KIVU,
FROM 30 JULY TO 2 AUGUST 2010**

July 2011

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LIST OF ACRONYMS

CLI	Community Liaison Interpreter
CMO	<i>Cour militaire opérationnelle</i>
CNDP	<i>Congrès national pour la défense du peuple</i>
COB	Company Operating Base
DRC	Democratic Republic of the Congo
FARDC	Armed Forces of the DRC
FDLR	Democratic Forces for the Liberation of Rwanda
FDLR-FOCA	FDLR - <i>Forces combattantes Abacunguzi</i>
ICCPR	International Covenant on Civil and Political Rights
IMC	International Medical Corps
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
NDC	Nduma Defense of Congo
NGO	Non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
PNC	Congolese National Police
TOB	Temporary Operating Base
UNDP	United Nations Development Programme
UNJHRO	United Nations Joint Human Rights Office

I. Summary

This report by the United Nations Joint Human Rights Office (UNJHRO) relates to the attacks on civilians by a coalition of armed groups in 13 villages along the Kibua-Mpofi axis in Walikale territory, North Kivu, between 30 July and 2 August 2010. It follows on the preliminary report on these attacks published by the UNJHRO on 24 September 2010. Since then, the UNJHRO has carried out additional investigations into these attacks and can confirm a higher number of victims comparing to the one published in September 2010.

Since the attacks, the UNJHRO has sent staff into the field three times to verify the allegations of sexual violence, including mass rapes, as well as other human rights violations which were allegedly committed during these attacks. As a result, the UNJHRO is able to conclude that at least 387 civilians, including 300 women, 23 men, 55 girls and 9 boys, were raped by a coalition of combatants from the Democratic Forces for the Liberation of Rwanda and the Mayi Mayi Sheka, as well by residual elements of Lieutenant Colonel Emmanuel Nsengiyumva. In addition, at least 923 houses and 42 shops were looted, and 116 civilians were abducted and subjected to forced labour by the assailants.

The security situation in the targeted villages prior to the launching of the attacks makes it clear that the weakness of the State authority in Walikale territory has been one of the causes of the proliferation of the armed groups which have monopolized control over the mining industry and are trafficking arms in the region, thus causing increasing insecurity for the civilian population. The report also brings to light the existence of unofficial links between certain officers of the Armed Forces of the Democratic Republic of the Congo and these armed groups, as well as their involvement in the mining industry, which has diverted them away from their main mission of protecting and defending Congolese citizens and reinforced the latter's feelings of neglect and distress.

In addition, the report provides information which could establish the responsibility of Captain Sérafin Lionso of the FDLR, Ntabo Ntaberi Sheka, the Commander in Chief of the Nduma Defense of Congo, the political branch of the Mayi Mayi Sheka, and Lieutenant Colonel Emmanuel Nsengiyumva for the crimes committed by their subordinates during these attacks in accordance with Article 28 of the Rome Statute. Even though the statements gathered by the UNJHRO staff has shown that these individuals did not directly participate in the attacks themselves, all three were well aware of the planning and organization of this operation, which was launched against an entire civilian population, and that they shared the spoils of the lootings at the end of the attacks.

While emphasizing that the primary responsibility for protecting civilians lies with the Government of the Democratic Republic of the Congo (DRC), the UNJHRO staff observed the difficulties encountered by the soldiers of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) based in Kibua in their mission to protect civilians, the core element of the MONUSCO mandate.

The report also covers the latest developments with regard to the investigations carried out by the

military judicial authorities following the violations committed along the Kibua-Mpofi axis, as well as the threats, in particular death threats, which the victims, who cooperated with the latter and reported the violations, have received from FDLR combatants. Following these threats, victim and witness interviews were suspended, on 30 November 2010, in Walikale territory, although investigations are continuing at the time of drafting this report. To date, only Lieutenant Colonel Mayele has been arrested in connection with this investigation. No other arrests or charges have been made in spite of the investigations and the interviews of more than 150 victims and witnesses by the prosecutor's office at the Cour militaire opérationnelle in Walikale thanks to the support of MONUSCO, UNDP and other partners during the months of October and November 2010.

This report highlights the serious nature of the acts of violence targeting civilians, the limitations of MONUSCO in implementing the protection of civilians in Kibua, and the weaknesses of the Congolese judicial system to pursue, arrest and punish the perpetrators of such crimes in accordance with national standards, and the relevant texts and laws applicable in the DRC. It then goes on with recommendations intended to ensure better protection of civilians and guarantee respect for international humanitarian and human rights law following these attacks.

II. Introduction

1. From 30 July to 2 August 2010, a coalition of combatants of the Democratic Forces for the Liberation of Rwanda (FDLR) and the Mayi Mayi Sheka as well as residual elements of Lieutenant Colonel Emmanuel Nsengiyumva,¹ a group composed of at least 200 fighters², systematically attacked civilians in 13 villages situated along the Kibua-Mpofi axis³ in the *groupement* of Ihana, Wanianga sector, Walikale territory, North Kivu province. The assailants looted most of these villages, raped hundreds of civilians, mostly women, but also men and children, and abducted more than hundred people who were subjected to forced labour.
2. Once informed of this situation, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)⁴ deployed, on three occasions, teams, including staff from the United Nations Joint Human Rights Office (UNJHRO)⁵ to the area. The first team went to the area from 13 to 17 August 2010 to assess the security situation, evaluate the protection needs of the local population and verify the allegations of human rights violations against civilians. Given the scale and seriousness of these violations, the UNJHRO deployed a special fact-finding team (hereinafter “the team”) from 25 August to 2 September 2010 in order to carry out an in-depth investigation into these human rights violations and determine the context and sequence of the attacks, as well as the victims, the alleged perpetrators, and possibly, their motives.
3. Upon completion of the mission, a preliminary report⁶ was published on 24 September 2010. This report indicated that it had not been possible to finalize several aspects of the investigation due in particular to the prevailing insecurity around the attacked villages. The UNJHRO therefore deployed another team to the area from 16 to 21 October 2010 to undertake further investigations, assess the implementation of the recommendations made in the preliminary report, and evaluate the protective measures needed for both victims and

¹ A Congolese colonel (formerly of the *Congrès national pour la défense de peuple*, CNDP) who joined the *Forces armées de la République démocratique du Congo (FARDC)* as a result of the March 2009 Goma peace agreements. He joined the rebellion in early 2010. He is reportedly a relative of Lieutenant Colonel Yusuf Mboneza, who is also an ex-CNDP and former commander of the 212th Brigade, which has its headquarters in Walikale-centre, and whose area of responsibility included the villages attacked by the coalition. Lieutenant Colonel Emmanuel Nsengiyumva was murdered on 27 February 2011, in Rutshuru in North Kivu province.

² Other sources indicated that the number of rebels ranged from 300 to 400.

³ These localities are located 85 km and 56 km north-east of Walikale-centre respectively. This 21 km axis is at 7 to 28 km west of Kibua. A map showing the positions of the 13 villages along the Kibua-Mpofi axis is enclosed as annex II of this report.

⁴ On 28 May 2010, the Security Council, in accordance with Chapter VII of the United Nations Charter, adopted Resolution 1925 (2010) extending MONUC mandate until 31 June 2010, and authorizing the deployment of MONUSCO from 1 July 2010 to 30 June 2011. This resolution reasserted the protection of civilians as the top priority (see in particular paragraph 12 of the said Resolution) of the mission.

⁵ On 1 February 2008, the Human Rights Division (HRD) of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Democratic Republic of the Congo were merged to form the United Nations Joint Human Rights Office (UNJHRO), which operates in accordance with their respective mandates.

⁶ This UNJHRO preliminary report is available on MONUSCO website <http://monusco.unmissions.org/LinkClick.aspx?fileticket=voDY%2b3PAswU%3d&tabid=4135&mid=3999>.

witnesses. This mission concluded that the scale of the attacks had been larger than it was concluded following the initial investigation.

III. Methodology and constraints

4. During the three missions to the Kibua-Mpofi axis, the team visited several times each of the 13 villages targeted by the assailants and gathered more than 370 individual statements of witnesses. The team interviewed eyewitnesses and victims of the attacks, local authorities, the medical staff on duty in the area attacked, representatives of international NGOs, soldiers from the Armed Forces of the Democratic Republic of the Congo (FARDC), and MONUSCO peacekeepers in Kibua, Binyampuri, and Mpofi. It also held interviews in Goma with the military judicial authorities, the Congolese National Police (PNC) and detainees. It examined and analysed the various lists of rape victims drawn up by partners and used them to produce a consolidated list of victims.⁷
5. During these missions, the team experienced several difficulties, which limited its investigations. First of all, the team faced constraints related to the prevailing insecurity in the area visited. As a result its movements were restricted and it considerably limited its ability to gather information.⁸ Furthermore, due to the weight of local customs and traditions, fearing from being stigmatized or abandoned by their families, several victims of rape did not come forward and did not mention to the team the abuses they were victims of. The lack of medicine and of medical follow-up in the cases of several dozen victims of rape discouraged other victims who came back from the bush, from coming forward or going to the health centres for treatment. The growing anger and frustration of the civilian population in the view of the great mobilization around these mass rapes and the promises made by various organizations and authorities, most of which were not followed up,⁹ have also deterred the victims from cooperating with the team.
6. Due to these factors, the team has been unable to establish an exhaustive list of the victims of rape and other forms of sexual violence or of other human rights violations committed by the coalition forces during the attacks carried out between 30 July and 2 August 2010 along the Kibua-Mpofi axis in Walikale territory. The number of victims could therefore be higher than stated in this report.

IV. Background of the attacks and actors present along the attacked axis

7. Walikale¹⁰ is the largest territory of the North Kivu province. Walikale-centre, the administrative centre of the territory, is located around 135 km west of Goma. The territory,

⁷ The consolidated list was prepared using lists of victims drawn up by some local leaders and structures, as well as partners such as Heal Africa and IMC, and on the basis of information obtained by the UNJHRO.

⁸ Messages announcing new rebel coalition attacks in reprisal against the rape charges brought against them by the victims have increased, and several villages around Kibua were attacked by Mayi Mayi Sheka and FDLR between August and November 2010.

⁹ These include notably requests for appropriate health care and systematic mass screening for all victims and their spouses, refurbishment of the Luvungi health centre, and reinforcement of the operational capacities of the FARDC and the PNC in the area.

¹⁰ A map of the Walikale territory is enclosed as annex I of this report.

divided into two *collectivités*,¹¹ has 15 districts with a total of 90 villages. The territory of Walikale is rich in minerals, and consists mainly of mountain ranges covered with abundant indigenous forests. Its residents are Bantu, mainly belonging to the Nianga, Nande, Shi, and Hunde ethnic groups, and the most widely-spoken language is Swahili.

8. Economic activities mainly consist in agriculture, livestock, hunting as mean of support, and unofficial mining. The non-asphalted roads between villages within the territory are impassable and inaccessible during the rainy season. People and goods circulate with difficulty because of the remoteness of the villages. In addition, the telephone network is inaccessible over a large part of the territory. All these factors favour the *de facto* occupation of this territory by the FDLR and other armed groups with a view to lucrative opportunities linked, in particular, with mining the abundant minerals which are plentiful there.

4.1. Armed groups

9. Due to the weakness of the State authority in Walikale territory, several armed groups, in particular combatants from the FDLR and the Mayi Mayi Sheka and armed elements under Lieutenant Colonel Emmanuel Nsengiyumva, have set up their bases in the forests of Walikale over which they rule. While mining exploration and extraction concessions have been officially granted to certain companies¹² operating in the territory, mining remains mainly unofficial and strongly controlled by the most influential armed groups in the region, in particular the FDLR. Taking advantage of the vulnerability and distress of the territory's local population, these groups have proclaimed themselves defenders of the interests of their respective communities.¹³ Several medium-sized armed groups that are likely to be interested in a war economy — like the Mayi Mayi Sheka and the armed combatants under Lieutenant Colonel Emmanuel Nsengiyumva — joined forces with the FDLR in the first six months of 2010 with the aim not only of winning their share of the profits flowing from the trade in minerals, but, above all, of demonstrating their ability to harm the civilian population, so as to force the Congolese Government to negotiate peace.
10. Since the beginning of operations by Government forces to hunt down the FDLR combatants in 2009,¹⁴ the latter have, in reprisal, systematically launched deadly attacks against civilians who are inadequately protected, whom they accuse of treason. These attacks involve summary executions, mass sexual violence, systematic lootings, abductions and the use of civilians for forced labour. In light of their vulnerability and helplessness while facing these

¹¹ *Collectivités* of Bakano (4,238 km²) and Wanianga (19,237 km²).

¹² The Anglo-South African consortium Mining Processing Company (MPC) holds the exploring authorization for the Bisiye cassiterite mine. Several other mining companies are present in Walikale and hold mining and/or exploring authorization around Bisiye sites within the territory, including the companies Groupe minier Bangadula (GMB), Sakima, Sozagrimines, Geminaco, and Oakridge.

¹³ FDLR forces have been living there at least since 1994 and have set up their headquarters there, in Mutongo, Mungazi, and Kishanga. More recently, in 2010, the Mayi Mayi Sheka and armed combatants under Lieutenant Colonel Emmanuel Nsengiyumva established their bases in Irameso and Misao.

¹⁴ These operations aimed at neutralizing FDLR combatants, but they were badly planned and had a disastrous impact on civilians.

attacks, the local inhabitants have not only established local self-defence groups¹⁵, but also show a tendency to negotiate peace regularly with the most influential armed groups in these areas in return for payment of a monthly security tax.¹⁶

4.2. The Armed Forces of the DRC

11. Reliable sources indicated that FARDC soldiers deployed in Walikale are involved in minerals trafficking.¹⁷ These soldiers are supported by their immediate superiors at the provincial and national levels. Motivated by greed and assured of impunity¹⁸, they develop secret ties with the armed groups operating in their areas of deployment or leave these areas and move to mine locations, leaving the civilian population in insecurity. Orders for deployment and redeployment of FARDC soldiers to localities of Walikale were reportedly ignored at times owing to the fight for positioning among military officers over zones in which large mines are located. These disputes, which are linked to cooperation between some FARDC members and armed groups, adversely affect the ability of FARDC troops to provide the local population with effective protection in their areas of deployment.
12. Before the attacks, the Kashebere-Kibua-Mpofi axis was under the command of the 211th FARDC brigade. This brigade moved to the Mubi-Ndjingala axis, rich in mining quarries, at the beginning of July 2010, to replace the 212th brigade that was coming from the aforementioned axis. At the time of the attacks, the Kibua-Mpofi axis was under the jurisdiction of the 212th FARDC brigade, which was under the command of Lieutenant Colonel Yusuf Mboneza. However, there were no FARDC soldiers on this axis, because the 211th FARDC brigade had moved out to its new area of deployment, while the soldiers of the 212th FARDC brigade opposed the rotation.
13. According to credible sources, Lieutenant Colonel Yusuf Mboneza opposed the transfer under the pretext that the gains from the mining along the Kibua-Mpofi axis were insufficient in comparison with the profits gained along the Mubi-Ndjingala axis, his previous area of deployment. The FARDC officer then entered into a power struggle with his superiors and instructed his men that they should under no circumstances go to the Kibua-Mpofi axis. This meant that there were no 212th brigade troops on the axis at the time of the attacks.

¹⁵ According to some local sources, in the absence of Government forces, several “village children” living along the Kibua-Mpofi axis were given the task of tracking armed groups in the bush. Several villages reportedly requested training and weapons to give to self-defence groups.

¹⁶ Delegates from each village go into the forest each month to negotiate peace with the FDLR. In September 2010, the FDLR sent a message requesting payment of a security tax set at 150 USD. On 1 September 2010, village representatives met in Luvungi in order to go to the forest and make the payment to the Mayi Mayi and the FDLR.

¹⁷ See in particular the final report from the Group of Experts on the Democratic Republic of the Congo established in application of paragraph 6 of the 1986 Resolution (S/2010/596) dated 29 November 2010 and the 2009 report by the NGO Global Witness entitled “*Faced with a gun, what can you do? War and the militarisation of mining in Eastern Congo*”.

¹⁸ The enforced liberation of Lieutenant Colonel Yusuf Mboneza illustrates this theory. Colonel Chuma Balumisa, Commander of the 2nd Operational Area of the Amani Leo operation, was also the subject of a pre-trial investigation, charged with engaging in profit-making activities during wartime in the month of July 2010, but returned to his position shortly afterwards.

14. On 12 August 2010, Lieutenant Colonel Yusuf Mboneza was arrested for insubordination, for refusing to obey an order, and for abandoning his troops on the battlefield and fleeing before the enemy following the attack in Kilambo by a coalition of Mayi Mayi Sheka and FDLR combatants at the end of July 2010.¹⁹ This arrest illustrates the tendency of some FARDC officers to prioritize their personal interests over and above their mandate to protect the population, and the lack of discipline within the FARDC. General Bosco Ntaganda, who was present during the arrest, reportedly protested vigorously against it. However, on the same day, an unidentified company of at least 50 FARDC (ex-CNDP) soldiers heavily armed with rocket launchers, machine guns and RPG-50 and RPG-80 mortars, went to the military prosecutor's office in Goma, where Lieutenant Colonel Mboneza was being held. The FARDC troops surrounded the military prosecutor's office, blocked all road accesses and freed, threatening to use force, Lieutenant Colonel Mboneza from the detention facility. The command of the Amani Leo operation established a "*disciplinary commission*" following this escape. This committee reportedly met at the beginning of November 2010 and decided to punish Lieutenant Colonel Mboneza with a disciplinary sanction of 14 day-suspension and his transfer to South Kivu province.

4.3. The Congolese National Police (PNC)

15. The PNC is present along the attacked axis and there are police stations in Kibua, Luvungi, and Kembe. However, these posts along the axis, each of which is equipped with one AK-47 assault rifle, have a total of about 10 men. Given their poor operational equipment, they are unable to effectively protect civilians and their belongings. According to local sources, PNC officers are "*the first to run away in the event of a rebel attack*". The *Police d'intervention rapide* (PIR) has not been deployed on the axis since the FARDC left, although they should have been there as part of the stabilization process of the zones previously under armed groups control. This is because the units based in Goma had been redeployed to Kinshasa well before the attacks that took place from 30 July to 2 August 2010, probably in connection with the planning of the celebration of the fiftieth anniversary of the independence of the DRC. The PNC in North Kivu, having no reserve officer to supplement the PIR officers, did not significantly reinforce its presence in the villages on the Kibua-Mpofi axis following the departure of FARDC troops.

4.4. MONUSCO troops

16. The "*Company Operating Base*" (COB) in Kibua, whose area of jurisdiction includes the villages attacked by the coalition of armed groups, received around 80 newly deployed troops on 27 and 28 July 2010²⁰, as a result of MONUSCO troops' rotation. The troops had not undergone specific training regarding the protection of civilians and interaction with communities in the context of the Democratic Republic of the Congo. Nor did the COB have

¹⁹ The attack of 24 July 2010 was attributed to a coalition of Mayi Mayi Sheka and FDLR combatants, and during which the cargo of an aircraft was looted, 60,000 USD were stolen, and three people abducted by the assailants. At the time of the launching of the operation in Kilambo, Lieutenant Colonel Mboneza reportedly refused to deploy his troops to fight the enemy. He also allegedly withdrew from the front, taking with him weapons and troops who were loyal to him and abandoned his operational sector chief, Colonel Chuma Balumisa. This incident allegedly demonstrates his affinities with the armed groups.

²⁰ This took place exactly two days before the coalition attack. COBs have 80 military personnel at most.

a “*Community Liaison Interpreter*” (CLI)²¹ at the time of the attack, as one was in the process of being recruited.

17. Once or twice a week, the peacekeepers stationed in Kibua conducted day patrols to the east and west of Kibua. No night patrol had been conducted in the area of responsibility of the Kibua base prior to the attacks, although the civilian population was of the opinion that attacks and other acts of violence by the armed groups generally took place at night. The capacity of Kibua peacekeepers to gather information and intervene was limited by operational constraints, in particular lack of military logistics, the inaccessibility of the telephone network, the poor road conditions, the insecurity in the region, long distances between villages and the remoteness of the area. In addition, MONUSCO peacekeepers in Kibua were not specifically aware of deterrence mechanisms or of proactive protection and warning techniques that could have maximized their capacity to intervene when the attacks took place.

V. Sequence of events and identity of the alleged perpetrators

18. On the basis of the statements gathered and the verification of the information collected from various sources, the team can conclude that this attack was planned around 27 July 2010, in the village of Wango in the vicinity of Irameso, which was considered at that time to be the Mayi Mayi Sheka stronghold, in the presence of Captain Sérafin Lionso of the FDLR, Lieutenant Colonel Emmanuel Nsengiyumva and Ntabo Ntaberi Sheka. The aim of this operation was to attack the FARDC positions on the Kibua-Mpofi axis, to loot civilians and belongings of the traders moving along this axis in order to obtain supplies for the assailants, in particular weapons, munitions, food and other goods, as well as punish local population accused of collaborating with the Government forces.
19. After Ntabo Ntaberi Sheka had ordered the attack on 27 July 2010, the coalition of combatants assembled in Irameso for two days and took the road in the direction of the Kibua-Mpofi axis on 28 July 2010. They were divided into sections. The first consisted of some 30 Mayi Mayi Sheka combatants armed with AK-47, LMG²³, RPG²⁴ and 60 mortars, under the command of Lieutenant Colonel Mayele, a native of the village of Kembe, located on the Kibua-Mpofi axis, and the Chief of Staff of Mayi Mayi Sheka. Sources have indicated that among these men were at least four FARDC officers who had deserted from their position in Biruwe and who moved from their base quite often to poach, provide military information to the Mayi Mayi Sheka, and reinforce them with arms during the operations.

²¹ CLI are Congolese civilians recruited by MONUSCO and deployed in military bases. Their task is to facilitate the work of MONUSCO peacekeepers by interacting between them and local communities in order to provide them with a better protection. Prior to their deployment, their training is organized jointly by the UNJHRO and the MONUSCO Civil Affairs Section on issues such as the protection of victims and the establishment of local warning networks. They have since been replaced by CLAs (Community Liaison Assistants).

²² This tripartite coalition made a strategic decision to appoint Sheka as “leader” when it came to planning and organizing the attacks, in his capacity as “a child of the land”. In practice, however, Sheka’s leadership within the coalition was only a *façade*, given that he had fewer combatants and they were under-armed. Several sources have confirmed that FDLR were the real leaders within the coalition.

²³ Light machine gun.

²⁴ Rocket-propelled grenade.

The second section was composed of at least 150 FDLR-FOCA²⁵ combatants led by Captain Sérafin Lionso and whose arsenal, which was much greater and more various than that of the Mayi Mayi Sheka, included 82 mortars, automatic machine guns, and other heavy weapons. Lieutenant Colonel Emmanuel Nsengiyumva's men were left to a mere dozen fighters armed with 82 and 60 mortars, AK-47, LMG, and RPG; they were under the command of Major "Bosco", who was acting as operations officer, and was assisted by another military officer known as "Jean-Marie".

20. FDLR troops involved in this attack were under the command of Lieutenant Colonel Evariste Kanzeguhera, better known as "Sadiki Soleil" and the commander of the Montana battalion of the FDLR-FOCA, whose respective bases were in Chalingwangwa and Maningwi, near Mutongo, the *chef-lieu* of the *groupement* of Ihana. Although they had planned and ordered the attacks along the Kibua-Mpofi axis, Ntabo Ntaberi Sheka, "Sadiki Soleil" and Emmanuel Nsengiyumva remained at their respective bases and did not directly participate in the attacks. Credible sources have indicated that, from May to October 2010, this tripartite coalition carried out attacks on the villages of Biruwe, Mabenga, Osokari, Kilambo, Kailenge, Boboro, Omate, Mubi, and those along the Kibua-Mpofi axis. Some of the attacks, such as the one in Mubi, were directly led by Sheka himself.
21. When they arrived in the bush near Kembe, at about 6 p.m. on 30 July 2010, the coalition troops had noted that there were no FARDC forces along the axis. Captain Sérafin Lionso then allegedly gave to his men different orders from the initial ones. He instructed them to carry out systematic rapes to demonstrate the coalition's capacity to harm. Major "Bosco" of Lieutenant Colonel Emmanuel Nsengiyumva's militia and Lieutenant Colonel Mayele of the Mayi Mayi Sheka reportedly opposed this order. This led to a dispute between the commanders, and the group subsequently fell apart. Lieutenant Colonel Mayele and some of his troops stayed at Kembe to "protect" his community of origin, while the other coalition soldiers set off in the general confusion for Bunangiri and Luvungi to start the attacks, probably following the new orders of Captain Sérafin Lionso.
22. According to the witness statements obtained, Kembe is the only village where no rapes took place. Local sources have confirmed that this exception was due to the presence of Lieutenant Colonel Mayele and elements, who had remained loyal to him in Kembe on the night of 30 to 31 July 2010. They had established a checkpoint there and built a barrier to protect the village against attacks by the other combatants of the coalition. Subsequently, on 31 July 2010, Lieutenant Colonel Mayele set off for Wango with a handful of loyal soldiers to inform Sheka of the changes that had taken place in the operation. Although he was informed of the situation well before the end of the attacks, Sheka did not use his influence to stop the rapes. Furthermore, it is accepted that Sheka's alleged leadership role in the coalition is only that of a figurehead, and that his instructions would not have prevented the rapes and other violent acts being committed by the majority of the other combatants from

²⁵ There are several factions within FDLR, including FDLR-RUD, the *FDLR-Forces combattantes Abacunguzi* (FOCA) under the command of General Sylvestre Mudacumura. Lieutenant Colonel "Sadiki Soleil" is the commander of the Montana battalion within the FDLR-FOCA which controls several axis in Walikale territory. This battalion is divided into companies, the most influential of which in the area attacked is the one commanded by Captain Sérafin Lionso.

the coalition of armed groups. On the other hand, several rape victims at Luvungi recognized Lieutenant Colonel Mayele as a rapist, and accused him of not extending his protective measures to the village of Luvungi, which was less than a kilometre east of Kembe.

23. During four days, assailants travelled across the 13 villages²⁶ along the Kibua-Mpofi axis, beginning with the village of Bunangiri, some 4 km from Mpofi, and proceeding towards Kibua. The coalition elements then reportedly divided into groups of two, three, and six individuals. Some travelled through the forests to reach the villages while others used vehicles stolen to traders in order to move more easily along the axis. Taking advantage of the transit of goods in connection with the market day in Kibua on 30 July 2010, they cut off the road in the villages of Kembe, Tweno and Nsindo until 1 August 2010 in order to block traffic and loot traders' wares. They subsequently took control of Bunangiri hill, the only location in the area from which telephone calls can be made or received. This tactic enabled them to shut down all means of communication and restricted the spread of information on the attacks.
24. In most of the villages under attack, the assailants arrived by surprise and stated that they had come to provide local people with security. Some chiefs and notables then instructed women to prepare food for the rebels. At that point, the assailants suddenly moved towards houses and began raping and looting. While one group raped and looted, another set up ambushes in the outskirts of the forest to intercept fugitives, and raped or abducted them. Some of the attacks took place by day, but most of them took place during the night.

VI. Human rights violations

6.1. Rapes and other sexual violence

25. In view of the consistent statements that were collected, the team can conclude that at least 387 civilians were raped, including 300 women, 23 men, 55 girls, and 9 boys during the attack on villages along the Kibua-Mpofi axis. It is highly likely that the number of victims is higher, as some victims did not come forward for the reasons given in paragraph 5 of this report.
26. According to local sources, the attacks were a punitive strike intended to subjugate local communities living along the Kibua-Mpofi axis, considered as "traitors" for reportedly sympathizing with Government forces, and aimed at equipping the coalition of armed groups. The armed groups allegedly decided to scare them forever through extremely humiliating acts, hence the planning of mass rapes. According to the statement of a local victim from the Nianga ethnic group,²⁷ *"It is better to die than being raped by FDLR²⁸ and their allies, because such rape is the worst humiliation against a human being"*.

²⁶ The villages are Bunangiri, Kembe, Tweno, Luvungi, Binyampuri, Chobu, Bitumbi, Lubonga, Kasuka, Ndorumo, Brazza, Kitika, and Nsindo.

²⁷ The Nianga is the main indigenous ethnic group within the communities living along this axis. There are minority groups, such as the Chi, who tend to work as miners and traders in minerals. The team noticed antagonism between the two ethnic groups; the former tend to be pro-Government, whereas the latter appear to strongly sympathize with rebel groups.

27. Almost all of the victims were gang-raped by groups of two to six assailants. They forced their victims to the ground. Taking turns, one would immobilize the victim by pinning down the chest and arms, a second would hold the legs, while a third would rape the victim. In addition, the assailants would push forked sticks, or simply their hands, into the intimate parts of the victims, purportedly to look for gold or silver.²⁹ After the search, they would wipe their hands on the faces of their victims, insulting them and humiliating them verbally, with expressions such as “*you betray us, so you don’t deserve to be left alive*”.
28. The villages of Luvungi and Lubonga appear to have been the worst affected. In the night of 30 to 31 July 2010, in a district of Luvungi named Chobu, the men spent the night in the forest because they were afraid of being abducted and forced by the assailants to carry looted goods. While their wives and children remained in Chobu, the assailants surrounded it and systematically raped the women and children living in each of the 40 houses there. Some of the rapes took place in the forest in the rain, so several women were bitten by snakes during the rapes. Most of the rapes appear to have been committed in the presence of the victims’ children and relatives, as well as community members.
29. During the interviews, most of the victims cried and still seemed severely traumatized, months after the events. They had still received none of the assistance needed, which was mainly medical.³⁰ All the victims were raped without the use of condoms. Some victims went to health centres and underwent basic medical examinations, but most only received paracetamol in the absence of relevant medicine. In fact the International Medical Corps did donate drugs to its health centres and partners’ health facilities along the Kibua-Mpofi axis. However, they rapidly ran out of supplies because of the ever-increasing number of victims. Moreover, at the time of publication of this report, several victims have not yet undergone medical examination to detect sexually transmitted diseases, including HIV/AIDS.

6.2. Other human rights violations, in particular looting, abduction and forced labour

30. During the attacks, at least 923 houses and 42 shops located in various villages were looted by the assailants sometimes collectively according to their affiliation (Mayi Mayi Sheka, Lieutenant Colonel Emmanuel Nsengiyumva and FDLR) and sometimes individually. The looted goods were very often gathered near the commercial centre of each village and divided into three parts. Each part was then bundled into parcels weighing between 40 and 70 kilograms. In villages such as Luvungi, some people were able to keep only the clothes they were wearing on the day of the attack. On 2 August 2010 in Kembe, soldiers of the 25th

²⁸ During that attack, FDLR combatants were far more numerous than those belonging to other armed groups of the coalition.

²⁹ Traders and mine workers are used to carefully wrap their money, minerals and gold nuggets in small handkerchiefs and conceal them in their private parts.

³⁰ The humanitarian community in Goma deployed nurses and psychologists along the attacked axis in order to provide medical care to the victims. However, in view of the significant number of, and multiple needs in terms of assistance to victims (psychological, medical, humanitarian, protection, raising community awareness for the reintegration in their households of victims rejected by their husbands), this support is still insufficient. Initiatives are under way to meet this need for multi-sectoral assistance.

FARDC independent Brigade coming from Kashebere under the command of Major “*Ekofo*” were involved in lootings, extortions and subjected two minors to forced labour.

31. In the course of the attacks, at least 116 people, including at least 15 minors, were reportedly abducted and subjected to forced labour. Upon entering the villages, the assailants stopped anyone who tried to escape along pathways or in the houses that were being looted, and locked them in huts where they remained captive for nearly a day. They were then forced to carry heavy packages on their heads to the camps of armed groups at least 40 kilometres away in the forest, north of the Kibua-Mpofi axis. A column of captives, carrying goods under the control of assailants, proceeded from each village along the forest path towards Irameso, which has been indicated as the coalition headquarters and located two-day walk from Kibua and its surroundings. Along the way, most of the captives managed to escape while their assailants were momentarily distracted. Those who carried the looted goods to their final destination were kept in captivity. They reportedly subsequently escaped and returned to their villages after walking for between six hours and two days. All of those abducted have now been released.
32. Of those abducted, at least 12 men and 3 boys were subjected to cruel, inhuman or degrading treatment. In order to force the victims to move more quickly through the forest, the assailants struck the captives on the neck and back with ropes, rifle butts, and sticks. As an example, a man with malaria was forced to carry a heavy package to Irameso and was flogged every time he wanted to rest.

VII. Legal framework

33. Non-State actors involved in armed conflicts, like Mayi Mayi and FDLR, are obliged to abide by International Humanitarian Law enshrined in Common Article 3 of the four Geneva Conventions of 12 August 1949 and Protocol Additional of 8 June 1977 (Protocol II)³¹ obliging parties to the conflict to spare civilian population during attacks in accordance with the principles of distinction, proportionality, necessity and precaution.
34. By using rape as a weapon of war, as a mean of terror and to ensure the enslavement of civilians, by planning, organising and attacking people in 13 villages along the Kibua-Mpofi axis, the coalition of FDLR, Mayi Mayi Sheka and the armed combatants under the command of Lieutenant Colonel Emmanuel Nsengiyumva breached the provisions of Common Article 3 of the four Geneva conventions and Protocol Additional of 8 June 1977 (Protocol II) relating to the protection of victims of non-international armed conflict. These instruments prohibit, among others, hostage-taking, violence to person and outrages upon personal dignity with respect to civilians at any time and in any place.
35. Due to the fact that these attacks were well-planned in advance and carried out in a systematic, targeted manner, the exactions committed could constitute crimes against humanity and war crimes, as defined by Articles 7 and 8 of the Rome Statute governing the

³¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

creation of the International Criminal Court (ICC) and under Congolese laws as enshrined in Article 170 of *Ordonnance-Loi* No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 governing the Congolese Criminal Code.

36. The fact that Ntabo Ntaberi Sheka, Lieutenant Colonel Emmanuel Nsengiyumva and Lieutenant Colonel “*Sadiki Soleil*” did not directly participate in the operations does not exempt them from criminal responsibility, as their prior knowledge of the plan of the attack, and their support, which consisted in sending their respective coalition fighters to assist in the said attack, amount to strong evidence of their responsibility for the acts of violence committed by their subordinates, whose links with their respective superiors are established. In addition, the leadership conflict within the coalition, which highlights the predominance of private interests of dominant sub-groups³² at the expense of the overall aims of the coalition, cannot be accepted as an exemption cause for the sub-groups under-represented.
37. In addition, it appears that Ntabo Ntaberi Sheka, in spite of being aware of the violations being carried out by coalition troops, did not intervene to stop them; nor did he subsequently disassociate himself from the coalition, whose increasing criminal activities were in opposition with the principles put forward by the rebel movement, in particular that of protecting local population. With the aim of avoiding the legal proceedings opened by the Congolese authorities against him and the other members of this coalition, Ntabo Ntaberi Sheka had Lieutenant Colonel Sadoke Kikonda Mayele³³, the Chief of Staff of the Mayi Mayi Sheka, arrested and handed over to Congolese military justice. This facilitation should not in any circumstances shield him from legal proceedings.
38. As a signatory of the International Covenant on Civil and Political Rights³⁴ and other conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women,³⁵ the Congolese State is bound to respect the relevant rights and exercise the necessary diligence to prevent and punish violations of these rights committed by its own security forces or non-State actors. In accordance with the provisions of Article 74 (bis) of Law No. 06/019 of 20 July 2006 amending and completing the Decree of 6 August 1959 on the Congolese Code of Criminal Procedure, the effectiveness and integrity of the Congolese judicial investigation carried out into these attacks can only be guaranteed in an environment propitious to the safety and physical and psychological well-being of the witnesses and victims. However, the competent authorities did not take enough measures to guarantee the protection of witnesses and victims while starting the judicial investigations. The latter were subsequently threatened with death in Luvungi by FDLR combatants following their cooperation with the Congolese authorities during the investigations.

³² The FDLR-FOCA is the dominant sub-group within the coalition.

³³ Several victims maintained that they were raped by Mayele in person.

³⁴ Zaire ratified this Covenant on 1 November 1976.

³⁵ Zaire ratified this agreement on 17 October 1986.

VIII. Response of the Congolese authorities, MONUSCO and humanitarian partners

8.1. Congolese authorities

39. On 1 August 2010, FARDC soldiers urgently deployed two of their units to Mpopi and Kibua to beat back the assailants. In the afternoon of 2 August 2010 another motorized unit of the 25th FARDC independent Brigade from Kashebere was deployed on this axis, in order to reopen it. Indeed two of its segments had been cut off by assailants since 30 July 2010. On 1 August 2010, at around 6 a.m. the Mpopi-based FARDC unit proceeded towards Kembe. According to an FARDC officer the team met in Mpopi, the resulting clashes left at least eight of the assailants dead. On 2 August 2010, an FARDC officer in civilian clothes accompanied the peacekeepers of the COB on patrol along the Kibua-Mpopi axis. However, the FARDC troops deployed in Kibua and Mpopi did not formally request for support to the Kibua-based MONUSCO peacekeepers to track down and neutralize elements of the coalition of armed groups. According to local sources, the FARDC soldiers allegedly stated that they were in control of the situation.
40. In mid-September 2010, FARDC soldiers launched a military operation under the name “*Fagiya*”, which, in the local language, means “*cleansing*”, in several locations allegedly providing shelter to the combatants and sympathizers of Mayi Mayi Sheka, FDLR, and the elements of Lieutenant Colonel Emmanuel Nsengiyumva, particularly in Irameso, Kingwe, Mundjoli, Chalingwangwa, Nyamutongo, Wango, Kasera, Mapera and Titi. This operation, initially aiming at dismantling the bases of the fighters of the coalition of rebel forces, quickly became a hunt, followed by arrests of civilians, who were alleged FDLR collaborators, systematic burning of houses, and abductions of civilians who were forced to serve as guides for the FARDC. The operation is believed to have caused mass displacement of people from the locations attacked towards the villages along the Kibua-Mpopi axis, in Nyabiondo-Bukombo and Pinga. Allegations of rape, illegal and arbitrary arrests, and abductions of civilians by soldiers of the 212th FARDC Brigade leading these operations were reported.
41. These FARDC military operations also aimed at restoring the authority of the Congolese government in this area following the publication of two ministerial decrees relating to the provisional suspension of mining activities in the provinces of Maniema, North Kivu and South Kivu.³⁶ However, in October and November 2010, several reliable sources reported breaches of these decrees by FARDC soldiers and PNC officers, as well as some individuals and mining companies in North Kivu.³⁷ On 10 March 2011, this temporary suspension of mining activities was lifted.
42. In October 2010, Colonel François Mudahunga took office as commander of the 212th FARDC Brigade, replacing Lieutenant Colonel Yusuf Mboneza. On 20 and 21 October 2010,

³⁶ Ministerial Decree No. 0705/CAB.MIN/MINES/01/2010 of 20 September 2010 suspending mining activities in the provinces of Maniema, North Kivu and South Kivu and Ministerial Decree No. 0706/CAB.MIN/MINES/01/2010 of the same date laying down urgent measures to set the previous decree.

³⁷ The soldiers of the 251st Battalion under the command of Major Safari Vincent ensure the safety and escorts of the employees of the company Geminaco along the Mubi-Omate axis. FARDC soldiers commanded by Lieutenant Colonel Matiti Bonny were reportedly deployed in the Bisiye area and used civilians to extract minerals.

the newly promoted officer carried out a courtesy visit to the 13 villages affected and announced to the villagers, among other important measures, the deployment of a special FARDC unit. On 10 December 2010, a platoon of 40 soldiers from the 1213th FARDC Battalion was deployed in Luvungi; the platoon left in February 2011, when its tour of duty came to an end.

43. The presence of the PNC in the attacked axis was reinforced in October 2010 with the installation of a new police sub-station in Kasuka and of a police station in Mpofi.³⁸ These two new police stations were staffed with only ten officers with only three AK-47 rifles at the Mpofi station. The PNC contribution to keep the security remains very limited. In response to the security needs of the civilian population living along the attacked axis, the provincial inspectorate of the PNC in North Kivu developed a proposal for the deployment of 100 officers along the Kibua-Mpofi axis. These officers were indeed deployed in the area and were stationed in Luvungi on 3 March 2011 for a period of three months.
44. On 30 August 2010, the military prosecution's office at the CMO opened a judicial investigation against the alleged perpetrators of the attacks, in particular Sheka and al., for crimes against humanity of rape, looting and abduction. At the date of publication of this report, the only person arrested and charged in this case is Lieutenant Colonel Mayele, who was handed over to the Congolese military justice on 5 October 2010 and who is currently being held in the prison of Goma. According to reliable sources, Lieutenant Colonel Emmanuel Nsengiyumva was killed on 27 February 2011 in Rutshuru in the province of North Kivu.
45. At the beginning of October 2010, the military judicial authorities of North Kivu selected magistrates and police officers to undertake investigations into the case. The Congolese investigators carried out their first mission in Walikale-centre on 28 October 2010 to collect testimonies from victims and witnesses, without the implementation of adequate protective measures. Although the investigations are continuing at the time of drafting this report, the interviews of victims and witnesses in Walikale territory were suspended on 30 November 2010 following threats from FDLR combatants. On the date of the suspension, more than 150 victims and witnesses had been heard by the military judicial authorities with the support of MONUSCO, UNDP, and other partners. In spite of this, with the exception of Lieutenant Colonel Mayele, no suspects have been arrested and/or charged by the military prosecutor's office at the CMO.

8.2. MONUSCO

46. In the morning of 1 August 2010, the deputy chief of Ihana *groupement* who resides in Kibua reportedly informed MONUSCO peacekeepers of the COB in Kibua of the attacks by the coalition in the area and reported allegations of lootings and rapes. Later that morning, the peacekeepers of the COB reportedly sent out a patrol to the Kibua-Binyampuri axis, and then, on 2 August 2010, sent a second patrol to the Kibua-Mpofi axis. Since the local

³⁸ The Mpofi police station is mobile because the "Temporary Operating Base" (TOB) of the MONUSCO peacekeepers in Mpofi has occupied the premises of the old police station of the same locality.

inhabitants were still hiding in the forest and the villages were empty, the peacekeepers of the COB were not able to substantiate the facts and assess the scale of the situation.

47. The previous team of the COB in Kibua used to hold security meetings every Monday with village chiefs and elders, as well as representatives of the FARDC and PNC. Since his arrival in Kibua at the end of July 2010, the new COB commander has reportedly had sporadic bilateral meetings with the deputy chief of the *groupement*, who was then told to relay the information to chiefs of localities and villages. The civilians met in the attacked villages expressed their dissatisfaction with regard to the very limited interaction with peacekeepers during patrols. This has reduced the possibility of collecting timely information about their protection needs, as well as on the abuses by armed groups.
48. With the assistance of the CLI of Walikale, who was in Kibua on a temporary basis from 25 August 2010 to 6 September 2010 pending the recruitment and deployment of a CLI to Kibua, the peacekeepers of the COB gradually familiarized themselves with best practices with regard to the protection of civilians. This work continued with the deployment of a CLI assigned to the COB of Kibua on 11 November 2010.
49. Following the increase in activities of armed groups in Walikale and Masisi territories, which led to widespread human rights violations and to increased insecurity among civilians, MONUSCO launched operation “*Shop Window*” in the Pinga, Kibua, and Walikale areas of North Kivu on 1 September 2010 to reassure local inhabitants and demonstrate MONUSCO commitment to use all resources necessary to carry out its protection mandate.
50. MONUSCO established two TOBs in Binyampuri, 3 km east of Luvungi and Mpofi, on 27 September and 2 October 2010 respectively. The day and night patrols carried out by MONUSCO peacekeepers considerably increased the feeling of security among the civilian population. However, the interaction between MONUSCO peacekeepers and civilians remained limited, as most of the local leaders admitted that they only saw MONUSCO peacekeepers in their vehicles during daytime patrols and rarely within the villages themselves communicating with the civilian population and working to consolidate mutual trust.
51. On 7 September 2010, the Assistant Secretary-General for Peacekeeping Operations, Mr. Atul Khare³⁹, presented a report to the Security Council confirming the scale of sexual violence perpetrated during the attacks of 30 July to 2 August 2010. Several eminent members of the United Nations system, including the United Nations High Commissioner for Human Rights and the Special Representative of the Secretary-General of the United Nations on Sexual Violence in Conflict, Mrs. Margot Wallström, who came to the DRC from 27 September to 4 October 2010 to meet the victims of rape and other sexual violence during the attack and to assess the scale of the situation on the ground, reiterated the necessity to fight

³⁹ Mr. Atul Khare visited the DRC between 28 August and 2 September 2010. He visited the village of Luvungi on the Kibua-Mpofi axis and talked to victims of rape and other sexual violence.

impunity of the alleged perpetrators of mass rapes in the east of the DRC.⁴⁰ In this context, MONUSCO has set up a working group⁴¹ at national and provincial levels (North Kivu) to monitor and support the Congolese military justice throughout the legal proceedings regarding these attacks. For example, this working group has set up an investigation support unit, under the aegis of the MONUSCO Rule of Law Section, to provide the Congolese investigators dealing with the case with technical assistance.

52. MONUSCO deployed, on several occasions, UNJHRO staff to the attacked villages to investigate into allegations of human rights violations committed by the coalition of combatants. It also assisted judicial authorities with their investigations and facilitated their deployment to the attacked sites. In addition, from 14 to 17 October 2010, magistrates and police officers took part in a workshop to reinforce their capacities, in particular with regard to investigation techniques in the field of sexual violence and the mechanisms for protecting witnesses and victims with the support of MONUSCO, UNDP and other partners.

8.3. Humanitarian partners

53. The NGO IMC regularly supplies health centres in Lubonga and Mpofi with medicine. Alerted by the Lubonga health centre, the NGO representatives, accompanied by psychologists and nurses, went to Luvungi on 6 August 2010. Most of the village chiefs reported on the humanitarian situation and abuses committed by the armed groups in their respective villages. Until then, although the Lubonga health centre had treated some rape victims, it remained unclear how widespread the alleged incidents of rape were, because the population was still hiding in the bush and only began to emerge around 9 August 2010. At the end of that meeting, a first batch of antibiotics for rape victims was handed over to the Lubonga health centre by humanitarian organizations.
54. On 9 August 2010, IMC rushed back urgently to that area, as the Lubonga health centre, overwhelmed by the number of rape victims, was experiencing a critical shortage of medicine. On 9 August 2010, the Lubonga health centre had documented 55 incidents of rape and other forms of sexual violence. Since then, the number of rape victims has continued to increase as local inhabitants who had fled to the forest gradually returned to their villages. Throughout September 2010, humanitarian partners worked their way through all the villages attacked by the coalition of rebels and gave to some households a pack with blankets, clothing, soap, cooking set and oil.
55. At the time of drafting this report, the victims of sexual violence and other human rights violations on the Kibua-Mpofi axis have still not received all the necessary assistance, either medical, psychosocial, or material.

⁴⁰ See the press release of the Office of the High Commissioner for Human Rights of 24 September 2010 for the publication of the preliminary report.

⁴¹ These work groups are made up of the following members: the Rule of Law section of MONUSCO, the UNJHRO, the UNDP, the NGOs Heal Africa, IMC, American Bar Association (ABA) and Lawyers without Borders (ASF), the representatives of the CMO, and the special police for the protection of children and women (PSPEF) in North Kivu.

IX. Conclusions and recommendations

56. Between 30 July and 2 August 2010, combatants of the FDLR and Mayi Mayi Sheka and of Lieutenant Colonel Emmanuel Nsengiyumva perpetrated serious violations of human rights and of international humanitarian law against civilians in 13 villages along the Kibua-Mpofi axis in Walikale territory, North Kivu. The UNJHRO has been able to establish, on the basis of evidence gathered to date, that at least 387 civilians were raped by these combatants, including 300 women, 23 men, 55 girls and 9 boys. In addition, at least 923 houses and 42 shops were also looted by the attackers, and 116 civilians were abducted and then subjected to forced labour.
57. In view of these serious violations, on 30 August 2010, the Congolese judicial authorities opened an investigation against Sheka and al. for crimes against humanity of rape, looting and abduction of civilians. The progress made by the military justice to date has been insufficient. With the exception of Lieutenant Colonel Mayele, no alleged perpetrators of these serious violations of human rights and international humanitarian law have been arrested or charged, although the military prosecutor's office at the CMO has received to date considerable support from MONUSCO, UNDP and other partners to enable it to go to Walikale in October and November 2010, making it possible, in particular, to question more than 150 victims and witnesses. In addition, the absence of adequate measures to ensure the protection of witnesses and victims is a serious obstacle to the efficient conduct of the investigations, as well as to its independence and integrity, which can only be achieved in a secure environment. Furthermore, the negotiations for the integration of Ntabo Ntaberi Sheka and the Mayi Mayi Sheka within FARDC should not overshadow his individual responsibility for the attacks of 30 July to 2 August 2010 along the Kibua-Mpofi axis.
58. In response to the attacks from 30 July to 2 August 2010, FARDC troops deployed the 1213th Battalion to Luvungi to ensure the safety of the population and launched operation "*Fagiya*" to dismantle the bases of armed groups located around the attacked villages. The PNC has also deployed officers. However, in spite of the obligation to protect the population by all necessary means, these Congolese defence and security forces were only deployed in the zone for a very short term, while the armed groups, with their capacity to harm, are still active and permanently located along the axis. In addition, this operation by FARDC soldiers led to the displacement of hundreds of people from the villages along the Kibua-Mpofi axis and is marred by allegations of human rights violations, in particular rape, abduction and disappearance, perpetrated by FARDC soldiers against civilians.
59. MONUSCO faced some operational constraints that limited its ability to gather early warning information and trigger a timely response to the attack. Since then, its logistics, means of transport, staff, and positions along the axis have increased to a reasonable extent.

60. Accordingly, the UNJHRO recommends:

To the authorities of the DRC to:

- permanently deploy Government defence and security forces to the said area in order to protect the civilian population in light of continuing threats to victims and the rumours of attacks by armed groups in the area;
- ensure the replacement of PNC elements temporarily deployed to Luvungi and ensure a permanent presence;
- open up the area by improving means of communication, including the telephone network and roads, and promoting community radio stations;
- take all necessary steps to ensure the protection of victims and witnesses and deploy Congolese judicial personnel in the affected area in order to allow the smooth running of the investigations and, in the long term, the punishment of all those responsible for the attacks;
- investigate and punish FARDC soldiers who did not ensure the security of the affected region, in particular due to their interests in personal gain from the mining sites and their possible collaboration with the armed groups present, contrary to the orders given by the military hierarchy of the FARDC, and open proceedings against the FARDC soldiers who committed human rights violations against civilians instead of protecting them;
- take necessary steps to ensure that the victims have access to justice, as well as their right to legal remedy and to compensation;

To humanitarian partners to:

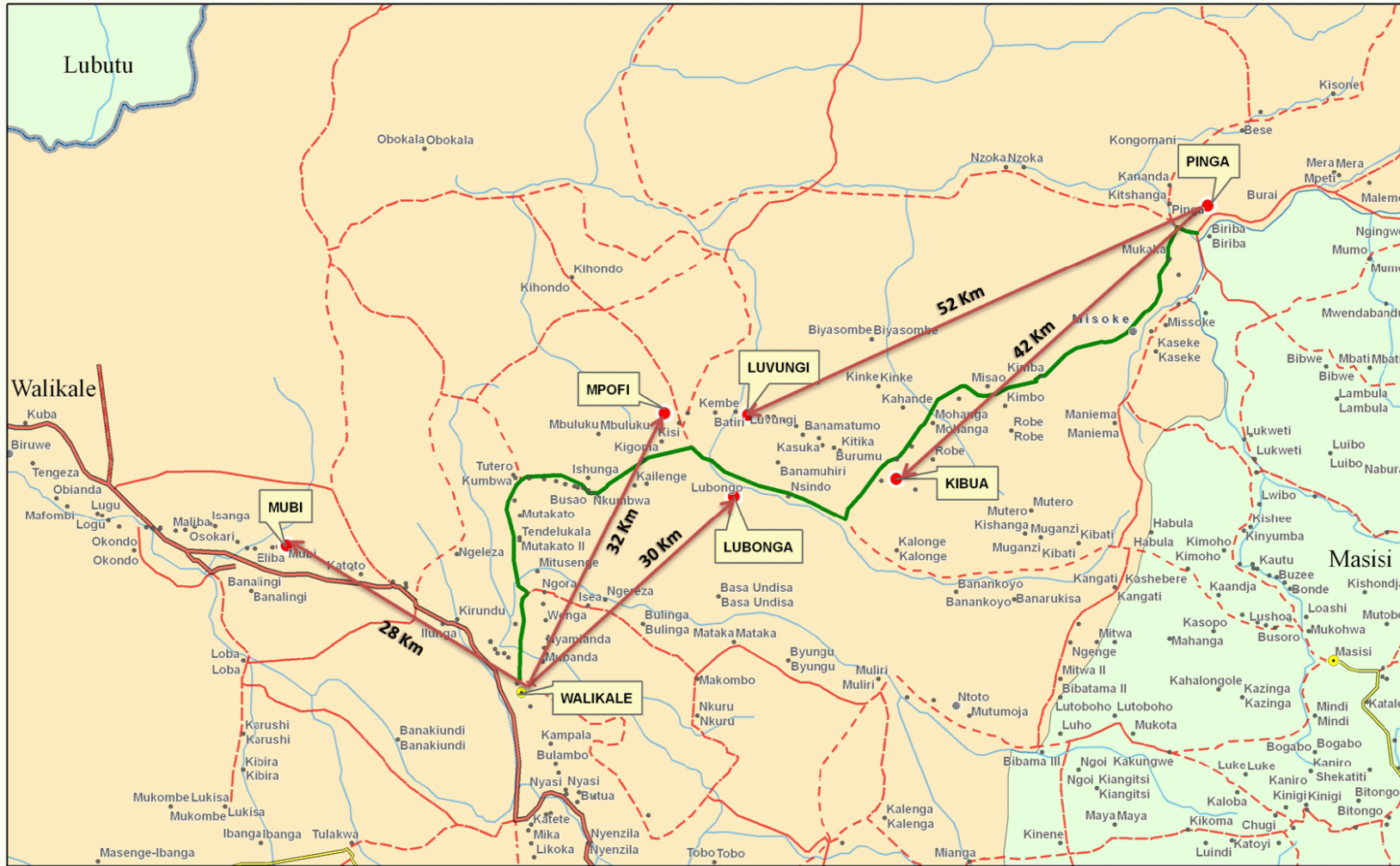
- provide appropriate medical care for all victims of rape, including psychological assistance for the victims and their families and sexually transmitted diseases testing;
- provide humanitarian assistance to the victims whose belongings were stolen and who are still in need months after these incidents;
- provide legal assistance to enable victims to claim their rights in court;

To the international community to:

- provide Congolese authorities with such support as they could apprehend and prosecute leaders of the armed groups involved in these human rights violations;
- provide MONUSCO military bases with the necessary human resources, logistics, communications and transport for the execution of their mandate of protection of civilians, and provide adequate training to troops to be deployed on peacekeeping missions prior to their deployment;

- provide Congolese authorities with the necessary assistance to regulate the illegal exploitation of natural resources, fight the militarization of mines and profiteering by some officials, which adversely affect the joint efforts of Congolese authorities and the international community to provide protection to civilians.

Annex I: Map of the Walikale territory

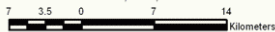


Compiled By GIS Unit, MONUSCO Kinshasa
 Date: September 2010
 MXD: DRAFT
 QA:

WALIKALE - PINGA ROAD

Sources of data: -VMap Level 0 Data
 -Other Sources
 Coordinate System: Geographic; DATUM: WGS 1984

1:1,000,000



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Annex II: Position of the 13 villages along the Kibua-Mpofi axis and security plan before the attacks

