

# CORI

country of origin research and information

## CORI Country Report

### Democratic Republic of Congo; Security Issues, April 2013

Commissioned by the United Nations High Commissioner for Refugees, Division of International Protection.  
Any views expressed in this paper are those of the author and are not necessarily those of UNHCR.



## **Preface**

Country of Origin Information (COI) is required within Refugee Status Determination (RSD) to provide objective evidence on conditions in refugee producing countries to support decision making. Quality information about human rights, legal provisions, politics, culture, society, religion and healthcare in countries of origin is essential in establishing whether or not a person's fear of persecution is well founded.

CORI Country Reports are designed to aid decision making within RSD. They are not intended to be general reports on human rights conditions. They serve a specific purpose, collating legally relevant information on conditions in countries of origin, pertinent to the assessment of claims for asylum. Categories of COI included within this report are based on the most common issues arising from asylum applications made on the basis of gender and age by nationals from the Democratic Republic of Congo (DRC). This report covers events up to 20 April 2013.

COI is a specific discipline distinct from academic, journalistic or policy writing, with its own conventions and protocols of professional standards as outlined in international guidance such as The Common EU Guidelines on Processing Country of Origin Information, 2008 and UNHCR, Country of Origin Information: Towards Enhanced International Cooperation, 2004.

CORI provides information impartially and objectively, the inclusion of source material in this report does not equate to CORI agreeing with its content or reflect CORI's position on conditions in a country. It is acknowledged that all sources have a bias, it is for decision makers to place a weight on sources, assessing relevance to each individual application.

CORI Country Reports are prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced. Every effort has been taken to ensure accuracy and comprehensive coverage of the research issues, however as COI is reliant on publicly available documentation there may be instances where the required information is not available. Any translations made are unofficial translations made by CORI, as with all sources referenced, please see the full text of the original article. The reports are not, and do not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

CORI is an independent centre providing specialist research resources to support Refugee Status Determination.

CORI works internationally with all parties to RSD, including governments, legal representatives and NGOs, producing commissioned research reports and providing knowledge management services. CORI works to improve standards of COI production through capacity building and training.

### **Country of Origin Research and Information (CORI)**

[www.coricentre.net](http://www.coricentre.net)

[info@coricentre.net](mailto:info@coricentre.net)

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# 1. Security Situation

## 1.1 Security situation; types of incidents, including civilian casualties and displacement

In 2011 Belgian Group for Research and Information on Peace and Security (*Groupe de recherche et d'information sur la paix et la sécurité- GRIP*) and Bonn International Center for Conversion (*BICC*) jointly published research carried out in 2009 and commissioned by UNDP on the proliferation of small arms and light weapons in the three provinces of Maniema, North Kivu and South Kivu and the two districts of Ituri (in Oriental Province) and Tanganyika (in North Katanga), in the context of the security problems in the East.<sup>1</sup> The survey which was conducted on more than 10, 000 heads of household reported at least 300,000 small arms and light weapons in the possession of civilians in eastern DRC. After robbery, rape was reported as the second most common crime by the Congolese people. In 2011 *GRIP* reported over a third of respondents perceived their neighbourhoods to be in danger, stating that “a significant proportion of respondents (37%-58%)” in Kivu, Tanganyika, Ituri and North Kivu “felt that their neighbourhood or village was in danger”. *GRIP* further reported,

“[...] a strong correlation between the feeling of danger and armed conflict in the territory in question. Enormous disparities can therefore appear within the same region despite the region as a whole having the reputation of being either rather dangerous or rather safe.”<sup>2</sup>

On the presence of firearms, *GRIP* reported in 2011 that in Maniema, North Kivu, South Kivu and Ituri (apart from Tanganyika), “almost half or more than half of the respondents had heard gunfire in their village/vicinity over the past five or six months.”<sup>3</sup>

*GRIP* reported that the majority of respondents in South Kivu believed that fire arms were present in their vicinity, significant numbers also denied the presence of fire arms, however, the reports authors suspect that the people who denied knowing about the presence of arms have mistakenly restricted the scope of the question to “illegal” arms only or been too scared to answer the survey honestly,

“A large majority of respondents acknowledge that arms are present in their environment. This majority is much higher in South Kivu. Nonetheless, a fairly high number of respondents deny the presence of arms or declare that they do not know whether arms exist in their village or vicinity.”<sup>4</sup>

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<sup>1</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>2</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>3</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>4</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

On the numbers of households possessing weapons, GRIP reported that “it appears that only a minority of the population in East Congo possesses a weapon.”<sup>5</sup>

In terms of fire arm possession GRIP stated that, “Overall, the FARDC and the police are the main weapon owners in the various regions. Nonetheless, criminals, hunters/poachers, demobilized soldiers/deserters and different armed groups also own arms.”<sup>6</sup>

GRIP stated that, “firearms are the weapons most frequently used in assaults against members of a respondent’s household, followed by bladed weapons and clubs.”<sup>7</sup>

GRIP stated that “98.36% of respondents identified the armed actors in their environment.”<sup>8</sup>

With research focusing on Bukavu, Mwenga, Kabare, Shabunda, (South Kivu); Djugu, Mahagi, Irumu (Ituri); Walikale, Goma (North Kivu); Kindu (Maniema), GRIP stated in 2011 that different armed groups are feared in different areas,

“By focusing our research on the ten territories and cities experiencing the most weapons-generated insecurity [...], we observe that banditry appears above all to be a problem in South Kivu and Ituri; the FARDC are perceived as causing insecurity especially in Maniema, South Kivu and Ituri; the problem of demobilized soldiers/deserters is particularly acute in Ituri; armed non-Congolese groups are feared, above all, in both North and South Kivu and indigenous armed groups are particularly feared in South Kivu and Ituri.”<sup>9</sup>

In January 2012 *Radio Okapi*, established by MONUC, reported that the situation in Beni (North Kivu) had been “particularly insecure during the year 2011” according to a civil society press release which reported 10 murders. According to Beni civil society, insecurity was caused by ADF/Nalu and Mai Mai forces, “uncontrolled members” of FARDC forces, and illegally armed civilians.<sup>10</sup>

In 2012 *Amnesty International* stated that FARDC had continued its military operations against foreign armed groups in eastern and northern DRC causing further displacement of civilians,

“The national army, Forces Armées de la République Démocratique du Congo (FARDC), continued its military operations against foreign armed groups in eastern and northern DRC, including the Democratic Liberation Forces of Rwanda (FDLR), the Lord’s Resistance Army (LRA) and the Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU), causing further displacement of civilians. In January, the national army started withdrawing troops for training and redeployment as part of its reconfiguration. This

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<sup>5</sup> Groupe de recherche et d’information sur la paix et la sécurité (GRIP), Armes légères dans l’est du Congo. Enquête sur la perception de l’insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>6</sup> Groupe de recherche et d’information sur la paix et la sécurité (GRIP), Armes légères dans l’est du Congo. Enquête sur la perception de l’insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>7</sup> Groupe de recherche et d’information sur la paix et la sécurité (GRIP), Armes légères dans l’est du Congo. Enquête sur la perception de l’insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>8</sup> Groupe de recherche et d’information sur la paix et la sécurité (GRIP), Armes légères dans l’est du Congo. Enquête sur la perception de l’insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

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<sup>9</sup> Groupe de recherche et d’information sur la paix et la sécurité (GRIP), Armes légères dans l’est du Congo. Enquête sur la perception de l’insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

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<sup>10</sup> Radio Okapi, 2011: la société civile de Beni dresse un bilan sécuritaire sombre, 3 January 2012,

<http://radiookapi.net/actualite/2012/01/03/2011-la-societe-civile-de-beni-dresse-bilan-securitaire-sombre>, accessed 26 April 2013

led to armed groups resuming control of former FARDC areas and the desertion of armed groups recently integrated into the army. A deteriorating security situation in North and South Kivu ensued, with increased activity by the FDLR, Mai-Mai Yakutumba and the Burundian Forces Nationales de Libération (FNL). The army's reconfiguration plan and the 31 December 2010 presidential decree to redistribute ranks within the FARDC created additional difficulties for the already failing process of integrating former armed groups into the FARDC.

On 28 June, UN Security Council Resolution 1991 (2011) extended the mandate of the UN Organization Stabilization Mission in the DRC (MONUSCO) until 30 June 2012. It reiterated that future MONUSCO configurations should be determined based on the evolving security situation on the ground and on meeting objectives, such as improved government capacity to protect the population. The mandate included technical and logistical support for the elections and continued support for a limited number of FARDC military operations."<sup>11</sup>

In January 2012 *VirungaNews.com*, a web-based media covering the Great Lakes region, published a press release by the French global news agency *Agence France Presse (AFP)* reporting on two attacks by the Forces démocratiques de libération du Rwanda (FDLR) in Shabunda (in South Kivu) between 1 January and 4 January 2012. It resulted in the death of 18 people in Luyuyu, 12 in Ngolombe and 15 in other small villages, as well as 13 people injured. The village chief of Ngolombe was beheaded and a pregnant woman disemboweled (her child thrown away). *VirungaNews.com*, reported the Head of the Congolese Red Cross as stating that the majority of the population was led by force to the forest and there was no information on whether they had been killed. According to former Deputy Mayor of Bukavu, up to 64 people may have been killed, and 30 injured. *VirungaNews.com* reported that the villages were difficult to get to and there was no army presence. According to military representative Colonel Ekenge, the attacks were motivated by the fact that the villagers had supported Mai Mai groups.<sup>12</sup>

In January 2012 French international news radio *RFI* reported fighting between the FARDC and the Mai Mai militia headed by Kyungu Mutanga, known as "Gedeon" in North Katanga. "Gedeon" escaped from the Lubumbashi prison in September 2011. He had been sentenced to death on the charge of crimes against humanity committed in the High Katanga between 2001 and 2006, which caused several thousands of civilians to flee the region. According to the Bishop of Kilwa-Kasenga (North province of Katanga) this situation has already resulted in more than 10,000 displacements – including many children.<sup>13</sup>

In May 2012 French radio *Europe 1* and *AFP (French global news agency)* reported that Mai Mai groups and the Forces démocratiques de libération du Rwanda (FDLR) had recently perpetrated attacks against civilians in the East causing the death of over 100 people. The exact location was not mentioned. Attacks were mostly committed with knives. Both groups attacked civilians in reprisal for their suspected alliance with the other group.<sup>14</sup>

In May 2012 Canadian francophone online media *Lapresse.ca* and *AFP (French global news agency)* also reported the attacks perpetrated by the Mai Mai and the Forces démocratiques de libération du Rwanda (FDLR) when over 100 people died. The attacks took place in Ufamandu 1 and Ufamandu 2 groupements, in the territories close to Masisi and Walikale (in North Kivu). The

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<sup>11</sup> Amnesty International, Annual Report 2012, <http://www.amnesty.org/en/region/democratic-republic-congo/report-2012#section-36-3>, accessed 12 April 2013

<sup>12</sup> *VirungaNews.com*, RDC: 45 morts après l'attaque des rebelles FDLR dans l'est, 5 January 2012, <http://www.virunganews.com/content/view/2041/28>, accessed 16 April 2013

<sup>13</sup> RFI, RDC: le chef Mai-Mai, Kyungu Mutanga, a repris ses attaques dans le Nord-Katanga, 12 January 2012,

<http://www.rfi.fr/afrique/20120112-le-chef-mai-mai-kyungu-mutanga-repris-attaques-le-nord-katanga>, accessed 16 April 2013

<sup>14</sup> Europe 1, RDC : plus de 100 morts lors d'attaques, 22 May 2012, <http://www.europe1.fr/International/RDC-plus-de-100-morts-lors-d-attaques-1095377>, accessed 16 April 2013

villages named were Kibati, Kibua, Kilima, Nyakisofi; *Lapresse.ca* reported that other villages were also affected.<sup>15</sup>

In May 2012 *Radio Okapi*, also confirmed this attack, stating that Bitoyi, Kibati Kibua, Kilina Nyakisosi were affected. *Radio Okapi* stated that some civilians had fled to Busurungi.<sup>16</sup>

In January 2012 Belgian media *RTL* reported that FARDC and the Mai Mai “Guides” had been fighting in Ufamandu 1, about 40 km away from Minova (province of South Kivu). As a result, the population from the village of Buniakangendo had massively been displaced.<sup>17</sup>

In April 2012, *International Federation for Human Rights Federation (FIDH)* and *Open Society Institute (OSI)* published a report in which they take a stand on security sector reform in DRC, along with 11 other international and 5 Congolese NGOs and networks. They stated that the root of Congolese suffering is continued insecurity,

“The Congolese government’s inability to protect its people or control its territory undermines progress on everything else. An effective security sector - organized, resourced, trained and vetted - is essential to solving problems from displacement, recruitment of child soldiers and gender-based violence, to economic growth or the trade in conflict minerals. [...] The imperative of developing effective military, police and judicial structures has been repeatedly emphasized. Yet, far from showing sustained improvement, Congolese security forces continue posing a considerable threat to the civilian population rather than protecting them.”<sup>18</sup>

In 2012 *International Federation for Human Rights Federation (FIDH)* and *Open Society Institute (OSI)* clearly stated that serious crimes and human rights violations were being committed by the military regular forces, and that there were issues of corruption in the police as well as a general lack of judicial protection for the population,

“The recent allegations of an army Colonel leading his troops to engage in widespread rape and looting of villages near Fizi in 2011 underscores the fact that failed military reform can lead to human rights violations.

The military – the Forces Armées de la République Démocratique du Congo (FARDC) – has been accused of widespread involvement in the most serious human rights violations.

Police corruption is endemic, and almost any form of judicial protection out of reach for the vast majority.”<sup>19</sup>

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<sup>15</sup> *Lapresse.ca*, RDC: des violences font plus de 100 morts au Nord-Kivu, 22 May 2012, <http://www.lapresse.ca/international/afrique/2012/05/22/01-4527416-rdc-des-violences-font-plus-de-100-morts-au-nord-kivu.php>, accessed 16 April 2013

<sup>16</sup> *Radio Okapi*, Nord-Kivu: des rebelles FDLR et Mai-Mai assassinent plus de 100 civils à Ufamandu, 22 May 2012, [http://radiookapi.net/actualite/2012/05/22/nord-kivu-des-rebelles-fdlr-mai-mai-assassinent-plus-de-100-civils-ufamandu/?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A%20radiookapi%2Factu%20%28Radiookapi.net%29](http://radiookapi.net/actualite/2012/05/22/nord-kivu-des-rebelles-fdlr-mai-mai-assassinent-plus-de-100-civils-ufamandu/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A%20radiookapi%2Factu%20%28Radiookapi.net%29), accessed 18 April 2013

<sup>17</sup> *RTL.be*, RDC: dix morts lors de combats entre l’armée et des Mai-Mai au Kivu, 7 January 2012, <http://www.rtl.be/info/monde/international/848688/rdc-dix-morts-lors-de-combats-entre-l-armee-et-des-mai-mai-au-kivu>, accessed 16 April 2013

<sup>18</sup> Fédération internationale des ligues des droits de l’Homme (FIDH)/ Open Society Institute (OSI), RDC : Prendre position sur la réforme du secteur de la sécurité, 16 April 2012, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-french-20120416.pdf>, accessed 19 April 2013

In English, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-20120416-1.pdf>

<sup>19</sup> Fédération internationale des ligues des droits de l’Homme (FIDH)/ Open Society Institute (OSI), RDC : Prendre position sur la réforme du secteur de la sécurité, 16 April 2012, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-french-20120416.pdf>, accessed 19 April 2013

In English, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-20120416-1.pdf>



Assessing the failure of the Congolese Government to implement security sector reform, *FIDH/OSI* further stated in 2012 that the government had allowed corruption to flourish within the security services,

“[...] encouraged divisions among the international community and allowed corrupt networks within the security services to flourish, stealing the resources intended to pay basic salaries or profiting from exploitation of natural resources.”<sup>20</sup>

In November 2012 French global news agency *Agence France Press (AFP)* and UK geopolitical risk research organisation *Maplecroft* jointly published a map of violence in the DRC. Overall the country recorded extreme rates of political violence in 2012 with a particularly high rate in Bas Uele, Haut Uele, North Kivu, South Kivu, and High Katanga. *AFP/Maplecroft* reported the following five concerns regarding security;

- North East (High Uele) where rebel armed group L’armée de résistance du Seigneur (ARS) was active. Although the group had weakened, it was potentially able to perpetuate new attacks taking advantage of the national army troops concentrated in Kivu.
- North Kivu and South Kivu: High risk of violence in the long term was recorded – in particular in the territories close to the border with Rwanda. Activities of foreign companies may be affected by the fighting.
- North Kivu: DRC armed forces (FARDC) have not been able to effectively repel the rebels from Goma. FARDC and the MONUSCO concentrated their troops in Goma, however M23 rebels took over the city on November 2012. It is unlikely that the FARDC can restore security in the short term.
- Goma: The U.N. accused the Rwandese Government of financing and training M23 fighters in North Kivu.
- Kinshasa, the capital: Considered relatively stable but high rate of criminality - partly due to poverty – constitutes a major risk factor. Members of security forces have been involved in human rights violations.<sup>21</sup>

In January 2013 Belgian online news media *7 sur 7* reported clashes between the Forces armées de la République démocratique du Congo (FARDC) and the Kata Katanga Mai Mai group in Kasenga (in Katanga province), resulting in the death of 12 fighters and 1 FARDC soldier.<sup>22</sup>

In January 2013 *RTBF* reported that according to Congolese gynecologist Dr Denis Mukwege who founded Panzi hospital in Bukavu (South Kivu) to treat women who were victims of sexual violence, people were not protected by Congolese authorities,

“In 10 years, 6 million people died, hundreds of thousands of women were raped, and over 1 million people lost their housing.

[...] We need to accept that there is not one army, not one police. We made mistakes in the process of brewing and mixing. [...] Someone who was a killer or a rapist cannot become a military soldier or a policeman in charge of protecting civilians from one day to the next.”<sup>23</sup>

In February 2013 the *International Committee of the Red Cross* reported that civil society organisations have called for urgent reform of the country's security sector,

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<sup>20</sup> Fédération internationale des ligues des droits de l'Homme (FIDH)/ Open Society Institute (OSI), RDC : Prendre position sur la réforme du secteur de la sécurité, 16 April 2012, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-french-20120416.pdf>, accessed 19 April 2013

In English, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-20120416-1.pdf>

<sup>21</sup> Agence France Presse, R. D. Congo : la carte de la violence avec maplecroft, 20 November 2012, <http://www.afp.com/fr/node/707443>, accessed 12 April 2013

<sup>22</sup> 7 sur 7, RDC: 13 morts lors de combats au Katanga, 23 January 2013, <http://www.7sur7.be/7s7/fr/1505/Monde/article/detail/1567401/2013/01/23/RDC-13-morts-lors-de-combats-au-Katanga.dhtml>, accessed 16 April 2013

<sup>23</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral, [www.rtbf.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376](http://www.rtbf.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376), accessed 22 April 2013

"[ ] With fighting raging again in eastern Democratic Republic of Congo (DRC), civil society organisations have called on the government to completely – and urgently – overhaul the country's security sector. The call was made in Kinshasa by members of the Réseau pour la Réforme du Secteur de la Sécurité et la Justice (RSSR-J) – a network of Congolese CSOs working on security sector reform [ ] The RSSR-J welcomed recent international measures, including the call by the International Conference on the Great Lakes Region on 15 July for the establishment of a neutral international force to tackle the M23 rebels, the Democratic Forces for the Liberation of Rwanda, and other armed groups operating in eastern DRC – and to ensure control of border areas."<sup>24</sup>

On 26 March 2013 the online humanitarian information source for Office for the Coordination of Humanitarian Affairs (OCHA) *ReliefWeb* stated that United Nations Secretary General Ban Ki-moon had authorised the deployment of a special force within the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) that would have the ability to conduct operations against armed groups which threatened peace in eastern DRC, with or without the Congolese national army,

"Secretary-General Ban Ki-moon today discussed the fragile security and humanitarian situation in eastern Democratic Republic of the Congo (DRC) in a meeting with the country's Foreign Minister, Raymond Tshibanda N'tungamulongo.[ ] The two men, who met at UN Headquarters, agreed that the upcoming Security Council resolution on the DRC should strengthen the role of the UN peacekeeping mission in the country (MONUSCO) and endorse the Secretary-General's comprehensive approach to addressing the root causes of instability in the Great Lakes region. [ ] Mr. Ban, who also spoke by phone today to President Joseph Kabila of DRC, has called on the Council to authorize the deployment of a special force within MONUSCO that would have the ability to conduct, with or without the Congolese national army, offensive operations against all armed groups that threaten peace in the eastern part of the country."<sup>25</sup>

On 28 March 2013 the *United Nations Security Council* stated that it had unanimously approved the creation of its first-ever "offensive" combat force, intended to carry out targeted operations to "neutralize and disarm" the M23, as well as other Congolese rebels and foreign armed groups in eastern DRC,

"The Security Council today approved the creation of its first-ever "offensive" combat force, intended to carry out targeted operations to "neutralize and disarm" the notorious 23 March Movement (M23), as well as other Congolese rebels and foreign armed groups in strife-riven eastern Democratic Republic of Congo. Acting on the recommendations of Secretary-General Ban Ki-moon and answering the call of Governments in Africa's Great Lakes region, the Council unanimously adopted resolution 2098 (2013). By that action, it extended until 31 March 2014, the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and created, on an exceptional basis, a specialized "intervention brigade" within the operation's existing 19,815-strong force.

The resolution strongly condemned M23, the Democratic Forces for the Liberation of Rwanda (FDLR), the Lord's Resistance Army (LRA) "and all other armed groups and their continuing violence and abuses of human rights". It tasked the new brigade with carrying

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<sup>24</sup> International Committee of the Red Cross, DR Congo: civilians suffer amid shifting centres of violence, 1 February 2013, <http://www.icrc.org/eng/resources/documents/update/2013/02-01-dr-congo-violence-displaced.htm>, accessed 14 April 2013

<sup>25</sup> UN News Service, Ban and officials from DR Congo discuss fragile security situation, 26 March 2013, <http://www.un.org/apps/news/story.asp?NewsID=44502&Cr=democratic&Cr1=congo#.UXWCiJpwZMt>, accessed 2 April 2013

out offensive operations, either unilaterally or jointly with the Congolese armed forces, “in a robust, highly mobile and versatile manner” to disrupt the activities of those groups.”<sup>26</sup>

On 28 March 2013 the *United Nations Security Council* stated that the combat force would be headquartered in Goma under the direct command of the MONUSCO Force Commander. The council also encouraged the establishment of an oversight mechanism involving regional leaders, as well as a national mechanism to oversee implementation of reform measures agreed by the DRC,

“Further by the text, the Council set out the operational parameters of the brigade, which would comprise three infantry battalions, one artillery and one special forces and reconnaissance company headquartered in Goma — the scene of a brutal M23 attack in November 2012 — under the direct command of the MONUSCO Force Commander. The resolution decided that the intervention brigade would have a clear exit strategy and that the Council would consider extending its mandate beyond one year on the basis of its performance, and of whether the Democratic Republic of Congo had made sufficient progress in implementing the Peace and Security Framework for the region, adopted on 24 February.

Specifically on that accord, signed by 11 African leaders and brokered by the Secretary-General, the Council demanded that all signatory States implement their commitments in good faith, and encouraged the establishment of an oversight mechanism involving regional leaders, as well as a national mechanism to oversee implementation of reform measures agreed by the Democratic Republic of Congo. The Council expressed its intention to review the status of the Framework Agreement after the first visit to the region by the newly appointed Special Envoy, Mary Robinson.”<sup>27</sup>

On 28 March 2013 the *United Nations Security Council* reported that Raymond Tshibanda N'tungamulongo, Minister for Foreign Affairs, Cooperation and La Francophonie of the DRC described the situation in the eastern part of his country as “deeply troubling” and “an exceptional situation that requires exceptional measures”, despite encouraging results of the cooperation between the United Nations and those who had contributed troops to MONUSCO. Mr Tshibanda N'tungamulongo stated that the decision to deploy an offensive combat force should help the country put a definitive end to the repeated cycles of vicious violence.”<sup>28</sup>

In 2013 the security sector reform news, research and analysis website *Security Sector Reform Resource Centre* stated that high levels of insecurity remain, political tensions between the government and other power groups are acute, and that the authority of the government outside of Kinshasa is heavily contested,

“The DRC is emerging from one of the most violent conflicts in the world, the Second Congo War, which has left almost six million dead. Numerous violations of human rights, including torture and rape, have occurred in the DRC during the conflict. Rape continues to occur on a massive scale near Congo’s eastern border, with an intensity and frequency that a UN official called “worse than anywhere else in the world.”

Referring to the DRC as a post-conflict situation can be considered a misnomer as high levels of insecurity remain and political tensions between the government and other power

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<sup>26</sup> Security Council ‘Intervention Brigade’ Authorized as Security Council Grants Mandate Renewal for United Nations Mission in Democratic Republic of Congo Resolution 2098 (2013) Enables ‘Offensive’ Combat Force To ‘Neutralize and Disarm’ Congolese Rebels, Foreign Armed Groups, 28 March 2013, <http://www.un.org/News/Press/docs/2013/sc10964.doc.htm>, accessed 2 April 2013

<sup>27</sup> Security Council ‘Intervention Brigade’ Authorized as Security Council Grants Mandate Renewal for United Nations Mission in Democratic Republic of Congo Resolution 2098 (2013) Enables ‘Offensive’ Combat Force To ‘Neutralize and Disarm’ Congolese Rebels, Foreign Armed Groups, 28 March 2013, <http://www.un.org/News/Press/docs/2013/sc10964.doc.htm>, accessed 2 April 2013

<sup>28</sup> Security Council ‘Intervention Brigade’ Authorized as Security Council Grants Mandate Renewal for United Nations Mission in Democratic Republic of Congo Resolution 2098 (2013) Enables ‘Offensive’ Combat Force To ‘Neutralize and Disarm’ Congolese Rebels, Foreign Armed Groups, 28 March 2013, <http://www.un.org/News/Press/docs/2013/sc10964.doc.htm>, accessed 2 April 2013

groups are acute. Neither security sector reform (SSR) nor demobilization, disarmament and reintegration (DDR) activities have been a priority for the government, whose authority outside of Kinshasa is heavily contested. An UN peace support mission, the Mission de l'organisation des Nations unies au Congo (MONUC), has been deployed since November 1999."<sup>29</sup>

On 27 February 2013 the Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the *United Nations Security Council* stated that efforts to address the threat of armed groups and to extend State authority in Orientale Province and the Kivus, have resulted in relative stabilisation in most of the Ituri district and limitation of the capacities of foreign armed groups, including the Forces démocratiques de libération du Rwanda (FDLR) and the Lord's Resistance Army (LRA), but that outbreaks of conflict involving serious human rights violations still occurred,

"The western and central parts of the Democratic Republic of the Congo have generally stabilized, with the main challenges faced there relating to post-conflict reconstruction and long-term peace building. In the east, in particular Orientale Province and the Kivus, efforts to address the threat of armed groups and to extend State authority have resulted in the relative stabilization of most of the Ituri district and the significant degradation of the capacities of foreign armed groups, including the Forces démocratiques de libération du Rwanda (FDLR) and the Lord's Resistance Army (LRA).

[ ] However, and as exemplified by the current crisis in North Kivu, which started in April 2012, eastern Democratic Republic of the Congo also continues to be plagued by recurrent waves of conflict, chronic humanitarian crises and serious human rights violations, including sexual and gender-based violence. Contributing to the cycles of violence have been the continued presence of Congolese and foreign armed groups taking advantage of power and security vacuums in the eastern part of the country; the illegal exploitation of resources; interference by neighbouring countries; pervasive impunity; intercommunal feuds; and the weak capacity of the national army and police to effectively protect civilians and the national territory and ensure law and order. The weakness of the judiciary and penitentiary systems has also contributed to the state of general instability.

The recurrence of such cycles of violence continues to be an obstacle to peace in the Democratic Republic of the Congo and threatens the overall stability and development of the Great Lakes region. In the past, national, regional and international efforts have for the most part succeeded in addressing the immediate manifestations of crises, but not the core reasons for their eruption. In order to break such cycles and ensure that sustainable peace takes hold in the country and the wider region, a new, comprehensive approach that addresses the underlying causes of conflict is required."<sup>30</sup>

On 1 April 2013 the *United Nations News Centre* stated that United Nations peacekeepers in the DRC had provided protection to 1,500 civilians after renewed clashes between national armed forces (FARDC) and the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS),

"United Nations peacekeepers in the Democratic Republic of the Congo (DRC) have provided protection to some 1,500 civilians after renewed clashes between national forces and an armed group, a spokesperson for the world body said today. According to the UN peacekeeping mission in the country (MONUSCO), fighting between the DRC armed forces (FARDC) and the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) on Friday killed some 11 APCLS combatants and injured one FARDC soldier.

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<sup>29</sup> The Security Sector Reform Resource Centre, Security Governance Group, Country Profile DRC, 2013, <http://www.ssrresourcecentre.org/countries/drc/>, accessed 2 April 2013

<sup>30</sup> Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the United Nations Security Council, 27 February 2013, <http://www.securitycouncilreport.org/un-documents/democratic-republic-of-the-congo/>, accessed 10 April 2013

Since fighting first began in February, tens of civilians have been killed, including a humanitarian worker, hundreds have been wounded and thousands have been displaced. Thousands who have fled the violence have sought refuge around the UN peacekeeping base in Kitchanga. MONUSCO said that following the fighting on Friday, the mission has provided protection to about 1,500 civilians. "The situation is reported to be calm at present but the UN mission continues to monitor the situation and patrol the area," UN spokesperson Eduardo del Buey told reporters in New York.

MONUSCO is tasked with supporting the Congolese authorities in their stabilization and peace consolidation efforts, including assisting with the holding of elections, the monitoring of human rights violations and support for Government action against armed groups operating in the east of the country. The UN Security Council last week strengthened MONUSCO's capacity by authorizing the deployment of an intervention brigade that will carry out targeted offensive operations, with or without the Congolese national army, against armed groups that threaten peace in the eastern part of DRC.<sup>31</sup>

In April 2013 French news media on Africa *Jeune Afrique* reported that according to a recent *Office for the Coordination of Humanitarian Affairs (OCHA)* report, militia and FARDC forces were killing, looting and raping civilians with total impunity in a "triangle of death" between the Manono, Mitwaba and Pweto territories in Katanga. *Jeune Afrique* reported that human rights abuses were being committed right next to the U.N. mission which lacked forces in this part of the country. According to *Jeune Afrique*, among the 17,000 U.N. peacekeepers only 450 were deployed in Katanga which leaves the region open to many serious human rights violations.<sup>32</sup>

In April 2013 French daily newspaper *20 minutes* reported clashes in Kitchanga (in North Kivu) between DRC armed forces (FARDC) and the Alliance des patriotes pour un Congo libre et souverain (APCLS) resulting in the death of 70 people and thousands of displacements. Quoting international NGO *Médecins sans Frontières (MSF)* and *Red Cross* workers, *20 minutes* also reported that houses were burned down and a hospital was bombarded. Other unnamed local sources stated that 200 people were killed and over 300 houses destroyed. 10,000 people gathered outside the U.N. base in Kitchanga seeking refuge. Congolese army authorities later confirmed that government troops recaptured Kitchanga and were in control of the town.<sup>33</sup>

### 1.1.1 Goma

On 17 November 2012 the *United Nations Security Council* expressed concern over the deteriorating security and humanitarian crisis in eastern DRC due to ongoing grave violations of international humanitarian law and human rights law by the 23 March Movement (M23) and stated its intention to apply additional targeted sanctions against its leadership,

"The members of the Security Council express deep concern regarding the rapidly deteriorating security and humanitarian crisis in eastern Democratic Republic of the Congo due to ongoing military activities of the 23 March Movement (M23). The members of the Security Council strongly condemn the resumption of attacks by the M23 and demand their immediate cessation as well as the cessation of any further advances towards the city of Goma. The members of the Security Council demand that any and all outside support and supply of equipment to the M23 cease immediately. [ ] The members of the Security Council strongly condemn the continuation of grave violations of international humanitarian law and

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<sup>31</sup> UN News Centre, DR Congo: UN peacekeepers protect civilians after fighting in Kitchanga, 1 April 2013, <http://www.un.org/apps/news/story.asp?NewsID=44535&Cr=democratic&Cr1=congo#.UWB4tppwbmJ>, accessed 8 April 2013

<sup>32</sup> *Jeune Afrique*, RDC : les civils oubliés du "triangle de la mort" katangais, 23 April 2013, <http://www.jeuneafrique.com/Article/ARTJAWEB20130423161757>, accessed 24 April 2013

<sup>33</sup> *20 minutes*, RDC: Au moins 70 morts et des milliers de personnes en fuite après plusieurs jours de violences, 5 March 2013, <http://www.20minutes.fr/ledirect/1112629/rdc-moins-70-morts-milliers-personnes-fuite-apres-plusieurs-jours-violences>, accessed 16 April 2013

human rights law by the M23. They express their intention to apply additional targeted sanctions against the leadership of the M23 and those acting in violation of the sanctions regime and the arms embargo, and call on all Member States to submit, as a matter of urgency, listing proposals to the 1533 Committee."<sup>34</sup>

In November 2012 the *United States Department of State (USDOS)* stated that it condemned the renewed military campaign by M23, calling for a ceasefire and for the M23 to return Goma to DRC authorities,

"The United States is gravely alarmed by the rapid deterioration of the security situation in eastern DRC. We condemn the renewed military campaign by the M23 rebel group, which is an affront to the sovereignty and territorial integrity of the DRC and in violation of international law. We call for a ceasefire, and for the M23 to return Goma to DRC authorities and pull back to their July positions. We call upon all states to use their influence on the M23 to bring about an immediate end to the hostilities. We urge Presidents Kabila, Kagame, and Museveni to engage in a direct and honest dialogue in pursuit of a political resolution to the immediate hostilities. We believe it is critical that any resolution to the crisis include holding the M23 leadership accountable for their human rights abuses and violations of international humanitarian law.

We underscore our support for the UN Security Council's November 17 statement. We support the Council's call for additional sanctions against the M23 leadership and its demand that any and all outside support and supplying of equipment to the M23 cease immediately. We underscore the importance of a long-term solution to the instability in the eastern DRC. A durable solution will require security sector reform in the DRC and political dialogue with Rwanda and Uganda and the other relevant states in the region to address the root causes of the crisis."<sup>35</sup>

In November 2012 *Radio Okapi* reported an attack in Ruvumbura (in Rutshuru territory) on 10 November 2012 in which 10 civilians were killed, six girls were raped, and several houses were looted. *Radio Okapi* reported uncertainty as to whether it was committed by M23 forces or Forces démocratiques de libération du Rwanda (FDLR).<sup>36</sup>

*Radio Okapi* also stated that M23 rebels had been occupying different towns in the Rutshuru territory since May 2012. *Radio Okapi* stated that FARDC had regained control of the town of Busumba on 1 November 2012 in the framework of a larger military operation in the region.<sup>37</sup>

In November 2012 French weekly news magazine *Le Nouvel Observateur* reported clashes between DRC armed forces (FARDC) and M23 near Goma resulting in the death of 113 rebels. According to *Le Nouvel Observateur*, FARDC and the U.N. had deployed about 20,000 and 5000 men, respectively in Goma. Fighting between DRC armed forces and M23 near Goma started in Rugari, a town located 30 km away from Goma. The forces later fought 15km away from the Kanyaruchinya refugee camp where over 60,000 people had fled since the beginning of the conflict.<sup>38</sup>

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<sup>34</sup> Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the United Nations Security Council, 27 February 2013, <http://www.securitycouncilreport.org/un-documents/democratic-republic-of-the-congo/>. accessed 10 April 2013

<sup>35</sup> US Department of State, Press Statement Security Situation in Eastern Democratic Republic of the Congo, November 20, 2012, <http://www.state.gov/r/pa/prs/ps/2012/11/200916.htm>, accessed 2 April 2013

<sup>36</sup> Radio Okapi, RDC : une attaque attribuée au M23 fait 10 morts à Rutshuru, 10 November 2012, <http://radiookapi.net/actualite/2012/11/10/rdc-une-attaque-attribuee-au-m23-fait-9-morts-rutshuru>, accessed 16 April 2013

<sup>37</sup> Radio Okapi, RDC : une attaque attribuée au M23 fait 10 morts à Rutshuru, 10 November 2012, <http://radiookapi.net/actualite/2012/11/10/rdc-une-attaque-attribuee-au-m23-fait-9-morts-rutshuru>, accessed 16 April 2013

<sup>38</sup> *Le Nouvel Observateur*, RDC: 44 morts dans des combats entre le M23 et l'armée congolaise, 15 November 2012, <http://tempsreel.nouvelobs.com/monde/20121115.FAP5124/rdc-44-morts-dans-des-combats-entre-le-m23-et-l-armee-congolaise.html>, accessed 16 April 2013

In November 2012 *French global news agency Agence France Press (AFP)* reported that after having taken power over Goma without much resistance from the army, the M23 armed forces took over the city of Sake located about 30 kilometers away in the West.<sup>39</sup>

In December 2012 French daily newspaper *Le Figaro* stated that according to the MONUSCO, M23 rebels had been committing violations in Goma and in its surroundings since June 2012 – including the killing of civilians, rape and recruitment of child soldiers.<sup>40</sup>

On 1 December 2012 French daily newspaper *Le Monde* reported that M23 forces entered Goma on 20 November and committed acts of looting when they withdrew. *Le Monde* reported that they took military supplies, petrol from gas stations and looted houses belonging to military and political leaders who had previously fled. *Le Monde* reported that the M23 forces and MONUSCO peacekeepers (United Nations Organization Stabilization Mission in the DR Congo named in French “Mission de l’Organisation des Nations Unies pour la stabilisation en République démocratique du Congo”) faced each other during a few hours in front of Goma airport. *Le Monde* reported that the M23 rebels unsuccessfully attempted to commandeer 80 tons of arms belonging to the Congolese military.

*Le Monde* reported that while they occupied Goma M23 forces did not loot on an exceptionally large scale as stated by a local inhabitant,

“There is no problem with them. They only took spoils of war and looted no more than soldiers of our regular army before them.”<sup>41</sup>

In December 2012 French daily newspaper *Le Figaro* (based on information by *French global news agency AFP* relaying a report by the MONUSCO) reported that in November 2012 the FARDC committed rape and lootings in Minova whilst withdrawing from Goma (due to attacks by the M23).<sup>42</sup>

In January 2013 Ugandan daily newspaper *New Vision* stated that the DRC government expressed doubt about the M23 rebel commitment to its unilateral ceasefire as they had not respected the regional Heads of State directive to withdraw 20 kilometers outside Goma city,

“The DRC government has expressed doubt about the M23 rebel commitment to its unilateral ceasefire, saying the rebels have not respected the regional Heads of State directive to withdraw 20 kilometers outside Goma city. Recently, the rebels announced a unilateral ceasefire, but the DRC government preferred the matter be addressed by the military chiefs under the regional Joint Verification Mechanism. The M23 rebels captured Goma on November 20 last year, but withdrew from Goma two weeks later after the intervention of the International Conference of the Great Lakes Region (ICGLR) headed by President Museveni.

Rev. Fr. Apollinaire Malu Malu, the deputy chief negotiator for the DRC government said, “Those are false statements. The M23 does not respect fully the decision of Heads of State. They have not gone 20 kilometers outside Goma. At the moment they are one kilometer and not 20 kilometers.” Malu Malu told journalists, “The M23 has no

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<sup>39</sup> Agence France Presse, RDC: l’UE demande le retrait des rebelles du M23 de Goma, 23 November 2012, <http://www.afp.com/fr/node/718655>, accessed 12 April 2013

<sup>40</sup> Le Figaro, RDC/viols par l’armée: l’ONU confirme, 7 December 2012, <http://www.lefigaro.fr/flash-actu/2012/12/07/97001-20121207FILWWW00679-rdcviols-par-l-armee-l-onu-confirme.php>, accessed 17 April 2013

<sup>41</sup> Le Monde, Les rebelles du M23 quittent la ville de Goma, 1 December 2012, [http://www.lemonde.fr/afrique/article/2012/12/01/les-rebelles-du-m23-commencent-a-quitter-la-ville-de-goma\\_1798753\\_3212.html](http://www.lemonde.fr/afrique/article/2012/12/01/les-rebelles-du-m23-commencent-a-quitter-la-ville-de-goma_1798753_3212.html), accessed 12 April 2013

<sup>42</sup> Le Figaro, RDC/viols par l’armée: l’ONU confirme, 7 December 2012, <http://www.lefigaro.fr/flash-actu/2012/12/07/97001-20121207FILWWW00679-rdcviols-par-l-armee-l-onu-confirme.php>, accessed 17 April 2013

respect for the relevant decision of the Summit of Heads of State that it should withdraw at 20 kms north of Goma, which M23 has not done.”<sup>43</sup>

In January 2013 Ugandan daily newspaper *New Vision* reported that M23 had demanded the cancellation of the results of the presidential election in November 2011, the dissolution of the Senate and Provincial Assemblies, the resignation of Governors and for the establishment of a National Transitional Council to manage the transitional period. These demands were rejected by the Congolese government delegation; the expert group of the delegation also questioned the appropriateness of granting amnesty to M23 fighters who had been granted previous amnesties,

“The Congolese government delegation also scoffed at the rebel demands for cancellation of results of November 2011 presidential election, dissolution of the Senate, Provincial Assemblies, and resignation of Governors and establishment of a National Transitional Council to manage the transitional period. Malu Malu also questioned how the procedure to grant amnesty to the rebels will be initiated if the rebels want the concerned State institutions such as the National Assembly, Senate and Presidency to be dissolved.

Malu Malu who is also the head of the expert group of the government delegation said that the Government is not ready to compromise with what will undermine the Constitution and institutional order of DR Congo. On the agenda item to grant amnesty to M23 rebels, Malu Malu questioned the appropriateness of granting amnesty to those who have benefited from amnesty in the past. “This will be the second or third time that amnesty will be granted. To do so, would not it be interpreted as an incitement to commit offences again?” asked Malu Malu.”<sup>44</sup>

## 1.2.2 Sexual Violence

In 2011 *GRIP* stated that women were less likely to complain to the authorities, possibly because they trusted the institutions responsible for public security less than men,

“Apart from in Tanganyika, the proportion of women who consider that people feel in danger is lower than for men.

[...] Women were less likely overall to complain to the authorities. [...] it may be inferred that fewer women than men trust the institutions responsible for public security.”<sup>45</sup>

In 2011 *GRIP* stated that, “rape is not exclusively linked to armed clashes.”<sup>46</sup>

In January 2013 Belgian news media *RTBF- Le Soir* interviewed Congolese gynecologist Dr Denis Mukwege who founded Panzi hospital in Bukavu (South Kivu) to treat women who were victims of sexual violence using medical, psychological and social approaches. Dr Mukwege reported that women were raped on multiple occasions and that children born of rape had also been raped,

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<sup>43</sup> New Vision, DRC government doubts M23 commitment to truce, 21 January 2013 <http://www.newvision.co.ug/news/639083-drc-government-doubts-m23-commitment-to-truce.html>, accessed 7 April 2013

<sup>44</sup> New Vision, DRC government doubts M23 commitment to truce, 21 January 2013 <http://www.newvision.co.ug/news/639083-drc-government-doubts-m23-commitment-to-truce.html>, accessed 7 April 2013

<sup>45</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), *Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité*, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>46</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), *Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité*, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)



“Over the past years, I noticed that women I had treated and who had had children born from the rape – these women would come back because they were raped for a second or a third time. Worst of all, amongst those women, some were coming back with children born from rape who were now being raped themselves.”<sup>47</sup>

In January 2013 *Radio Okapi*, also reported that children born from rape were now being subject to rape.<sup>48</sup>

In May 2011 *RTBF* reported that Dr Mukwege and his team had treated over 30, 000 victims during the last 10 years.<sup>49</sup> In a five minute interview by Belgian *RTBF* television in January 2013, Dr Mukwege reported that 500,000 women had been raped in 16 years. He observed that rape has been a strategy of war since 1999. He mentioned an incident that took place in Walikale during which 250 women were raped during a single weekend next to a MONUSCO camp.<sup>50</sup>

In January 2013 *RTBF* reported that *Dr Mukwege* stated that rape was being used as a “strategy of war” and that each armed group has established a different “policy of rape” which includes torture and mutilation,

“Rape was massively used and not only as a weapon of war, but moreover as a strategy of war.

[...] We treated over 40,000 women, one third of which underwent major surgery.

[...] When you ask those women, all of them were raped but the way they were tortured varies from one armed group to the other. When one looks at the lesions, one can tell which group is the perpetrator.”<sup>51</sup>

In January 2013 *RTBF* reported that *Dr Mukwege* stated that the way women were tortured after being raped (gunshot in genitalia, use of caustic soda, bayonet etc.) underlined that each armed group follows a different procedure,

“Some armed groups demand that rape is made public. The husband has to watch – otherwise they kill him – the children too. Some groups shoot in the genitalia after raping women.

When you ask women, it always happens in the same region controlled by the same group. The fact that the same group uses the same torture method means that this is not done by chance; it is part of a plan.”<sup>52</sup>

In January 2013 *RTBF* reported that *Dr Mukwege* stated that he could link the way women were tortured (on the basis of the lesions he observed) to specific armed groups competing for control of specific mining zones,

“Fighting zones clearly correspond to zones of mining that armed groups try to control (for coltan, gold or cassiterite).

[...] Ones eventually leave the DRC, this maintains war. Some people get money from maintaining this war.”<sup>53</sup>

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<sup>47</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral,

[www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376), accessed 22 April 2013

<sup>48</sup> Radio Okapi, Est de la RDC: “Les enfants issus des viols sont à leur tour violés”-RTBF, 12 January 2013, <http://radiookapi.net/lu-sur-le-web/2013/01/12/est-de-la-rdc-les-enfants-issus-des-viols-sont-leur-tour-viols-rtbf>, accessed 23 April 2013

<sup>49</sup> RTBF.be, Le gynécologue congolais Denis Mukwege reçoit le Prix Roi Baudouin 2011, 24 May 2011, [http://www.rtb.be/info/societe/detail\\_le-gynecologue-congolais-denis-mukwege-recoit-le-prix-roi-baudouin-2011?id=6157693](http://www.rtb.be/info/societe/detail_le-gynecologue-congolais-denis-mukwege-recoit-le-prix-roi-baudouin-2011?id=6157693), accessed 22 April 2013

<sup>50</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of the Journal de 13h, [www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376), accessed 22 April 2013

<sup>51</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral, [www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376), accessed 22 April 2013

<sup>52</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral, [www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-viols?id=7906376), accessed 22 April 2013

In January 2013 *RTBF* reported that according to *Dr Mukwege* the Forces armées de la République Démocratique du Congo (FARDC) are made up of members of former armed groups – including former child soldiers – who have participate in sexual violence against civilians,

“The FARDC is not an army.

[...] The people who we now call FARDC are made up of former armed groups. After we held negotiations and signed agreements, we put everybody together [...] including those who had committed rapes.

[...] Unfortunately most armed groups recruit children at age of 10 to 12. They give them a gun and merely say, ‘with this you can get money, you can get food, you can get women. You can get everything you want with this gun provided that you belong to our army’.

[...] Adults brainwash children in order for them to commit these unspeakable acts. And children who get into the armed group at age 10 or 12 - who have been given a gun – receive no other kind of military training later on. They get in the regular army when they turn 18 – they don’t get paid, they don’t get housing – they don’t have anything but a gun. These same people can never protect the population.”<sup>54</sup>

In April 2013 *Afrique Expansion Magazine*, an international magazine focusing on economy and business opportunities<sup>55</sup> and *Reliefweb*, a specialized online service of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA),<sup>56</sup> reported that 10 women in Bafabango (in High Huele) have been missing since February following an attack by a militia conducted by the leader “Morgan”. It is suspected that they have been forced into sexual slavery by the Morgan militia. In February 2013 about 40 women from Bafabango were forced in sexual slavery; however 31 women managed to flee. Quoting a nun in charge of sexual violence services, *Afrique Expansion Magazine* reported,

“[...] it happens that husbands of women who have been raped reject their wife because they feel ashamed or consider that they consented to sexual intercourse.”<sup>57</sup>

In April 2013 Belgian journalist and Dr Mukwege's biographer, *Colette Braeckman* reported in her blog, that Dr Mukwege survived an assassination attempt in Bukavu on 25 October 2012, in which one of his guards was killed, when he was coming back from a speech at the U.N. General Assembly.<sup>58</sup> In his January 2013 interview, Dr Mukwege reported that the police had not yet investigated the incident.<sup>59</sup> However, in February 2013 *Colette Braeckman* reported that the police had arrested the alleged perpetrators of this attempted murder.<sup>60</sup>

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<sup>53</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral, [www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-violes?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-violes?id=7906376), accessed 22 April 2013

<sup>54</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral, [www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-violes?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-violes?id=7906376), accessed 22 April 2013

<sup>55</sup> Afrique Expansion Magazine, RDC : inquiétude sur le sort de 10 esclaves sexuelles enlevées en février dans l'Est, 14 April 2013, <http://www.afriqueexpansion.com/depeches-afp/8626-rdc--inquietude-sur-le-sort-de-10-esclaves-sexuelles-enlevees-en-fevrier-dans-lest.html>, accessed 16 April 2013

<sup>56</sup> Reliefweb, RDC : inquiétude sur le sort de 10 esclaves sexuelles enlevées en février dans l'Est, 14 April 2013, <http://reliefweb.int/report/democratic-republic-congo/rdc-inqui%C3%A9tude-sur-le-sort-de-10-esclaves-sexuelles-enlev%C3%A9es-en>, accessed 16 April 2013

<sup>57</sup> Afrique Expansion Magazine, RDC : inquiétude sur le sort de 10 esclaves sexuelles enlevées en février dans l'Est, 14 April 2013, <http://www.afriqueexpansion.com/depeches-afp/8626-rdc--inquietude-sur-le-sort-de-10-esclaves-sexuelles-enlevees-en-fevrier-dans-lest.html>, accessed 16 April 2013

<sup>58</sup> Le Soir, Le Carnet de Colette Braeckman, 18 April 2013, <http://blog.lesoir.be/colette-braeckman/2013/02/26/les-presumes-auteurs-de-lattentat-contre-le-dr-mukwege-sont-arretes-a-bukavu>, accessed 23 April 2013

<sup>59</sup> RTBF.be, Est de la RDC: Les enfants issus des viols sont à leur tour violés, 12 January 2013, Video of Le Grand Oral, [www.rtb.be/info/monde/detail\\_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-violes?id=7906376](http://www.rtb.be/info/monde/detail_est-de-la-rdc-les-enfants-issus-des-viols-sont-a-leur-tour-violes?id=7906376), accessed 22 April 2013

<sup>60</sup> Le Soir, Le Carnet de Colette Braeckman, 18 April 2013, <http://blog.lesoir.be/colette-braeckman/2013/02/26/les-presumes-auteurs-de-lattentat-contre-le-dr-mukwege-sont-arretes-a-bukavu>, accessed 23 April 2013

### 1.1.3 Displacement

On 17 November 2012 the *United Nations Security Council* expressed concern over the increasing number of displaced persons and refugees in the region and called on all parties, in particular the M23, to allow humanitarian access to those in need,

"The members of the Security Council express deep concern regarding the increasing number of displaced persons and refugees and call on all parties, in particular the M23, to exercise restraint and to allow safe, timely and unhindered humanitarian access to those in need. The members of the Security Council call on all relevant States to use their influence on the M23 to bring about an end to attacks. [ ] The members of the Security Council commend the active steps taken by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) to implement its mandate, in particular the protection of civilians, and encourage the continuation of these efforts. They emphasise that any effort to undermine MONUSCO's ability to implement its mandate will not be tolerated. The members of the Security Council reiterate the importance of the efforts of the International Conference on the Great Lakes Region to resolve the conflict and find a durable political solution."<sup>61</sup>

In February 2013 the *International Committee of the Red Cross* stated that violence is rising in South Kivu and getting closer to the city of Bukavu. Conflicts are also affecting the Kalehe territory to the north of Bukavu, and the Walungu and Shabunda territories to the south-west; over 23,500 people were displaced in the Masisi area in the last three months of 2012,

"An ICRC surgical team is continuing its work in Goma's N'Dosho Hospital, with over a hundred casualties undergoing surgery in January. The hospital also provides psychological support, especially for children. Many of the injured children are traumatized by the violence they have experienced. One nine-year-old boy arrived at the hospital in shock after witnessing the deaths of his little sister and other members of his family. He had to have a leg and a foot amputated.[ ] In the Masisi area, more than 23,500 people displaced over the last three months of 2012 by inter-community clashes received emergency food aid and tarpaulins at the end of December. They also received cooking pots, buckets, sleeping mats and other items in January."Violence between armed groups is now on the rise again in South Kivu," said Laetitia Courtois, the head of the ICRC sub-delegation in the province. "The fighting is getting closer and closer to the city of Bukavu. At the same time, clashes are affecting remote areas, such as the Kalehe territory to the north of Bukavu, and the Walungu and Shabunda territories to the south-west."<sup>62</sup>

In February 2013 the *International Committee of the Red Cross* stated that an extremely volatile security situation had interrupted its activities in November and December 2012 and a deteriorating situation in Katanga had been "forcing people to flee,"

"During January, the ICRC transferred a dozen people wounded in the fighting from Walungu to hospitals in Bukavu. In addition, the ICRC moved six severely malnourished children to Bukavu from the Kabare territory, where access is extremely difficult. [ ] An extremely volatile security situation and the urgent need to treat casualties had interrupted these activities in November and December. Increased violence in Katanga has been forcing people to flee and the situation there is deteriorating. The ICRC is monitoring developments closely. In the town of Bunkeya, in the Kolwezi district to the north of Likasi, the Red Cross Society of the Democratic Republic of the Congo distributed ICRC-provided

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<sup>61</sup> Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the United Nations Security Council, 27 February 2013, <http://www.securitycouncilreport.org/un-documents/democratic-republic-of-the-congo/>. accessed 10 April 2013

<sup>62</sup> International Committee of the Red Cross, DR Congo: civilians suffer amid shifting centres of violence, 1 February 2013, <http://www.icrc.org/eng/resources/documents/update/2013/02-01-dr-congo-violence-displaced.htm>, accessed 14 April 2013

emergency supplies to over 850 people who had fled the fighting further north, in the Mitwaba territory, before they again had to flee because of clashes in Bunkeya."<sup>63</sup>

In February 2013 the *International Committee of the Red Cross* stated that in the Masisi area of North Kivu, where clashes have recently taken place between the armed forces and armed groups, or in Katanga where violence continues, many people have had to flee out of fear for their safety,

"For tens of thousands of displaced and resident families in the eastern part of the country, January has been a constant struggle to find food, water and a semblance of security. The city of Goma and nearby parts of North Kivu have been relatively calm, violence has spread to other regions." In the Masisi area of North Kivu, where clashes have recently taken place between the armed forces and armed groups, or in Katanga where violence continues, many people have had to flee out of fear for their safety," said Franz Rauchenstein, the head of the ICRC delegation in the Democratic Republic of the Congo. "Civilians have also suffered violence, looting and extortion."<sup>64</sup>

On 26 March 2013 the *United Nations News Centre* stated that clashes between M23 fighters and the DRC's national army (FARDC) have displaced nearly a million people in North Kivu province,

"Secretary-General Ban Ki-moon today discussed the fragile security and humanitarian situation in eastern Democratic Republic of the Congo (DRC) in a meeting with the country's Foreign Minister, Raymond Tshibanda N'tungamulongo. The two men, who met at UN Headquarters, agreed that the upcoming Security Council resolution on the DRC should strengthen the role of the UN peacekeeping mission in the country (MONUSCO) and endorse the Secretary-General's comprehensive approach to addressing the root causes of instability in the Great Lakes region. Mr. Ban, who also spoke by phone today to President Joseph Kabila of DRC, has called on the Council to authorize the deployment of a special force within MONUSCO that would have the ability to conduct, with or without the Congolese national army, offensive operations against all armed groups that threaten peace in the eastern part of the country.

Fighting resumed in eastern DRC in April of last year, when the M23 – made up of former national army troops – mutinied. Since then, clashes between M23 fighters and the DRC's national army (FARDC) have displaced nearly a million people in North Kivu province."<sup>65</sup>

On 26 March 2013 the online humanitarian information source for OCHA (Office for the Coordination of Humanitarian Affairs) *ReliefWeb* also stated that fighting between M23 and the FARDC in eastern DRC had resumed in April 2012 after a mutiny by the M23 and had so far displaced nearly a million people in North Kivu province. A further 300,000 people were displaced by additional fighting in the south-eastern province of Katanga in February 2013,

"Fighting resumed in eastern DRC in April of last year, when the M23 – made up of former national army troops – mutinied. Since then, clashes between M23 fighters and the DRC's national army (FARDC) have displaced nearly a million people in North Kivu province, and in February, more than 300,000 people were displaced by additional fighting in the south-eastern province of Katanga.

During their meeting, Mr. Ban and Mr. Tshibanda N'tungamulongo also welcomed the recent transfer of former Congolese warlord Bosco Ntaganda to the International Criminal Court (ICC) and discussed the implementation of the Peace, Security and Cooperation

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<sup>63</sup> International Committee of the Red Cross, DR Congo: civilians suffer amid shifting centres of violence, 1 February 2013, <http://www.icrc.org/eng/resources/documents/update/2013/02-01-dr-congo-violence-displaced.htm>, accessed 14 April 2013

<sup>64</sup> International Committee of the Red Cross, DR Congo: civilians suffer amid shifting centres of violence, 1 February 2013, <http://www.icrc.org/eng/resources/documents/update/2013/02-01-dr-congo-violence-displaced.htm>, accessed 14 April 2013

<sup>65</sup> UN News Service, Ban and officials from DR Congo discuss fragile security situation, 26 March 2013, <http://www.un.org/apps/news/story.asp?NewsID=44502&Cr=democratic&Cr1=congo#.UXWCIjpwZMt>, accessed 2 April 2013

Framework for the DRC. [ ] Last week, Mr. Ban appointed former Irish president Mary Robinson as his new Special Envoy for the Great Lakes region. She will support the implementation of the Framework, an accord which aims to stabilize the situation in DRC."<sup>66</sup>

On 26 March 2013 the *United Nations News Centre* stated that clashes between M23 fighters and the DRC's national army (FARDC) in February displaced, more than 300,000 people in the south-eastern province of Katanga,

"Fighting resumed in eastern DRC in April of last year [ ] and in February, more than 300,000 people were displaced by additional fighting in the south-eastern province of Katanga. During their meeting, Mr. Ban and Mr. Tshibanda N'tungamulongo also welcomed the recent transfer of former Congolese warlord Bosco Ntaganda to the International Criminal Court (ICC) and discussed the implementation of the Peace, Security and Cooperation Framework for the DRC. Last week, Mr. Ban appointed former Irish president Mary Robinson as his new Special Envoy for the Great Lakes region. She will support the implementation of the Framework, an accord which aims to stabilize the situation in DRC."<sup>67</sup>

In April 2013 *Jeune Afrique* reported that according to the Committees on population movement ("Comités de mouvement de population") militia and FARDC attacks against civilians in the Manono, Mitwaba and Pweto territories in Katanga, including killing, looting and raping, had resulted in about 354,000 displaced people, which represents a 452% increase from the data collected at the end of 2011.<sup>68</sup>

#### 1.1.4 Peace, Security and Cooperation Framework

On 27 February 2013 the Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the *United Nations Security Council* outlined a new "framework for Peace, Security and Cooperation for the Democratic Republic of the Congo and the region", stating that this would include a "regional oversight mechanism" to "monitor progress in the implementation of the regional commitments," and involve the leaders of the surrounding nations with the United Nations, the African Union, the Southern African Development Community (SADC) and the International Conference on the Great Lakes Region (ICGLR) acting as guarantors,

"[ ] I have engaged the leaders of the region on an overall Framework for Peace, Security and Cooperation for the Democratic Republic of the Congo and the region, which outlines key action at the national, regional and international levels required to end the recurring cycles of violence in eastern Democratic Republic of the Congo. The Framework, which was signed in Addis Ababa on 24 February, establishes a national oversight mechanism, led by the President of the Democratic Republic of the Congo, Joseph Kabila, to accompany the implementation of actions at the national level. Established within the Government of the Democratic Republic of the Congo, it will be supported by the United Nations, the African Union, the WorldBank, the African Development Bank and other bilateral or multilateral partners of the Democratic Republic of the Congo that are agreed upon.

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<sup>66</sup> UN News Service, Ban and officials from DR Congo discuss fragile security situation, 26 March 2013, [http://www.un.org/apps/news/story.asp?NewsID=44502&Cr=democratic&Cr1=congo#\\_UXWCIjpwZMt](http://www.un.org/apps/news/story.asp?NewsID=44502&Cr=democratic&Cr1=congo#_UXWCIjpwZMt), accessed 2 April 2013

<sup>67</sup> UN News Service, Ban and officials from DR Congo discuss fragile security situation, 26 March 2013, [http://www.un.org/apps/news/story.asp?NewsID=44502&Cr=democratic&Cr1=congo#\\_UXWCIjpwZMt](http://www.un.org/apps/news/story.asp?NewsID=44502&Cr=democratic&Cr1=congo#_UXWCIjpwZMt), accessed 2 April 2013

<sup>68</sup> Jeune Afrique, RDC : les civils oubliés du "triangle de la mort" katangais, 23 April 2013, <http://www.jeuneafrique.com/Article/ARTJAWEB20130423161757>, accessed 24 April 2013

The Framework also establishes a regional oversight mechanism, known as the “11+4” mechanism, involving the leaders of the Democratic Republic of the Congo, Angola, Burundi, the Central African Republic, the Congo, Rwanda, South Africa, South Sudan, Uganda, the United Republic of Tanzania and Zambia, with the United Nations, the African Union, the Southern African Development Community (SADC) and the International Conference on the Great Lakes Region (ICGLR) acting as guarantors. The mechanism, which will monitor progress in the implementation of the regional commitments, is expected to meet twice a year at the level of Heads of State on the margins of the General Assembly and at the annual African Union summit. It will also be convened at the ministerial and other levels, as required. [ ] It will be supported by and closely linked to ongoing regional efforts by the African Union, the International Conference on the Great Lakes Region and SADC, as well as those of other international partners, including the European Union, Belgium, France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. The detailed plan for the implementation of the Framework will be developed jointly, including the establishment of benchmarks and appropriate follow-up measures.”<sup>69</sup>

On 22 February 2013 a post on *Congo Siasa* the blog of Jason Stearns, director of the Rift Valley Institute's Usalama Project, a research project on armed groups in eastern DRC stated that 11 Heads of State were discussing the 'Peace, Security, and Cooperation Framework for the Democratic Republic of the Congo and the Region' aimed at reforming the Congolese state and ending regional "meddling,"

"What can we expect for this framework? An early copy I have seen suggests that it provides more questions than answers, although it does raise hope and expectations. [ ] The two-and-a-half page deal rests on two pillars: Reforming the Congolese state, and ending regional meddling in the Congo. It then creates two oversight mechanism to make sure the eleven signatories take these imperatives seriously, with four organizations (UN, AU, ICLGR, SADC) as guarantors. As such, it marks an improvement in engagement in the conflict: there is a recognition that violence in the Kivus is deeply linked to national and regional developments, and it allows for neutral arbiters to hold the signatories accountable. Perhaps most importantly, we now have the formal involvement of the UN and a bunch of other eminent organizations in an official deal, which should mean there will be follow-up at the highest level.

So is this a peace process? I have often complained that, while violence has escalated over the past years in the Kivus, the last genuine peace process—with comprehensive peace deal, a strong mediation, and good donor coordination in support—ended in 2006. So are we back in a peace process? Not really. Or more precisely: we don't know yet. The agreement is more a statement of principles than a concrete action plan. And some of the principles seem to make that action plan difficult. For example, the oversight mechanism for Congolese state reform that in early drafts of the agreement included civil society and donors is now only made up of the Congolese government—donors merely provide support to the government, and civil society is not mentioned at all. So will a Congolese government that has hitherto been reluctant to reform its institutions be able to oversee itself?”<sup>70</sup>

On 22 February 2013 a post on *Congo Siasa* also stated that details on the regional mechanism and on armed groups were lacking in the framework and there was no mention of whether the government will engage in talks, or whether the UN should act as a mediator,

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<sup>69</sup> United Nations Security Council, Resolution 2078 (2012) Adopted by the Security Council at its 6873rd meeting, 28 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2078.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2078.pdf), accessed 4 April 2013

<sup>70</sup> Congo Siasa, The Framework Agreement: More questions than answers, 22 February 2013, <http://congosiasa.blogspot.co.uk/2013/02/the-framwork-agreement-more-questions.html>, accessed 9 April 2013

"On the regional mechanism, as well, details are lacking. It merely says: "A regional oversight mechanism involving these leaders of the region...shall be established to meet regularly and review progress in the implementation of the regional commitments outlined above, with due regard for the national sovereignty of the States concerned." No mention of how we are supposed to know whether Rwanda or Uganda are providing aid to the M23, or if the Congo has renewed ties with the FDLR, for example.

One of the gaping silences of the agreement is on armed groups, the reason this august assembly was called in the first place. What of the ICGLR talks in Kampala with the M23? What about other armed groups? No mention of whether the Congolese government will engage in talks, or whether the UN or anyone else should mediate—leaving in suspense the ailing Kampala negotiations. The document does mention deferentially the ICGLR on several occasions, probably as an indication that this new process will not automatically supplant existing ones. [ ] Finally, the facilitation, which was initially supposed to be given to the United Nations, through the offices of a new special envoy, has now been converted into four guarantors: the AU, ICGLR, SADC, and the UN. It is unclear from this deal who among these four will take the lead. If the proof of this process is in the pudding, will too many cooks spoil the recipe?"<sup>71</sup>

On 24 February 2013 a post on *Congo Siasa*, the blog of Jason Stearns, director of the Rift Valley Institute's Usalama Project, a research project on armed groups in eastern DRC stated that leading Congolese and international NGOs welcomed the peace, security and cooperation framework but called for further action to make peace a reality,

"A group of prominent Congolese and international NGOs today called on countries in the Great Lakes region, along with their international partners, to ensure that the Peace, Security and Cooperation Framework Agreement signed in Addis Ababa is given the political backing necessary to bring an end to war in the eastern Congo. In a published policy response, the groups welcomed the Framework Agreement as an opportunity for a new kind of decisive engagement in a conflict that has persisted for two decades and ravaged the lives of millions of Congolese. However, they also suggest that the Agreement will be hollow without specific additional measures, including the appointment of a high-profile UN Special Envoy with the power to mediate on both a domestic and regional level; the inclusion of Congolese civil society and Kinshasa's main bilateral and multilateral donor partners in the proposed national oversight mechanism; and the tying of donor aid to clear and agreed benchmarks and genuine collaboration between government, donors, and civil society. The groups also called for the creation of a donor fund to support projects aimed at deepening regional economic integration to emphasize the benefits of regional stability; UN-mediated negotiations with armed groups that avoid the impunity characteristic of past deals; and substantial donor engagement to promote demobilization of rebel soldiers and regional economic integration."<sup>72</sup>

On 24 February 2013 a post on *Congo Siasa* also stated that the Framework Agreement is aimed at ending foreign backing of Congolese rebel movements and the reform of state institutions such as the national army, police and judiciary, noting that it "will require substantial political and financial capital to overcome entrenched interests,"

"We need a new approach, a peace process based on the principles of justice," says Raphael Wakenge, Coordinator of the Congolese Initiative for Justice and Peace (ICJP). "Past peace deals have often closed their eyes toward impunity, allowing war criminals to be integrated into the army, police and security services. This has undermined the legitimacy of the peace process and the reputation of the security services, including the

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<sup>71</sup> Congo Siasa, The Framework Agreement: More questions than answers, 22 February 2013, <http://congosiasa.blogspot.co.uk/2013/02/the-framework-agreement-more-questions.html>, accessed 9 April 2013

<sup>72</sup> Congo Siasa, The Framework Agreement: More questions than answers, 22 February 2013, <http://congosiasa.blogspot.co.uk/2013/02/the-framework-agreement-more-questions.html>, accessed 9 April 2013

judiciary.” The Framework Agreement is based on two main points: bringing an end to foreign backing of Congolese rebellion movements, and fostering the comprehensive reform of state institutions such as the national army, police and judicial sectors. [ ] “There has not been a solid peace process in the Congo since 2006, despite the escalation of violence since then,” says Jason Stearns, Usalama Project director for the Rift Valley Institute. “The Framework Agreement provides hope, but it will require substantial political and financial capital to overcome entrenched interests.”<sup>73</sup>

On 27 February 2013 the Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the *United Nations Security Council* stated that lack of progress towards building well-trained and well-equipped armed forces constitutes a major threat to the stability of the DRC and the Government’s limited ability to exert authority and to provide basic services and security to the population was an underlying reason for the recurring cycles of violence in the east,

“One underlying reason for the recurring cycles of violence in eastern Democratic Republic of the Congo involving Congolese and foreign armed groups is the Government’s limited ability to exert full authority over its territory and to provide basic services and security to the population. The Democratic Republic of the Congo continues to face peace consolidation challenges emanating from a serious shortfall in terms of the capacity and lack of accountability of State institutions, in particular the army, the police, the judiciary and the prison service. Limited socioeconomic recovery, corruption and impunity are also major impediments to the extension of State authority. Impunity for human rights violations, including against women and children, is itself a symptom of weak State authority and fuels further conflict. In addition, there are concerns about limited political space and the perceived emerging trend towards the concentration of authority in the executive branch.

The lack of progress towards building well-trained and well-equipped armed forces constitutes a major threat to the stability of the Democratic Republic of the Congo. A professional and accountable army is one of the critical pillars for strengthening State authority and achieving stability. In addition to security sector reform, other national actions are required to enable the Government to consolidate its authority. These include governance and structural reforms; economic development; decentralization; and the furtherance of the rule of law, human rights and democratization.”<sup>74</sup>

## **1.2 Information on government security forces, such as responsibilities, areas of activity, training, compensation, commanding authorities, reports of corruption, relevant laws and reforms, membership of former rebels, use of child soldiers, human rights abuses (including arbitrary arrest and/or detention, rape, theft, torture, murder, burning, etc.), impunity of security forces, and the government’s response to human rights abuses.**

### **1.2.1 The PNC (Congolese National Police)**

In 2011 Belgian *Group for Research and Information on Peace and Security (Groupe de recherche et d’information sur la paix et la sécurité- GRIP)* and *Bonn International Center for Conversion (BICC)* jointly published research carried out in 2009 and commissioned by *UNDP* on the

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<sup>73</sup> Congo Siasa, The Framework Agreement: More questions than answers, 22 February 2013,

<http://congosiasa.blogspot.co.uk/2013/02/the-framework-agreement-more-questions.html>, accessed 9 April 2013

<sup>74</sup> United Nations Security Council, Resolution 2078 (2012) Adopted by the Security Council at its 6873rd meeting, 28 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2078.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2078.pdf), accessed 4 April 2013



proliferation of small arms and light weapons in the three provinces of Maniema, North Kivu and South Kivu and the two districts of Ituri (in Oriental Province) and Tanganyika (in North Katanga), in the context of the security problems in the East. They stated that,

“A significant majority of people interviewed consider that the police or local authorities are the most appropriate interlocutors for reporting armed assaults. Although this is not in theory part of their remit, a substantial number of respondents would go to the FARDC or traditional village chiefs.”<sup>75</sup>

However *GRIP* further reported,

“The overwhelming majority of those who decide not to complain do not trust the authorities or are even afraid of them.”<sup>76</sup>

In March 2012 French international news radio *RFI* reported clashes between police forces and DRC armed forces in Mbuji-Mayi (in Oriental Kasai) allegedly resulting in the death of 6 people. The origin of the conflict started when members of FARDC were detained at a police station after they had been accused of raping a 14 year old girl. The local population demanded that the military contingent withdraw.<sup>77</sup>

On 16 April 2012 the *Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns stated that on 23 June 2011 the Military Court of Kinshasa/Gombe sentenced four policemen to the death penalty, and a fifth to life imprisonment for the killings of Floribert Chebeya and Fidèle Bazana. Three persons were acquitted due to a lack of evidence,

"Beyond the issue of accountability of the Armed Forces, another example of an attempt to fight impunity in Congolese society was the trial on the killings of Floribert Chebeya and Fidèle Bazana [ ]. On 23 June 2011, the Military Court of Kinshasa/Gombe rendered its judgment, convicting and sentencing four policemen to the death penalty, and a fifth to life imprisonment. Three persons were acquitted for lack of evidence. Various NGOs reported concerns relating to the proper clarification of the circumstances of the deaths of Mr. Chebeya and Mr. Bazana, the conviction of all alleged perpetrators, as well as to the competences of a military court to rule on cases of ordinary law.

At the moment of drafting the present report, the United Nations was still verifying aspects relating to the respect of fair trial guarantees within this trial. An appeal has also been filed, but no hearing has yet taken place. The head of the police at the time of the killings, John Numbi, who is believed to have been involved in the death of Floribert Chebeya, was suspended, but regrettably no legal examination into his role in the death has taken place. The previous mandate holder formulated additional recommendations for international actors to contribute to the fight against impunity in the Democratic Republic of the Congo. One concerned the need to investigate, arrest and prosecute senior leaders of FDLR based abroad.”<sup>78</sup>

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<sup>75</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), *Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité*, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>76</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), *Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité*, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>77</sup> RFI, RDC : après les affrontements, militaires et policiers conviés à une «cohabitation fraternelle», 21 March 2012, <http://www.rfi.fr/afrique/20120320-rdc--affrontements-militaires-policiers-parade-mbuji-mayi%20-kasai-oriental>, accessed April 2013

<sup>78</sup> United Nations General Assembly, Twentieth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 10 April 2013

In April 2013 *Radio Okapi*, the media co-funded by the MONUSCO, reported the development of the trial following the murder of Floribert Chebeya. Floribert Chebeya, Congolese human rights activist and Executive director of the NGO “La Voix des sans voix” (literally “The Voice of the Voiceless”) had been found murdered in his car near Kinshasa in June 2010. The day before his death, he had been summoned to a meeting in Kinshasa Police General Inspectorate headquarters (“l’inspection générale de la police”) with their chief, General John Numbi. General Numbi later denied this meeting. Fidèle Bazana, the driver of “La Voix des sans voix” was murdered although his body was never found. In June 2011, the Kinshasa military court sentenced the main suspect, Colonel Daniel Mukalay, Deputy Head of the police Special Services (“numéro 2 des services spéciaux de la police”), and 3 policemen tried in absentia, to death. Another policeman was sentenced to life imprisonment and 3 others were released. The decision was appealed in June 2012. According to *Radio Okapi*, the civil parties requested that General Numbi be tried too, but he was not investigated in relation to this case.<sup>79</sup>

In July 2012 the US social-science journal *The Journal of Democracy* stated that Martin Fayulu, a prominent Tshisekedi ally and member of the Provincial Assembly of Kinshasa, was hospitalized for injuries he suffered at the hands of the police after a peaceful demonstration, an act which was strongly condemned by political observers and civil society organizations,

“For example, MONUSCO’s human rights monitors failed to condemn the violent repression on 20 October 2011 by a MONUSCO-trained police squad of a peaceful UDPS march to CENI headquarters to demand transparency of the electoral process. After the demonstration, UDPS secretary-general Jacquemin Shabani told a press conference that more than a dozen UDPS members had been arrested, with several injured as a result of police brutality. Martin Fayulu, a prominent Tshisekedi ally and member of the Provincial Assembly of Kinshasa, had to be hospitalized for injuries he suffered at the hands of the police. While MONUSCO remained silent, political observers and civil society organizations strongly condemned the excessive use of violence by the police.

Ironically, this incident occurred as donors were announcing initiatives to support “reform and capacity building” in the Congolese National Police (PNC). On October 10, just ten days before the brutal repression of the UDPS march, the Interior Ministry used funds from Britain’s overseas-development agency to host a workshop on securing elections. On October 12, the government organized a training session for five-hundred PNC officers in Oriental Province. That training was funded by a \$2.5 million grant from the Japan International Cooperation Agency and received logistical support from MONUSCO and the UNDP. The international community’s public and financial backing of the DRC’s security forces certainly did little to encourage change and may even have been interpreted by members of security institutions as an implicit carte blanche for continued repression. In a September 26 press conference, General Charles Bisengimana, inspector-general of the PNC, could not find the words to express the depth of his satisfaction with the role and support of MONUSCO and of France in training PNC units to handle election security.

Far from resulting in the stability that many in the Congolese government and international community were hoping for, the 2011 elections have created conditions ripe for the further weakening of state institutions and democratic mechanisms.<sup>80</sup>

In August 2012 the *Norwegian Council for Africa* stated that Kinshasa independent daily newspaper *Le Potentiel* had accused “DRC acting top cop,” Gen. Charles Bisengimana, of having

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<sup>79</sup> Radio Okapi, *Affaire Chebeya: une question de procédure monopolise le débat à la reprise du procès*, 9 April 2013, <http://radiookapi.net/actualite/2013/04/09/affaire-chebeya-une-question-de-procedure-monopolise-les-debats-la-reprise-du-proces>, accessed 27 April 2013

<sup>80</sup> The Open Society Initiative for Southern Africa (OSISA), *DRC’s crumbling legitimacy*, 23 July 2012, <http://www.osisa.org/hrdb/blog/drcs-crumbling-legitimacy>, accessed 11 April 2013

usurped powers beyond his pay grade since the suspension in June 2010 of his boss, Gen. John Numbi,

"Kinshasa independent daily Le Potentiel accused today DRC acting top cop, Gen. Charles Bisengimana, of having usurped powers well above and beyond his pay grade. (Gen. Bisengimana has been acting in an interim capacity as DRC top cop since the suspension in June 2010 of his boss, Gen. John Numbi, whose name surfaced in the double murder of rights activist Floribert "Flori" Chebeya and his driver Fidèle Bazana. Gen. Bisengimana, a Rwandophone and an ex-officer of the former rebel outfit RCD, was integrated into the national police since the peace accords of 2003.) The Potentiel article is titled "Confusion at the Congolese National Police." In contention is the DRC Organic Law No. 11/013 of August 11, 2011. The law, still to be implemented by a decree of the prime minister, merges the Police Nationale Congolaise (PNC) and the Police Judiciaire des Parquets (PJP) as subdivisions into one single entity called the Police Nationale (PN).

Up to the implementation of the new law, the Congolese National Police (PNC) is in the purview of the Interior Minister whereas the Public Prosecutor's Judicial Police (PJP) is a division of the Justice Minister. Also, until the new law sees the light of day, the PJP is in charge of the National Central Bureau (NCB) that links the resources of the national police with INTERPOL. Le Potentiel charges that for quite some time now, Gen. Bisengimana has kept bombarding himself in administrative correspondence with the rank of "Acting General Commissioner of National Police." Again, Le Potentiel insists, the "National Police" to this day is still an entity that only exists on paper."<sup>81</sup>

In August 2012 the *Norwegian Council for Africa* stated that General Bisengimana sent the INTERPOL Secretary General a letter in which he explained the new structure of the National Police which angered the Judicial Police,

"[ ] on May 8, 2012, Gen. Bisengimana took upon himself to address to INTERPOL Secretary General a letter in which he explains the new structure of the National Police. In the same letter, Gen. Bisengimana arrogated to himself the rank of head of Kinshasa NCB/INTERPOL as well. This was the last straw that triggered the response from the Judicial Police, which frowned on Gen. Bisengimana for treading on its turf without any legal mandate. In a letter addressed to Gen. Bisengimana on June 8, Deputy General Inspector of Judicial Police Pierre Masudi expressed his astonishment at seeing the mention of "National Police" in official correspondence. And to Masudi's knowledge, as of June 8, PNC and PJP were still two separate entities--with the latter in charge of NCB/INTERPOL. Masudi also reminded Gen. Bisengimana that in the protocol of the International Criminal Police Organization (ICPO)/ INTERPOL, a police entity that also deals with domestic political investigations can't be part of a country member's NCB.

The conflict between Gen. Bisengimana and Masudi escalated so badly that Attorney General Flory Kabange Numbi had to intervene in order to remind both parties that the implementation of the reform was still pending. Le Potentiel sees this hoo-haa occurring at a time when the government "is at pain to get out of the quagmire in the east where M23 are consolidating" their positions as a nefarious ploy by Gen. Bisengimana "to seek the paralysis of both of these structures" [PNC & PJP]. This is some heavy allegation made by Le Potentiel given, as I mentioned above, the nature of the background of Gen. Bisengimana. Were his downfall to happen, some would see it as the start of a purge of former associates of M23 operators still in sensitized positions in the DRC security sector."<sup>82</sup>

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<sup>81</sup> The Africa Blog Forum of The Norwegian Council for Africa, Kinshasa Daily Le Potentiel accuses DRC Top Cop Gen. Charles Bisengimana of usurping state powers, 30 August 2012 <http://www.afrika.no/Detailed/22182.html>, accessed 9 April 2013

<sup>82</sup> The Africa Blog Forum of The Norwegian Council for Africa, Kinshasa Daily Le Potentiel accuses DRC Top Cop Gen. Charles Bisengimana of usurping state powers, 30 August 2012 <http://www.afrika.no/Detailed/22182.html>, accessed 9 April 2013

In June 2012 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that at the official inauguration of a new training centre for the Congolese National Police (PNC), MONUSCO Police Commissioner General Abdallah Wafy addressed the Congolese authorities, reassuring them of MONUSCO's support to ensure that police officers throughout the country receive training,

"A sizeable delegation, made of national and provincial authorities, donors and United Nations officials, was in Mugunga, Nord-Kivu province, on Friday, 15 June 2012, for the official inauguration of the new training center for the Congolese National Police (PNC) there. The officials at the ceremony included the Minister of the Interior, Decentralization and Customary Affairs, the Nord-Kivu Governor, the Congolese National Police (PNC) Commissioner, the Canadian ambassador to the DRC, as well as several representatives of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO), including MONUSCO Police Commissioner, General Abdallah Wafy.

[ ] In his speech, Commissioner Bisengima thanked the different partners who had helped make "this project become a reality". He then addressed the police trainees, exhorting them to show "greater discipline and loyalty as a requisite for conducting successful pacification and stabilization operations around the country; and to shun the spirit of tribalism and to serve the motherland." [ ] General Wafy, on his part, addressed the Congolese authorities, reassuring them of MONUSCO's support to ensure that police officers throughout the country receive training. He also announced that further awareness-raising activities would be conducted to strengthen the collaboration between the national police force and the population."<sup>83</sup>

In June 2012 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that its Office of Gender Affairs had completed a series of workshops with nearly 800 police officers across the country to sensitize members of the Congolese National Police (PNC) on the integration of gender issues in their role of protecting civilians

"The Office of Gender Affairs of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO) has completed a series of workshops across the country to sensitize members of the Congolese National Police (PNC) on the integration of gender issues in their role of protecting civilians.

The workshops took place in Kananga (Kasaï Occidental province), Lubumbashi (Katanga), Kindu (Maniema), Matadi (Bas-Congo), Mbandaka (Equateur), Bandundu (Bandundu), Mbuji Mayi (Kasaï Oriental) and the capital Kinshasa. Each workshop culminated in participants producing concrete recommendations towards integrating gender concerns into the job specifications for a police officer or noncommissioned officer, including measures such as increased training opportunities for female police officers and more effective methodologies for gender-sensitive implementation of law. Nearly 800 officers and noncommissioned officers of the PNC took part in the workshops across the country. The Office of Gender Affairs of MONUSCO, in collaboration with UNPOL and civil society partners, is now planning to conduct this type of workshops at more local levels across the provinces to build PNC capacities to address gender imbalances and concerns within its ranks."<sup>84</sup>

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<sup>83</sup> MONUSCO United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, Official inauguration of Congolese National Police training center in Mugunga, 18 June 2012, <http://monusco.unmissions.org/Default.aspx?ctl=Details&tabid=10927&mid=14594&ItemID=19210>, accessed 8 April 2013

<sup>84</sup> The Office of Gender Affairs of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO), Gender sensitization workshops across DRC for Congolese Police, 18 June 2012, <http://monusco.unmissions.org/Default.aspx?ctl=Details&tabid=10662&mid=14594&ItemID=19203>, accessed 12 April 2013

In October 2012 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that as part of the Congolese national police force (PNC) reform initiative, 298 trainees from different localities of the North Kivu province who previously belonged to armed groups, including 14 women, had completed a six-month training program,

"Two hundred and ninety eight trainees from different localities of the Nord Kivu province, including 14 women, completed a six-month training program on 2 October. Organized as part of the Congolese national police force (PNC) reform initiative, the training took place in the Mugunga training centre in Goma the capital-city of the Nord Kivu province. This session constitutes a long-term basic training for these police officers who belong to armed groups integrated into the PNC following the 2009 Peace agreements. Several administrative and police authorities took part or were represented at this ceremony, notably, the Vice-Governor of Nord Kivu, Feller Lutayichirwa Mulwahale, and the Provincial Minister of Interior and Security. The PNC General Commissioner and the Police Commissioner for the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), as well as the Regional Coordinator of the United Nations Office for Project Services (UNOPS) were all three represented.

In his speech, the Vice-Governor commended DRC partners who are committed to "providing his jurisdiction with professional police officers, trained at a time when this part of the country seriously needs actors who are well-versed in peacekeeping and stabilization". He further called on all trainees to "uphold the law and discipline which is the mother of any army". The training focused essentially on techniques for maintaining and restoring public order, the concept of human rights, first aid and criminal law. The construction of the Mugunga training center cost three million US dollars which were donated by the Peacebuilding Fund and the Canadian government. Construction works were launched in July 2011 by UNOPS and were completed in March 2012.<sup>85</sup>

In November 2012 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that the second session of a six-month basic training in community policing techniques had begun in Kananga, the provincial capital of Kasai Occidental with 300 officers of the Congolese National Police (PNC), including 53 women,

"The second session of a six-month basic training in community policing techniques began this Tuesday, 6 November 2012 in Kananga, the provincial capital of Kasai Occidental with 300 officers of the Congolese National Police (PNC), including 53 women. Supported by the Police unit of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), this training is part of the Congolese national police reform.

The launching ceremony was chaired by the interim provincial governor, Muamba Kantu-Ka-Njila, in the presence of many local administrative and police authorities, as well as several officials of MONUSCO, including the Provincial Coordinator of the United Nations in Kasai Occidental, Alain Sitchet, and Habis Al-Hawawsheh, representing MONUSCO Police Commissioner. According to the latter, the training aims to strengthen the operational capacities of the PNC in community policing. Fifteen trainers from MONUSCO Police unit were assigned to this task. This training course is the outcome of a project funded by the Department for International Development of the British Government to upgrade the

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<sup>85</sup> UN Organization Stabilization Mission in the Democratic Republic of the Congo, 298 DRC police officers complete a long-term training programme, 5 October 2012, <http://monusco.unmissions.org/Default.aspx?tabid=10662&ctl=Details&mid=14594&ItemID=19357&language=en-US>, accessed 6 April 2013

Congolese police force. The first training session was organized in 2011 and was attended by 279 PNC officers, including 31 women."<sup>86</sup>

In December 2012 the *International Organization for Migration (IOM)* stated that the Congolese National Police (PNC) and MONUSCO took part in a UNICEF humanitarian campaign supporting 23,000 displaced families,

"IOM has completed a four-day operation to provide some 6,500 vulnerable displaced households with vital non-food assistance. [ ] The operation at Bulengo site was part of a larger campaign coordinated by UNICEF's Rapid Response to Movements of Populations (RRMP) mechanism. It involved more than 200 staff from various organizations including IOM, UNHCR, UNOPS, NRC, Solidarités, Caritas, Care international, PU-AMI, Concern Worldwide, Save the Children, AVSI, IRC, Handicap International, AIDES, Oxfam GB and Benefance Congo. The Congolese National Police (PNC) and MONUSCO also took part in the relief effort.

In total more than 23,000 displaced families living in Bulengo, Mugunga I, Nzulo and Lac Vert Spontaneous Sites and Mugunga III camp benefited from this operation. Known for its instability, Bulengo is one of the largest known spontaneous sites in the Kivus, where an estimated 7,000 families (35,000 people) have been living in precarious conditions for the past two months."<sup>87</sup>

## 1.2.2 The ANR (National Intelligence Agency)

In 2012 US NGO *Freedom House* stated that government officials and security agents throughout the country frequently harassed journalists and media outlets via the National Intelligence Agency (ANR),

"Frequent harassment of journalists in the country comes from multiple sources, including national and local government officials, the security services, and nonstate actors. Government officials and security agents throughout the country frequently harass journalists and media outlets via the National Intelligence Agency (ANR). In August 2011, Yves Kisombe, a member of the National Assembly, threatened to rape Radio Télévision Satellitaire 1 (RTVS1) editor in chief Eugénie Ntumbain after she made an audio recording of a phone conversation in which she asked for his comments on the opposition's call for transparent elections. Dozens, if not hundreds, of journalists were detained in the DRC during 2011, often arrested with no warrants and held on unclear charges. Also, local authorities were frequently responsible for the intimidation of journalists."<sup>88</sup>

In May 2012 the non-profit press freedom organisation the *Doha Centre for Media Freedom* stated that all foreign journalists with experience of working in Congo know they must prove themselves acceptable at the National Intelligence Agency (ANR),

"Journalists in Democratic Republic of Congo (DRC) are used to what are usually referred to as "tracasseries" – basically, trouble. Although Congo is as large as Western Europe,

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<sup>86</sup> UN Organization Stabilization Mission in the Democratic Republic of the Congo, Training of 300 Congolese officers in Kasai Occidental, 5 October 2012, <http://reliefweb.int/report/democratic-republic-congo/training-300-congolese-officers-kasa%C3%AF-occidental>, accessed 6 April 2013

<sup>87</sup> International Organization for Migration, IOM Completes Essential Aid Distribution in Eastern Democratic Republic of the Congo, 28 December 2012, <http://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2012/pbn-listing/iom-completes-essential-aid-dist.html>, accessed 11 April 2013

<sup>88</sup> Freedom House, Freedom of the Press 2012 Congo, Democratic Republic of (Kinshasa), <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa>, accessed 9 April 2013

every move a journalist makes there is watched. All foreign journalists with experience of working in Congo know they must prove themselves acceptable at the National Intelligence Agency (ANR) to avoid receiving insistent phone calls, or even unscheduled visits in their hotel."<sup>89</sup>

In May 2012 the non-profit press freedom organisation the *Doha Centre for Media Freedom* stated that ANR agents outside main cities like Goma are more aggressive in their dealings with journalists,

"To work anywhere on Congolese soil, they [journalists] have to apply for the "autorisation de reportage" (reporting permit) with the Ministry of Communication and Medias at a cost of \$250. But ANR agents can be more aggressive outside main cities like Goma, following journalists around and calling them in, whether they have a work permit or not. Most of the time, international journalists find these "tracasseries" amusing but locals take them more seriously."<sup>90</sup>

In October 2012 the *IFEX network* of organisations promoting freedom of expression stated that Reporters Without Borders (RWB) and its sister organisation Journaliste en Danger (JED) reported that freedom of information had deteriorated since the 2011 elections and accused the National Intelligence Agency (ANR), local and provincial authorities, and the media regulatory body called the Higher Council for Broadcasting and Communication (CSAC) of being mostly to blame for this decline,

"Two IFEX members have joined forces to call for the increased safety of journalists in the Democratic Republic of Congo (DRC). Earlier this month - on the eve of the start of a Francophonie summit in Kinshasa - Reporters Without Borders (RWB) and Journaliste en Danger (JED) presented a report on the state of freedom of information in the Democratic Republic of Congo and Central Africa. The report reminds DRC president Joseph Kabila to combat crimes of violence against journalists - a promise he made at the closure of the last Francophone summit in October 2010.

Two years later, RWB and JED find that no investigation into a media worker's murder has ever yielded a conclusive result in the DRC, although at least eight journalists have been murdered there in recent years. RWB and JED also report that freedom of information has deteriorated since the 2011 elections and accuse the National Intelligence Agency (ANR), local and provincial authorities, and the media regulatory body called the Higher Council for Broadcasting and Communication (CSAC) of being mostly to blame for this decline."<sup>91</sup>

In November 2012 French non-profit organisation *Reporters Without Borders* stated that its partner organisation, Journaliste en Danger (JED), had published a statement drawing attention to the illegal detention of three journalists detained by the National Intelligence Agency in Kinshasa and denied visits by their friends and family, lawyers and doctors,

"[ ] Reporters Without Borders' partner organization in the Democratic Republic of Congo, JED, has published a statement drawing attention to the illegal detention of three journalists and the many abuses suffered by the media in the DRC. Reporters Without Borders supports JED's demand for the three journalists' release. Pierre Sosthène Kambidi, a

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<sup>89</sup> The Doha Centre for Media Freedom, the ANR: a threat to DR Congo's media freedom, Journalists in the Democratic Republic of Congo can face strict reprisals from the national intelligence agency for carrying out their work, 20 February 2013, <http://www.dc4mf.org/en/content/anr-threat-dr-congos-media-freedom>, accessed 12 April 2013

<sup>90</sup> The Doha Centre for Media Freedom, the ANR: a threat to DR Congo's media freedom, Journalists in the Democratic Republic of Congo can face strict reprisals from the national intelligence agency for carrying out their work, 20 February 2013, <http://www.dc4mf.org/en/content/anr-threat-dr-congos-media-freedom>, accessed 12 April 2013

<sup>91</sup> Journaliste en danger /Reporters Without Borders, 23 October 2012, Rebel and government leaders asked to protect reporters in Congo, 23 October 2012, available at [http://www.ifex.org/democratic\\_republic\\_of\\_congo/2012/10/23/rebel\\_government\\_protection/](http://www.ifex.org/democratic_republic_of_congo/2012/10/23/rebel_government_protection/), accessed 19 April 2013

journalist and editor with the TV station Radio Télévision Chrétienne (RTC), Fortunat Kasongo, owner of Radio Télévision Autonome du Sud Kasai (RTAS), and John Mpoyi, technical director of the provincial affiliate of Radio Lisanga Télévision (RLTV), were arrested in August this year and have yet to be informed of the charges against them. The three men are held in the cells of the National Intelligence Agency in Kinshasa and denied visits by their friends and family, lawyers and doctors. They are suspected of contacts with a former army officer, John Tshibangu, a deserter accused of forming a rebel movement.

JED “urges the Congolese political and judicial authorities immediately to order the release of these journalists, held illegally, or failing this to put them on trial now before a competent court so that they are clear about the charges against them”. JED also said it had recorded 158 breaches of freedom of the press since 1 January this year, and noted that “the impunity enjoyed by known and identifiable people” who were behind these attacks on the media “is at the root of the lack of security and worsening state of the media in the DRC”.<sup>92</sup>

On 15 November 2012 the Italian NGO *Peace for Congo Network* stated that the ANR assisted the North Kivu Security Council in setting an ultimatum for all armed groups active in the Masisi territory to lay down their weapons and integrate into the Armed Forces,

"On November 9th, the North Kivu Security Council launched a fifteen-day ultimatum for all armed groups active in the Masisi territory to lay down their weapons and integrate into the Armed Forces of the DRC (FARDC). The Chief of Staff of the ground forces, the brigade commander of the 8th military region, the provincial heads of police and the National Intelligence Agency (ANR) assisted at the council presided over by the governor of the province, Julien Paluku. At the end of the ultimatum, the militiamen would take an extra five days to surrender their arms. The provincial Security Council ruled that after November 30th, Congolese troops would track active armed groups in the Masisi territory."<sup>93</sup>

In December 2012 French NGO *Reporters Without Borders* stated that journalist Pierre Sosthène Kambidi was released after being held for four months without trial at a detention centre operated by the National Intelligence Agency (ANR) in Kinshasa,

"Journalist Pierre Sosthène Kambidi of Radio Télévision Chrétienne (RTC), a religious TV station based in Kananga, capital of the central province of Kasai Occidental, was released at around 2 p.m. on 15 December after being held for four months without trial at a detention centre operated by the National Intelligence Agency (ANR) in Kinshasa. Kambidi told JED that, when arrested, he was subjected to repeated interrogation about his contacts with the UDPS, the main opposition party, and his links with John Tshibangu, an army colonel who deserted, and with Roger Lumbala, an opposition parliamentarian accused by the government of assisting Rwanda's attempts to Balkanize the DRC. "The judicial police investigator wanted to know the reasons why I broadcast information by Col. John Tshibangu's desertion from the armed forces," Kambidi said. "Before my release, the police investigator made it clear to me that they had no case against me and that no charges had been prepared."

Two other journalists who were arrested by the security services in the same investigation continue to be held at the ANR detention centre. They are John Mpoyi of Radio Lisanga Télévision (RLTV) and Fortunat Kasongo of Radio Télévision Autonome du sud-Kasai (RTAS). Both of these stations are based in Kasai Oriental. Asked about conditions in the ANR detention centre, Kambidi said he was held in a cell with 19 other people. "I was not allowed any visit by family members or lawyers," he said. "The ANR gave us a few beans

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<sup>92</sup>Reporters Without Borders, RWB and Congolese partner call for release of three journalists, 23 November 2012. [http://en.rsf.org/rd-congo-rwb-and-congolese-partner-call-for-23-11-2012\\_43719.html](http://en.rsf.org/rd-congo-rwb-and-congolese-partner-call-for-23-11-2012_43719.html), accessed 10 April 2013

<sup>93</sup>Peace for Congo Network, Congo News n. 166, Congo News, If we want it, we can do it, 15 November 2012, <http://www.paceperilcongo.it/en/2012/11/congo-news-n-166/>, accessed 12 April 2013



and two spoonfuls of rice cooked with bicarbonate. Fortunat Kasongo and John Mpoyi are still being held in a small squalid cell with more than 10 people and they are not allowed any visits either."<sup>94</sup>

On 20 February 2013 the non-profit press freedom organisation the *Doha Centre for Media Freedom* stated that in eastern DRC there is a climate of fear amongst journalists, as the ANR watches over journalists suspected of "collaborating with Rwandan spies to overthrow the government,"

"In the east of the country besieged by war and massive human rights violations by both rebels and government soldiers, the climate of fear is even more frightening as ANR flexes its muscles and watches over journalists suspected of "collaborating with Rwandan spies to overthrow the government." Some have gone into hiding, according to reports from tension-filled Goma, the capital of North Kivu Province. "In Congo, we fear the ANR more than we fear God," one journalist said on condition of anonymity."<sup>95</sup>

In December 2012 UK NGO the *Alliance for Workers' Liberty* stated that when railway workers went on strike in protest at 36 months of salary arrears in 2010, union leader Mulumba Kapepula was arrested and tortured by the National Intelligence Agency,

"The private sector, mostly mining, is dominated by sham unions. These unions have no active members and are created by employers to discourage real attempts at workplace organising. This is perpetuated by foreign companies such as the China Railway Engineering Corporation which has begun to build roads and railways. Labour inspectors are too frightened to take action against investors, after a history of witch-hunts and harassment. In 2010, when railway workers went on strike in protest at 36 months of salary arrears, union leader Mulumba Kapepula was arrested and tortured by the National Intelligence Agency."<sup>96</sup>

On 20 February 2013 the non-profit press freedom organisation the *Doha Centre for Media Freedom* stated that the ANR use jail sentences without trial or family visits, torture and acts of intimidation, such as death threats in order to put pressure on journalists "in a country where judges and magistrates are paid an extra-salary by the state to close their independent eyes,"

"Outspoken journalists in the conflict-hit Democratic Republic of Congo (DRC) fear the powerful Agence Nationale des Renseignements (ANR), the national intelligence agency that constantly breathes down their necks, and hauls them on the coals whenever they "go astray." "Going astray" here means criticising government policies, and publishing or broadcasting "provocative content" about the head of state, any member of the government, the military and all members of the corrupt elite allied to the government. Lengthy jail periods without trial and family visit, torture and acts of intimidation, such as death threats, are all part of ANR's strategies to put pressure on journalists in a country where judges and magistrates are paid an extra-salary by the state to close their independent eyes.

[ ] Several Western governments, media rights campaigners and human rights organisations continue to criticise ANR for constantly violating human rights and harassing and detaining journalists without trial. But, the practice continues unabated.[ ] In DRC, reporting 'comprehensively' on the activities of opposition political parties, especially the popular UDPS, can land a media house or a journalist in jail, as photographer-cameraman

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<sup>94</sup> Reporters Without Borders, Journalist held by intelligence agency released after four months, 19 December 2012, <http://en.rsf.org/drc-journalist-held-by-intelligence-19-12-2012,43821.html>, accessed 11 April 2013

<sup>95</sup> The Doha Centre for Media Freedom, the ANR: a threat to DR Congo's media freedom, Journalists in the Democratic Republic of Congo can face strict reprisals from the national intelligence agency for carrying out their work, 20 February 2013, <http://www.dc4mf.org/en/content/anr-threat-dr-congos-media-freedom>, accessed 12 April 2013

<sup>96</sup> Worker's Liberty, Workers key to real development in Congo, 11 December 2012, <http://www.workersliberty.org/story/2012/12/11/workers-key-real-development-congo>, accessed 13 April 2013

Leki Dala found out. Dala was arrested in October by ANR agents and Joseph Kabila's Republican Guard who accused him of being a 'propagandist' for the UDPS leader Etienne Tshisekedi wa Mulumba. Freelance reporter Jeanne Kitenge\* explained: "Every move you make is closely watched. Sometimes I have the feeling that someone is following me on my way to work or after work. I know it's them. We are under pressure and it's not good for our health and safety. My parents are even suggesting that I leave the country. ANR is really riding on our backs, big time."<sup>97</sup>

On 20 February 2013 the non-profit press freedom organisation the *Doha Centre for Media Freedom* stated that the ANR operates in total secrecy, alleging that many have died ANR custody,

"The ANR, which usually does not address the press, operates in total secrecy, with undercover agents scattered throughout schools, churches, marketplaces, press conferences, hotels, pubs, music shows, stadiums, and hospitals, looking for the 'enemies' of the state. [ ] its bosses are usually people seen loyal and close to the head of state. [ ] ANR is now headed by Kalev Mutond, a Kabila 'yes man' and die-hard supporter. According to a source close to ANR: "These guys are told to spy on journalists and opposition politicians, as well as university lecturers who might bad-mouth the regime to the media or write books compromising the regime – these are the people they see as number one enemies and threats to the regime." [ ] Some say many innocent people have died in ANR custody, but their families could not complain or request independent investigations into the deaths for fear of being persecuted.

Filming or shooting a documentary in DRC can land one in deep trouble, as ANR agents who constantly roam the country's streets in unmarked vehicles detain everyone caught in the act, including those who have permits. Dolly Ibefo, executive director of a local human rights organisation *Voix des sans Voix* (VSV, Voice of the Voiceless), recently expressed serious concern about a wave of illegal arrests and detentions of journalists, politicians, soldiers, civilians, lawyers, university lecturers and students, many of whom he said are languishing in ANR jails without access to medical care. According to Ibefo, two of those unnecessarily jailed are septuagenarians, who are suffering serious psychological issues. Omer Tshituka Tshenda is 70-years-old, while Clement Ntabala Kalenga is 73."<sup>98</sup>

### 1.2.3. The GR (Republican Guard)

In 2012 the *United States Department of State (USDOS)* stated that the Republican Guard continued to operate numerous illegal detention facilities characterized by harsh and life-threatening conditions,

" [ ] SSF, particularly the intelligence services and the Republican Guard (RG), continued to operate numerous illegal detention facilities characterized by harsh and life-threatening conditions. Authorities routinely denied family members, friends, and lawyers access to these facilities.

[ ] The presidency oversees the RG, and the minister of interior oversees the Direction Generale de Migration, which is responsible for border control."<sup>99</sup>

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<sup>97</sup> The Doha Centre for Media Freedom, the ANR: a threat to DR Congo's media freedom, Journalists in the Democratic Republic of Congo can face strict reprisals from the national intelligence agency for carrying out their work, 20 February 2013, <http://www.dc4mf.org/en/content/anr-threat-dr-congos-media-freedom>, accessed 12 April 2013

<sup>98</sup> The Doha Centre for Media Freedom, the ANR: a threat to DR Congo's media freedom, Journalists in the Democratic Republic of Congo can face strict reprisals from the national intelligence agency for carrying out their work, 20 February 2013, <http://www.dc4mf.org/en/content/anr-threat-dr-congos-media-freedom>, accessed 12 April 2013

<sup>99</sup> US Department of State, 2012 Human Rights Report, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>, accessed 2 April 2013

On 26 March 2013 an article for *The Voice of America (VOA)*, a multimedia broadcaster funded by the U.S. Government, stated that 245 "lightly armed" insurgents from a movement called Bakata Katanga marched from the bush to the provincial capital of Lubumbashi where they clashed with the president's Republican Guard, leaving 35 people dead,

"Authorities in the Democratic Republic of Congo have declared a curfew in the town of Lubumbashi, after clashes between insurgents and the army left at least 35 people dead. The authorities say the curfew will help them track down insurgents who may still be hiding in Lubumbashi. Officials said 245 insurgents from a movement called Bakata Katanga have been rounded up and were flown Monday to Kinshasa, after deadly clashes on Saturday. Local sources say lightly armed warriors, some carrying spears and machetes, had marched from the bush to the provincial capital, raiding several farms on their way. They were not stopped until they reached the center of Lubumbashi, where they were met by the president's Republican Guard."<sup>100</sup>

In March 2013 online news platform *Reuters* stated a witness to the attack by Mayi-Mayi Kata Katanga combatants on Lubumbashi said the group had attempted to hoist the flag of Katanga's short-lived 1960s-era independent republic before members of the army's elite Republican Guard launched a counterattack,

"The U.N. Stabilization Mission in the Democratic Republic of Congo (MONUSCO) welcomes the peaceful surrender of 245 Mayi-Mayi Kata Katanga combatants who sought refuge inside the MONUSCO compound in Lubumbashi," said a statement released on Sunday. At least 35 people were killed in the violence, the statement said, citing local sources. "The rebels should be handed over soon to the Government, following negotiations mediated by MONUSCO, between the governor of Katanga, military and provincial authorities and the Mayi-Mayi," it said. Among the group were 54 injured fighters, 15 of them with serious wounds, the U.N. said.

Millions have died in the vast former Belgian colony's long-simmering armed conflicts concentrated in the eastern borderlands, but the mining areas around Lubumbashi have remained relatively calm. However, the Mayi-Mayi, feeding off local grievances and secessionist sentiment, in recent months have ventured outside their stronghold in northern Katanga and towards the heart of the mining industry around Lubumbashi. A witness to Saturday's attack said the group had attempted to hoist the flag of Katanga's short-lived 1960s-era independent republic before members of the army's elite Republican Guard launched a counterattack. Katanga hosts many international mining companies, including Freeport McMoRan and commodities trader Glencore and exports about half a million metric tons of copper a year."<sup>101</sup>

In March 2013 the *United Nations Joint Human Rights Office (UNJHRO)* stated that human rights officers are regularly refused access to certain detention centres, particularly those under the supervision of the Republican Guard,

"As the UNJHRO was not able to visit certain detention centres due to logistical or security constraints, this report is not comprehensive. Furthermore, UNJHRO human rights officers are regularly refused access to certain detention centres, particularly those under the supervision of the National Intelligence Agency (ANR), the Republican Guard and, in some cases, the Military Intelligence Branch, in violation of United Nations Security Council resolutions. The number of deaths in detention which are human rights violations might therefore be a lot higher than the statistics indicated in this report. Nevertheless, although

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<sup>100</sup> Voice of America, Curfew Imposed in DRC Mining Hub After Shootout, 26 March 2013 <http://m.voanews.com/a/1629057.html>, accessed 12 April 2013

<sup>101</sup> Reuters, Rebels surrender to U.N. following attack on Congo mining hub, 24 March 2013, <http://www.reuters.com/article/2013/03/24/us-congo-democratic-attack-idUSBRE92N0AF20130324>, accessed 12 April 2013

incomplete, the data gathered do give a clear and worrying insight into the situation with regard to deaths in detention centres in the DRC."<sup>102</sup>

In 2013 *Human Rights Watch* stated that "scores" of people accused of opposing Kabila were arbitrarily detained by Republican Guard soldiers and the police and that many were held in illegal detention centers where they were mistreated and some were killed,

"The worst election-related violence was in the capital, Kinshasa, where at least 57 opposition party supporters or suspected supporters were killed by security forces—mostly Kabila's Republican Guard—between November 26 and December 31.

Human Rights Watch received credible reports of nearly 150 other people killed in this period, their bodies reportedly dumped in the Congo River, in mass graves on Kinshasa's outskirts, or in morgues far from the city center. Scores of people accused of opposing Kabila were arbitrarily detained by Republican Guard soldiers and the police. Many were held in illegal detention centers where they were mistreated and some were killed."<sup>103</sup>

#### 1.2.4. The FARDC (DRC armed forces)

[See also Section 1. Security Situation, 1.1 Security situation including of incidents, civilian casualties and displacement]

In 2011 Belgian *Group for Research and Information on Peace and Security (Groupe de recherche et d'information sur la paix et la sécurité- GRIP)* reported that thousands of fighters from the Congrès national pour la défense du peuple (CNDP) and the Mai Mai coalition named Patriotes résistants congolais (PARECO) as well as other Mai Mai groups had been integrated into FARDC. However, according to *GRIP* this rapid integration soon proved to be dysfunctional.<sup>104</sup> In a 2011 survey *GRIP* reported the FARDC to be one of the main actors generating insecurity in eastern DRC,

"Although it is generally accepted as "normal or to be expected" that bandits and armed rival groups cause insecurity, it is, unfortunately, not so normal for one in five respondents to identify the FARDC (which is supposed to maintain order) as one of the main elements generating insecurity.

As is demonstrated by the case of Maniema, this situation is not restricted to regions directly affected by combat between the FARDC and armed groups.

This observation suggests that a root-and-branch reform of the Congolese armed forces should be carried out without delay."<sup>105</sup>

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<sup>102</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPg%3D&tabid=10662&language=en-US>, accessed 12 April 2013

<sup>103</sup> Human Rights Watch, World Report 2013 <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo>, accessed 17 April 2013

<sup>104</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>105</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

In June 2011 French weekly news magazine *L'Express* reported that FARDC were allegedly involved in numerous human rights violations such as mass rapes in the Fizi area including the villages of Nakiele and Abala (South Kivu) on 11-12 June 2011 when 170 women were reported to have been raped (citing sources from *UNHCR* and *Médecins Sans Frontières*). *L'Express* also reported lootings and cattle being stolen during the incident.<sup>106</sup>

In June 2011 *Amnesty International* stated that former commanding officer of the 43rd operational sector Amani Leo Colonel Kifarur was the perpetrator of the mass rapes in Fizi. According to *Amnesty International*, the soldiers who perpetrated this mass rape were members of a former armed group who had been integrated into the regular army (FARDC). Some of them had already been involved in the case of another mass rape that occurred in the same area in January 2011. 9 men serving under Colonel Kifarur had already been found guilty of crimes against humanity in February 2011 by a military court and sent to jail for the rape of at least 60 women during an assault on the town of Fizi in January 2011.<sup>107</sup>

In June 2011, reporting on the mass rape in Fizi, *Amnesty International* stated that, the government had fostered a culture of impunity by failing to bring human rights abusers within the army to justice,

“New mass rapes by members of the Congolese army in the Democratic Republic of Congo are the result of the government’s failure to bring human rights abusers to justice”.

[ ] The inability of the Democratic Republic of Congo to bring to justice members of its own army and armed groups for crimes under international law, has fostered a culture of impunity, leading to attack after attack against civilians.”<sup>108</sup>

In 2012 the *USDOS* stated that magistrates who attempted to investigate politically connected high-level FARDC officers were threatened, as were witnesses providing information to judicial officers,

"The government rarely prosecuted and disciplined security force personnel for abusing civilians. [ ] Magistrates who attempted to investigate politically connected high-level FARDC officers were threatened, as were witnesses providing information to judicial officers as, for example, occurred in the investigation into the Walikale and Bushani mass rapes by the Military Prosecutor’s Office in North Kivu.”<sup>109</sup>

On 8 May 2012 news resource *AfroAmerica Network* stated that the Rwandan Government had sent more than three thousand troops into the DRC in order to "prop up" the FARDC troops who had faced massive defections, rebellions and mutinies, the largest of which was led by General Bosco Ntaganda, an accused war criminal who had been "the proxy warlord of the Rwandan military in Eastern DRC." *AfroAmerica Network* reported that the most recent mutiny was on 3 May 2012 by the former second in command of FARDC in North-Kivu, Colonel Makenga,

"Sources in Kigali and Eastern Democratic Republic of the Congo (DRC) inform *AfroAmerica Network* that the Rwandan Government has sent more than three thousand

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<sup>106</sup> *L'Express*, Quelque 170 femmes violées en RDC, selon le HCR, 26 June 2011, [http://www.lexpress.fr/actualites/2/monde/quelque-170-femmes-violees-en-rdc-selon-le-hcr\\_1006101.html](http://www.lexpress.fr/actualites/2/monde/quelque-170-femmes-violees-en-rdc-selon-le-hcr_1006101.html), accessed 19 April 2013

<sup>107</sup> *Amnesty international*, RDC. De nouveaux viols collectifs sont une conséquence effroyable de la faiblesse de l'appareil judiciaire, 23 June 2011, <http://www.amnesty.fr/Presse/Communiqués-de-presse/RDC-De-nouveaux-viols-collectifs-sont-une-conséquence-effroyable-de-la-faiblesse-de-l-appareil-judic-3029>, accessed 19 April 2013

In English, <http://www.amnesty.org/en/news-and-updates/new-mass-rapes-drc-are-result-horrific-failure-justice-2011-06-23>

<sup>108</sup> *Amnesty international*, RDC. De nouveaux viols collectifs sont une conséquence effroyable de la faiblesse de l'appareil judiciaire, 23 June 2011, <http://www.amnesty.fr/Presse/Communiqués-de-presse/RDC-De-nouveaux-viols-collectifs-sont-une-conséquence-effroyable-de-la-faiblesse-de-l-appareil-judic-3029>, accessed 19 April 2013

In English, <http://www.amnesty.org/en/news-and-updates/new-mass-rapes-drc-are-result-horrific-failure-justice-2011-06-23>

<sup>109</sup> US Department of State, 2011 Human Rights Report, May 24, 2012, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.html>, accessed 2 April 2013

troops into the DRC over the last three days. The deployment of Rwandan troops into DRC follows an agreement between the intelligence services of the two countries and the meeting between the Defense Ministers. [ ] According to the sources, the two intelligence services and the ministers agreed on two points: \*Rwanda will send troops into the DRC to prop up the beleaguered FARDC troops. FARDC have been faced with massive defections, rebellions and mutinies. The largest group of defectors are led by General Bosco Ntaganda, an accused war criminal who has mainly been the proxy warlord of the Rwandan military in Eastern DRC.

The DRC authorities believe that with the Rwandan troops in DRC, General Bosco Ntaganda's rebellion may be tamed. \*DRC Government agreed to open negotiations with General Bosco Ntaganda. At least, the DRC Government promised to push that General Bosco Ntaganda be tried in the DRC for crimes he is accused of by the International Criminal Tribunal (ICT). The hope is that if tried in the DRC, he may not be found guilty of the grave crimes by Congolese judges. The Congolese judiciary system has been accused of being mostly run by the DRC Government and being notoriously ineffective and corrupt. [ ] Meanwhile, the mutiny continues. The latest was on Thursday night May 3, 2012 by the former second in command of FARDC in North-Kivu, Colonel Makenga."<sup>110</sup>

On 12 June 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that thousands of Congolese refugees have travelled to Rwanda and Uganda as a result of fighting between FARDC and mutineers,

"[ ] in April, a string of defections led by indicted war-criminal Gen Bosco Ntaganda, left power vacuums that have been filled by militia. The army is now overstretched in dealing with these new threats as well as the mutiny playing out close to the Ugandan border. Thousands of Congolese refugees have been streaming across the border to Rwanda and Uganda as a result of fighting between FARDC and mutineers. Overlooking the village of Remeka in Masisi, FARDC has deployed a battalion in response to pleas from locals to secure their safety. The thousands of displaced persons in Remeka, many living with host-families, fled retaliatory attacks by the FDLR that security experts say left hundreds dead. MONUSCO has deployed a platoon of 36 Uruguayan peacekeepers at a temporary base on a hilltop overlooking Katoyi, from where they carry out daily patrols."<sup>111</sup>

On 7 July 2011 *Radio Okapi*, the media co-funded by the MONUSCO, reported that Colonel Kifaru simply reintegrated into the army (FARDC) along with 100 of his men in Uvura.<sup>112</sup>

In 2012 the *USDOS* stated that in April 2012 former rebels of the National Congress for the Defense of the People (CNDP) defected from FARDC and created the M23 armed group,

In April integrated former rebels of the National Congress for the Defense of the People (CNDP) defected from the national army (FARDC). Subsequently, they created the M23 armed group [ ] The FARDC and RMG, a number of which included FARDC defectors who had previously been integrated into the army [ ] were responsible for politically motivated killings, arbitrary arrests, temporary detentions, and the abduction and disappearance of many individuals. [ ] RMG and some FARDC elements kidnapped numerous persons, generally for forced labor, military service, or sexual services. Many of these victims disappeared.

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<sup>110</sup> AfroAmerica Network, Rwanda Sends 3 Thousand Troops in DRC, 8 May 2012, <http://www.afroamerica.net/AfricaGL/2012/05/08/rwanda-sends-3-thousand-troops-dr/>, 12 April 2013

<sup>111</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN), DRC: Scores killed as Mai-Mai target Kinyarwanda speakers, 12 June 2012, <http://www.irinnews.org/report/95626/DRC-Scores-killed-as-Mai-Mai-target-Kinyarwanda-speakers>, accessed 10 April 2013

<sup>112</sup> Radio Okapi, Uvira: le colonel Kifaru se rend à la hiérarchie militaire des FARDC, 7 July 2011, <http://radiookapi.net/actualite/2011/07/07/uvira-le-colonel-kifaru-se-rend-a-la-hierarchie-militaire-des-fardc>, accessed 19 April 2013

[ ] SSF operating under the control of the Ministry of Defense and primarily responsible for external security, but also fulfilling an internal security role, include the FARDC and the military intelligence service. [ ] Some progress was made during the year to reduce impunity within the PNC and FARDC. [ ] The FARDC suffers from weak command and control, poor operational planning, low administrative and logistical capacity, lack of training, and questionable loyalty of some of its soldiers, particularly those in the East. Other serious obstacles to the formation of a professional national army included lack of equipment and facilities.

[ ] PNC and FARDC units throughout the country regularly engaged in illegal taxation and extortion of civilians. [ ] Abuses by FARDC soldiers were dramatically reduced in areas where they were properly paid and fed. [ ] In some instances magistrates who attempted to investigate politically connected, high-level FARDC officers were threatened, as were witnesses providing information to judicial officers. [ ] The most common offense, by the FARDC in particular, was the looting of villages during military actions against RMG.<sup>113</sup>

In 2012 the *USDOS* stated that men, women, and minors were raped as part of the violence between RMG and the FARDC and in North Kivu and South Kivu elements of the FARDC continued to abduct men, women and children into forced labour and slavery and illegally exploit and trade natural resources,

"[ ] During the year men, women, and minors were raped as part of the violence [ ] between RMG and the FARDC. [ ] FARDC commanders made an increased effort to remove child soldiers, particularly when FARDC elements retook command of units that had been led by ex-CNDP commanders. [ ] In North Kivu and South Kivu, RMG and elements of the FARDC continued to illegally exploit and trade natural resources for revenue and power.

[ ] Criminal involvement by FARDC units and RMG included protection rackets (such as protection fees paid by mining pit managers to avoid pillage or to facilitate smuggling), indirect commercial control (including the use of illegal "tax" revenues to buy and sell minerals near mining sites), and direct coercive control (including pillage).

[ ] For those security forces not being paid by direct deposit, embezzlement of soldiers' salaries by FARDC commanders was common and appeared to contribute to extortion, looting, and other abuses by soldiers against citizens [ ] some FARDC units, were responsible for several lootings and occupations of schools. [ ] In the East some FARDC elements and many RMG continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines in the Kivus), porters, domestics, combatants, and sex slaves."<sup>114</sup>

In December 2012 French daily newspaper *Le Monde* and *French global news agency Agence France Presse (AFP)* reported a U.N. spokesperson as stating that at least 126 women had been raped between 20 and 30 November 2012 in the Minova region (near Goma) by DRC armed forces. Two civilians were murdered, and acts of looting had been committed. According to *Le Monde/AFP*, the abuses occurred whilst FARDC soldiers were fleeing from M23 rebels near Goma. Military authorities declared they were investigating the violations.<sup>115</sup>

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<sup>113</sup> US Department of State, 2012 Human Rights Report, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>, accessed 2 April 2013

<sup>114</sup> US Department of State, 2012 Human Rights Report, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>, accessed 2 April 2013

<sup>115</sup> *Le Monde*, Neufs soldats arrêtés en RDC pour au moins 126 viols près de Goma, 18 December 2012, [http://www.lemonde.fr/afrique/article/2012/12/18/neufs-soldats-arretes-en-rdc-pour-au-moins-126-viols-pres-de-goma\\_1808091\\_3212.html](http://www.lemonde.fr/afrique/article/2012/12/18/neufs-soldats-arretes-en-rdc-pour-au-moins-126-viols-pres-de-goma_1808091_3212.html), accessed 17 April 2013

In April 2013 French daily newspaper *Le Figaro* (based on a press release by *French global news agency AFP*) reported that 12 senior military officers had been suspended in connection with the mass rape that took place in Minova between 20 and 30 November 2012. According to *Le Figaro*, 126 women had been raped after Congolese army troops fled to the town as the M23 took over Goma (provincial capital of North Kivu). *Le Figaro* reported that the UN had given the Congolese authorities 7 days to take effective measures. According to U.N. peacekeeping spokesman,

“The commanding officers and deputy commanding officers of two units, as well as the commanding officers of eight other units, have been suspended and put at the disposal of the military prosecutor. Interrogations are ongoing.”<sup>116</sup>

In 2013 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that the level of individual and institutional discipline of the FARDC is low, and improving the military justice system is an essential prerequisite for improving the effectiveness of the FARDC,

“The level of individual and institutional discipline of the FARDC is low. Improving the effectiveness of the DRC military justice system is therefore an essential prerequisite for progress in improving the discipline and operational effectiveness of the FARDC, and consequently its ability to fulfill its constitutionally mandated mission of protecting the DRC and its people, in a manner which is consonant with its obligations under Congolese and international law, including respect for human rights and international humanitarian law.”<sup>117</sup>

### **1.3 Information on non-government armed groups, including goals, when they were/are active, areas of activity (including areas of potential de facto control), recruitment, use of child soldiers, forced conscription, human rights abuses, methods of government response, and effectiveness of government response.**

In 2012 the *Rift Valley Institute* reported that

“The continuing violence in the eastern Democratic Republic of the Congo (DRC) can be bewildering in its complexity: in the profusion of armed factions, the plethora of acronyms, and the multitude of grievances that trigger outbreaks of conflict—be they political, financial, or ethnic; local, national, or cross-border The province of North Kivu has been the epicentre of war in the DRC. It has generated a multitude of armed groups, with over two dozen emerging over the past two decades. [ ] The armed groups that have emerged in North Kivu have features in common, but there is no comprehensive theory that explains them all. They draw on three sources of instability: local, regional, and national. The Congolese state is decrepit and partial to private interests. It has neither the rule of law to guarantee property rights nor the force of law to suppress armed rivals. This weakness reinforces the belief that the only way of protecting property and individual freedoms is through armed force.”<sup>118</sup>

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<sup>116</sup> Le Figaro, RDC: 12 militaires suspendus pour viol, 12 April 2013, <http://www.lefigaro.fr/flash-actu/2013/04/12/97001-20130412FILWWW00274-rdc-12-militaires-suspendus-pour-viol.php>, accessed 17 April 2013

<sup>117</sup> MONUSCO United Nations Organization Stabilization Mission in the DR Congo Military justice, The rule of law and military justice, <http://monusco.unmissions.org/Default.aspx?tabid=10806&language=en-US>, accessed 20 April 2013

<sup>118</sup> Rift Valley Institute, North Kivu: The background to conflict in North Kivu Province of Eastern Congo, 2012, <http://www.refworld.org/docid/51d3d5f04.html>, accessed 21 July 2013



### 1.3.1 Democratic Forces for the Liberation of Rwanda (FDLR)

In May 2012 Canadian francophone online media *Lapresse.ca* stated that the FDLR have been accused of human rights violations,

“FDLR rebels are regularly accused of perpetrating lootings, atrocities, rapes, murders, in particular against civilians. Kigali is searching for those who allegedly played an active role in the genocide in which 800,000 people died, mainly Tutsis, according to the UN.”<sup>119</sup>

*Lapresse.ca* reported that FDLR forces were composed of approximately 3,000 fighters according to a 2011 U.N. report, and 4,400 fighters according to Rwanda’s Intelligence service. Congolese President Joseph Kabila stated in October 2011 that negotiations between the government and FDLR rebels had failed. FDLR forces have been more active in North Kivu and South Kivu since April 2012.<sup>120</sup>

In 2012 *Amnesty International* stated that FDLR fighters had reportedly abducted 48 people and looted many houses in Mwenga territory, South Kivu and raped at least 102 women and one girl during attacks on villages in Katanga and South Kivu provinces,

"In May, FDLR fighters reportedly abducted 48 people and looted many houses in Mwenga territory, South Kivu. [ ] Between November 2010 and January 2011, FDLR fighters raped at least 102 women and one girl during attacks on villages in Katanga and South Kivu provinces. [ ] Children continued to be abducted by armed groups, particularly the LRA and the FDLR, and used as fighters, spies, sexual slaves or carriers.

In January, Callixte Mbarushimana, Secretary of the FDLR, was transferred to the ICC after his arrest in France in October 2010. On 16 December, the ICC Pre-Trial Chamber declined to confirm the charges against him and ordered his immediate release. On 20 December, the ICC Appeals Chamber rejected the Prosecutor’s appeal against this decision. Callixte Mbarushimana was released on 23 December and returned to France, where an investigation was ongoing into his alleged role in Rwanda’s 1994 genocide. [ ] The trial of FDLR leaders Ignace Murwanashyaka and Straton Musoni began in May in Stuttgart, Germany, where they had been living. Both were charged with crimes against humanity and war crimes.”<sup>121</sup>

In December 2012 online news platform *Reuters* stated that FDLR rebels had crossed the border into Rwanda from the DRC and attacked a game warden camp, killing one warden in the second attack by the Rwandan Hutu group in six days. Rwandan President Paul Kagame has stated that the Congolese government and U.N. peacekeepers have not done enough to drive out the FDLR from eastern Congo,

"Rwanda said FDLR rebels crossed the border from the Democratic Republic of Congo on Sunday and attacked a game warden camp, killing one warden in the second attack by the Rwandan Hutu group in six days. Rwanda has in the past cited the presence of the FDLR, or Democratic Forces for the Liberation of Rwanda, as a reason for sending troops into neighboring Congo. Experts say the rebel group has dwindled in strength. Rwandan defense forces spokesman Brigadier General Joseph Nzabamwita said about 10 FDLR fighters crossed the border on Sunday morning and attacked the camp outside a national park in Musanze in the country's northern province, where they killed the warden.

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<sup>119</sup> Lapresse.ca, RDC: des violences font plus de 100 morts au Nord-Kivu, 22 May 2012, <http://www.lapresse.ca/international/afrique/201205/22/01-4527416-rdc-des-violences-font-plus-de-100-morts-au-nord-kivu.php>, accessed 16 April 2013

<sup>120</sup> Lapresse.ca, RDC: des violences font plus de 100 morts au Nord-Kivu, 22 May 2012, <http://www.lapresse.ca/international/afrique/201205/22/01-4527416-rdc-des-violences-font-plus-de-100-morts-au-nord-kivu.php>, accessed 16 April 2013

"The FDLR fired small arms, machine guns, RPG and 60mm mortars. The six park rangers fled the camp and one was killed, one injured," Nzabamwita told Reuters "They were pursued. None were caught or injured, and fled back to DRC. This is proof of FDLR having got arms and exploiting the situation in eastern DRC to destabilize Rwanda," he said. Rwanda said on Tuesday that its troops clashed with another group of FDLR rebels after they attacked three villages on its border with the Democratic Republic of Congo. An FDLR spokesman denied its fighters had been involved. [ ] Congo and U.N. experts accuse Rwanda of backing the M23 group in eastern Congo, a charge denied by Rwandan President Paul Kagame who has long complained that the Congolese government of President Joseph Kabila and U.N. peacekeepers have not done enough to drive out the FDLR from that area."<sup>122</sup>

On 15 November 2012 a letter from the Chair of the *United Nations Security Council* Committee established pursuant to resolution 1533 (2004) concerning the DRC addressed to the President of the Security Council stated that after launching retaliatory attacks, the FDLR in South Kivu has returned to Mwenga territory. In North Kivu the FDLR has been forced to withdraw from its traditional headquarters near Kimua in Walikale. According to the *United Nations Security Council* Committee the FDLR profits from mining and cannabis trade,

"Since April 2012, in the light of significant troop shortages, FDLR has consolidated its units into two sectors. Col. Pacifique Ntawunguka, alias "Omega", remains the commander of North Kivu and Lieutenant Col. Hamada Habimana has assumed the command of South Kivu. [ ] Following a wave of targeted attacks by Raïa Mutomboki, the immediate concern of FDLR commanders has become the protection of their dependents. After initially launching brutal retaliatory attacks, FDLR in South Kivu has returned to Mwenga territory to distance itself from the threat of Raïa Mutomboki in Shabunda and Kalehe. In North Kivu, according to ex-combatants, FDLR has been forced to withdraw from its traditional headquarters near Kimua in Walikale and move deeper into the forest. The same sources stated that even senior commanders had begun to consider leaving the Kivus for the security of Maniema or Orientale Province.

[ ] Four FDLR subsectors have been strategically deployed in zones in which they can participate and control local commercial markets linked to mineral production. Ex-combatants have stated that, in the high plateau of Uvira territory, FDLR profits from the trade in wolframite via Bujumbura. Furthermore, it continues to benefit from the production and taxation of cannabis in North Kivu. According to former combatants, it still obtains most of its AK-47ammunition from corrupt Congolese armed forces officers in exchange for cannabis or the profits from commercial activities in mining zones. Owing to the Government's focus on M23 in Rutshuru territory, FDLR has expanded control over commercial zones in southern Lubero. Currently, FDLR is deployed alongside Union des patriotes congolais pour la paix forces allied with M23 and led by "Gen." Kakule Sekuli LaFontaine in and around the gold market of Bunyatenge. According to MONUSCO records, between 1 January and 30 September 2012, 867 combatants officially deserted from FDLR and returned to Rwanda. MONUSCO also demobilized another 151 Congolese members of FDLR. Repatriation rates have, however, diminished significantly since February, when 141 combatants returned home, compared with only 47 in September. The only senior FDLR officer to return to Rwanda since the outbreak of the M23 rebellion has been Lt Col. Etienne Mbarushimana, on 24 May."<sup>123</sup>

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<sup>122</sup> Reuters, Rwanda says FDLR rebels cross from Congo, attack wardens, 2 December 2012, <http://www.reuters.com/article/2012/12/02/us-rwanda-attack-idUSBRE8B10A020121202>, accessed 10 April 2013

<sup>123</sup>United Nations Security Council, Letter dated 12 November 2012 from the Chair 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, 15 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2012\\_843.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_843.pdf), accessed 8 April 2013

In December 2012 Rwandan daily newspaper *The New Times* stated that the government said it would not be drawn into conflict in eastern DRC, after two heavily armed units of the Democratic Forces for the Liberation of Rwanda (FDLR) attacked villages in the Rubavu district in Rwanda leaving at least one civilian dead,

"Government has said it will not be drawn into conflict in the eastern Democratic Republic of the Congo, even after heavily armed militiamen attacked villages in the Western Province and left at least one civilian dead. The attack, according to Rwanda Defence Forces, was mounted early yesterday by at least two heavily armed companies of the Democratic Forces for the Liberation of Rwanda (FDLR). Two companies are equivalent to about 120 troops. After subsequent fire exchange, six rebels were killed and two captured, according to the Defence and Military Spokesperson Brig Gen Joseph Nzabamwita. "This morning's attack by the FDLR forces from their bases in DRC is clearly an attempt to take advantage of the volatile situation in eastern DRC," reads a statement released yesterday by Louise Mushikiwabo, the Minister of Foreign Affairs and Government Spokesperson. "We will counter any violation of Rwandan territory by the FDLR and continue to protect our borders but will not allow today's fighting to derail the ongoing regional peace process.

According to Nzabamwita, the attacks took place in the sectors of Bugeshi and Cyanzarwe in Rubavu district and the attackers were later repulsed and ran back to DRC. "[ ] It is widely alleged by different sources that the militiamen could have received the ammunition from the DRC Armed Forces. Others say the attacks may be aimed at trying to suck Rwanda into the crisis in the eastern DRC, in a way of provoking the country to pursue them on the Congolese territory. "These attacks will not draw us into war with DRC, we remain committed to continue supporting the peace process designed by the ICGLR," said Nzabamwita. [ ] The crisis in the DRC, [ ] is mainly hinged on a mutiny by a group of former government soldiers [ ] When the mutiny began in April this year, Rwanda suspended a joint offensive against the FDLR, following the widely contested allegations that Rwanda was supporting the mutineers, allegations that Kigali denies."<sup>124</sup>

On 15 November 2012 a letter from the Chair of the *United Nations Security Council* Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council stated that the FDLR numbers approximately 1500 - 2000 fighters and continues to recruit from Uganda but that its military capacity has been affected by the loss of external support and in the aftermath of a succession of attacks on its positions and civilian dependents,

"At historically low numbers, the Forces démocratiques de libération du Rwanda (FDLR), although continuing to commit abuses against civilians, have become further isolated from external support and are focused on self-protection in the face of attacks by the Congolese armed forces and M23 allies. Junior FDLR officers have sought to ally themselves with the Government of the Democratic Republic of the Congo against M23, while some criminal networks within the Congolese armed forces continue to sell small amounts of ammunition to the rebels. There is, however, no evidence of strategic cooperation between FDLR and the Government.

FDLR is currently seeking to readapt its military capacity following the drying up of external support and in the aftermath of a succession of attacks on its positions and civilian dependents. Each of the six FDLR subsectors is constituted of between 250 and 400 soldiers. The Group estimates that the rebels now number between 1,500 and 2,000. While limited recruitment efforts continue in Uganda, Rwandan refugee populations in the

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<sup>124</sup> The New Times, FDLR attack 'won't draw Rwanda into DRC crisis, 28 November 2012, <http://www.newtimes.co.rw/news/index.php?i=15190&a=61175>, accessed 16 April 2013

Democratic Republic of the Congo no longer have sufficient young people to reinforce rebel ranks, according to ex-combatants."<sup>125</sup>

On 15 November 2012 a letter from the Chair of the *United Nations Security Council* Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council stated that between May and July 2012, the Government of Rwanda alleged that there had been 15 cases of cooperation between the Congolese armed forces and FDLR,

"According to several ex-combatants, FDLR officers are fearful that, if they return to Rwanda, the Government will force them to join the reserve force of the Rwandan armed forces and redeploy them to the Democratic Republic of the Congo. In addition to those sent to reinforce former FDLR commander Col. Mandevu within M23, former combatants confirmed that the Rwandan armed forces had redeployed small units of ex-FDLR combatants to the Democratic Republic of the Congo for intelligence-gathering missions and to reinforce M23. An increasing number of deserters from FDLR either seek to integrate into local communities or to flee to Zambia. Instead of merging his battalion and moving northwards in South Kivu, the former FDLR commander in Kilembwe (Fizi territory), "Lt Col." Tharcisse "Sharaf" Uwimana, deserted from the movement in June 2012 and travelled to Zambia. In addition, the lone remaining FDLR liaison officer in Uvira fled for Zambia in April.

Between May and July 2012, the Government of Rwanda alleged that there had been 15 cases of cooperation between the Congolese armed forces and FDLR. The Group has been unable, however, to independently confirm these specific claims and the Government of Rwanda has refused to meet the Group to provide any further details. In one case, the Government alleges that, on 5 June, the Congolese armed forces provided safe passage to two FDLR companies to infiltrate Rwanda. The Rwandan armed forces have, however, recently reinforced their deployments along the border between Rwanda and the Democratic Republic of the Congo, in view of their support for M23, thus making it highly improbable that two FDLR companies could enter Rwandan territory unnoticed. Furthermore, the Government of Rwanda also alleged that the Congolese authorities facilitated a visit by two Belgian nationals, Faustin Murego and Joseph Nzabonimpa, to negotiate an alliance with FDLR to fight against M23 in June 2012. Congolese intelligence services arrested the two men but released them on 10 July. The Government of Belgium told the Group that it possessed no information regarding support by the men for FDLR."<sup>126</sup>

On 15 November 2012 a letter from the Chair of the *United Nations Security Council* Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council also stated that Congolese armed forces have mounted operations against FDLR on several occasions, including near Tongo in August 2012 and near the Ishasha border crossing with Uganda late in September 2012, however, these operations have been significantly reduced since the M23 rebellion,

"According to senior Congolese armed forces officers, mid-level FDLR commanders have sought to establish operational alliances with Congolese armed forces units in Rutshuru territory. Instead of cooperating with the rebels, however, the Congolese armed forces have mounted operations against FDLR on several occasions, including near Tongo in August 2012 and near the Ishasha border crossing with Uganda late in September 2012. During

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<sup>125</sup>United Nations Security Council, Letter dated 12 November 2012 from the Chair 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, 15 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2012\\_843.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_843.pdf), accessed 8 April 2013

<sup>126</sup>United Nations Security Council, Letter dated 12 November 2012 from the Chair 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, 15 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2012\\_843.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_843.pdf), accessed 8 April 2013

the latter attack, the Congolese armed forces cooperated with “Col.” Muhima Shetani and his Mai Mai group to dislodge the last remaining FDLR liaison antenna unit. Nevertheless, Congolese armed forces officers do acknowledge that operations against FDLR have been significantly reduced since the outbreak of the M23 rebellion, as they seek to avoid overstressing themselves. Several oral and written requests notwithstanding, and past precedent to the contrary, the Government of Rwanda did not authorize the Group to conduct interviews with former FDLR combatants at the Mutobo demobilization centre in Rwanda.”<sup>127</sup>

In January 2013 Kenyan newspaper *Business Daily* stated that the flight of more than 300 ex-combatants back to Rwanda from the DRC followed a reported influx of their former comrades in the Democratic Forces for the Liberation of Rwanda (FDLR) into Bukavu region,

“More than 300 former Rwandan rebels who recently fled the Democratic Republic of Congo (DRC) say they were motivated by fear of reprisals against Kinyarwanda speakers living there. The ex-combatants’ flight back to Rwanda followed a reported influx of their former comrades in the rebel Democratic Forces for the Liberation of Rwanda (FDLR) into Bukavu region.

The returnees, who were received by Rwandan officials and representatives of humanitarian agencies at Cyangugu on the country’s western border with DRC, said the presence of the rebels would have created suspicion against Kinyarwanda-speaking residents. FDLR, whom the United Nations Organisation Stabilisation Mission in the DR Congo (Monusco) estimates have about 2,500 fighters, are remnants of the former Rwandan army who fled to Congo in 1994 after playing a major role in the Rwandan genocide. They are against President Paul Kagame’s government and are widely seen as a threat to peace and stability in Rwanda. A senior humanitarian official who did not want to be identified as he is not authorised to speak to the media also confirmed that the returnees feared reprisals and getting caught up in fighting between the local Mai Mai militias and the FDLR rebels.

The two groups usually fight each other over disputes about their illegal taxation and mining rights revenues. The majority of armed groups in DRC survive on levying taxes and controlling mining rights in the areas they operate in. The UN official also talked of the “influx of Rwandan fighters” (FDLR) into South Kivu Province in the areas of Shabunda, around Bukavu. There are no confirmed reasons as to why the FDLR are moving southwards but there is a growing concern that the nine-month-long conflict, which has ravaged North Kivu Province, could spread to other parts of the region.”<sup>128</sup>

In January 2013 Kenyan newspaper *Business Daily* stated that Rwandan refugees feared that the FDLR may trigger reprisals against them and heighten military activity in eastern DRC, although there had not yet been any reports of attacks on Rwandans living in eastern DRC,

“These developments, observers say, could complicate peace efforts, especially in the eastern DRC, as they involve actors whom it is not easy to bring to the negotiating table. It is also feared that the presence of the FDLR will heighten military activity in eastern Congo, something that also worries Kigali. Although there were no reports of attacks on Rwandans living in the eastern DRC yet, having suffered reprisals in the past, the refugees did not want to take chances with their lives. An official at the United Nations High Commissioner for Refugees (UNHCR) in Kigali said her office had received 201 returnees while John

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<sup>127</sup> United Nations Security Council, Letter dated 12 November 2012 from the Chair 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, 15 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2012\\_843.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_843.pdf), accessed 8 April 2013

<sup>128</sup> The East African, Influx of FDLR in South Kivu forced Rwandans to return, January 18 2013, <http://www.theeastafrican.co.ke/Rwanda/News/Influx-of-FDLR-in-South-Kivu-forced-Rwandans-to-return/-/1433218/1669582/-/item/1/-/i8ucqi/-/index.html>, accessed 12 April 2013

Sayinzoga, the chairman of Rwanda's Demobilisation Commission, which receives former FDLR fighters, said: "We have received 158 ex-combatants."

There were conflicting reports on the exact number of persons displaced by the fear of reprisals with local radio stations in Bukavu putting the figure at 10,000 while a senior Monusco official in Goma, who did not want to be named, cited 1,200. No active conflict is ongoing in South Kivu but the region's semblance of peace is very fragile since a host of local militias there remain armed. The official told Rwanda Today: "While in North Kivu there is the war between Kinshasa and M23...there are problems in South Kivu as well." The Monusco official added that there was an increased influx of FDLR fighters into South Kivu, which could result in massive displacement of civilians should war break out. The source also reported an "increased visibility" of M23 fighters in North Kivu but did not say if that had a link to the developments in South Kivu. But even before the UN reported the FDLR movements, the Rwanda Defence Forces, which closely monitors developments in eastern Congo, had expressed concerns over the heightened FDLR military activity in the Kivus, which analysts say has a direct bearing on Rwanda's security."<sup>129</sup>

### 1.3.2. Fronts des Nationalistes et Intégrationnistes (FNI)

In 2013 the *Rift Valley Institute* reported that the FNI were formally established in 2002, emerging out of several smaller Lendu militias and that in 2005 the FNI largely transformed itself into a political party.<sup>130</sup>

In July 2012 news alert agency *Afronline* stated that Front Nationaliste et Intégrationniste (Nationalist and Integrationist Front, FNI) claimed to defend the Lendu and Ngiti during the conflict in the DRC's north-eastern Ituri region from 1999 until 2007,

"The conflict in the DRC's north-eastern Ituri region, lasting from 1999 until 2007, initially involved the Lendu, a group made up principally of farmers who migrated from Sudan centuries ago, and the Hema: more recent arrivals in the area. Fighting soon spread, however, to encompass other ethnic groups such as the Ngiti, generally perceived as loyal to the Lendu, and the Gegere, seen as supporting the Hema. The bloodshed claimed at least 60,000 lives.

Militias such as the Forces de Résistance Patriotique d'Ituri (Patriotic Resistance Forces of Ituri, or FRPI) and the Front Nationaliste et Intégrationniste (Nationalist and Integrationist Front, FNI) fought on one side, claiming to defend the Lendu and Ngiti – while the UPC took up the banner of Hema supremacy."<sup>131</sup>

On 18 December 2012 *Amnesty International* stated that the National Integration Front (FNI) armed group had been accused of rape, sexual slavery and other serious crimes under international law during a February 2003 attack against the village of Bogoro in eastern DRC's Ituri region,

"The International Criminal Court (ICC) in The Hague today acquitted Mathieu Ngudjolo Chui, who had been charged with war crimes and crimes against humanity in the

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<sup>129</sup> The East African, Influx of FDLR in South Kivu forced Rwandans to return, January 18 2013, <http://www.theeastafrican.co.ke/Rwanda/News/Influx-of-FDLR-in-South-Kivu-forced-Rwandans-to-return/-/1433218/1669582/-/item/1/-/8ucqj/-/index.html>, accessed 12 April 2013

<sup>130</sup> Rift Valley Institute, FNI and FRPI: Local resistance and regional alliances in north-eastern Congo, 2013, ISBN 978-1-907431-19-7, <http://www.refworld.org/docid/51d3d3be4.html>, accessed 21 July 2013

<sup>131</sup> AfrOnline, DRC warlord sentence a joke, say NGOs 13 July 2012, <http://www.afronline.org/?p=26071>, accessed 13 April 2013; For detailed information on the creation and the dissolution of the Union des patriotes congolais (UPC, Union of Congolese Patriots), see, generally, Rift Valley Institute, UPC in Ituri: The External Militarization of Local Politics in North-eastern Congo, 2013, ISBN 978-1-907431-11-1-<http://www.refworld.org/docid/51d2c07e4.html>.

Democratic Republic of Congo (DRC). The National Integration Front (FNI) armed group under Ngudjolo Chui's command has been accused of rape, sexual slavery and other serious crimes under international law during a February 2003 attack against the village of Bogoro in the eastern DRC's Ituri region.

"This ruling undoubtedly will disappoint many victims, but it should only strengthen demands for justice in the DRC where impunity is pervasive and thousands of suspects have never been investigated or prosecuted by the ICC or national courts," said Tawanda Hondora, Deputy Director of Amnesty International's Law and Policy Programme. "With the completion of Ngudjolo Chui's trial, attention should turn to the horrific abuses that are still being committed with almost complete impunity in eastern DRC today, including killings, rape and sexual violence in North Kivu province. "Since the ICC Prosecutor failed to meet the burden of proof, Ngudjolo continues to be presumed innocent of the charges in this case – having been acquitted of the charges against him, we believe he should be released immediately." The prosecution has indicated it will appeal today's ruling."<sup>132</sup>

On 18 December 2012, the monitoring site detailing the International Criminal Court's trial of Germain Katanga and Mathieu Ngudjolo Chui as part of the *Open Society Justice Initiative* stated that Ngudjolo was accused of commanding the FNI, his presence in Bogoro on the day of the attack in 2003 had been confirmed by video evidence submitted by the prosecution. Ngudjolo testified that he had been a nurse and healthcare worker during most of the conflict, and was unassociated with the FNI until after the Bogoro attack. Judges found that the prosecution had not proven beyond a reasonable doubt that Ngudjolo was the commander of the FNI at the time of the attack based on the lack of credible evidence,

"The judges had to determine whether Ngudjolo committed the alleged crimes through his alleged control over Lendu combatants from Bedu-Ezekere. The prosecution argued that Ngudjolo commanded the FNI and was in Bogoro on the day of the attack. This was confirmed by video evidence, the prosecution submitted. Ngudjolo testified that he had been a nurse and healthcare worker during most of the conflict, and was unassociated with the FNI until after the Bogoro attack. On the day of the attack Ngudjolo said he was in Zombe helping a woman give birth. He claimed that he did not learn of the FNI until March 18, 2003, when he met with Floribert Njabu, President of the FNI. Ngudjolo said that Njabu asked him to get involved with the organization. On March 22, 2003, he said, he was appointed as Deputy Chief in charge of FNI operations. However, the group was quickly integrated into the national army. Therefore, he testified, he did not carry out any military operations.

The testimony of a key defense witness, Emmanuel Ngabu Mandro, a.k.a. "Chief Manu", the Chief of Zombe, supported Ngudjolo's claims. Chief Manu testified that Ngudjolo was not the commander of the FNI at the time of the Bogoro attack. The witness said that Ngudjolo was a nurse at the Zombe health center, and therefore not in a position to give orders. Chief Manu said that Ngudjolo did not become the leader of the FNI until after March 18, 2003, about a month after the attack on Bogoro. At that time, he "reached an agreement" with the FNI, and stayed in Bunia as its leader [ ] The judges found that the prosecution had not proven beyond a reasonable doubt that Ngudjolo was the commander of the Lendu militia at the time of the attack on Bogoro. This was based on the lack of credible evidence provided by the prosecution."<sup>133</sup>

On 18 December 2012 the monitoring site detailing the trial of Germain Katanga and Mathieu Ngudjolo Chui as part of the *Open Society Justice Initiative* stated that Mathieu Ngudjolo Chui had

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<sup>132</sup> Amnesty International, ICC acquits Congolese armed group leader, 18 December 2012, <http://www.amnesty.org/en/news/icc-acquits-congolese-armed-group-leader-2012-12-18>, accessed 12 April 2013

<sup>133</sup> Open Society Justice Initiative, The trial of Katanga and Ngudjolo, Ngudjolo Acquitted by ICC, 18 December 2012, <http://www.katangatrial.org/about-this-website/>, accessed 12 April 2013

been acquitted of all charges in the International Criminal Court's second judgment after the judges concluded that the prosecution had failed to prove beyond a reasonable doubt that Ngudjolo was the commander of the FNI. However, Judges based this decision on Ngudjolo's authority over the FNI and did not make any findings about the crimes themselves,

"Today the judges of Trial Chamber II acquitted Mathieu Ngudjolo Chui of all charges in the International Criminal Court's second judgment [ ] The judges concluded that the prosecution had failed to prove beyond a reasonable doubt that Ngudjolo was the commander of a group of Lendu combatants (also called the Front des Nationalistes et Intégrationnistes (FNI, National Integration Front)) from the Ituri region of the Democratic Republic of the Congo (DRC). The Judges based all of their findings today on Ngudjolo's authority over the FNI. It did not make any findings about the crimes themselves.

Ngudjolo was charged with seven counts of war crimes (using children under the age of fifteen to take active part in hostilities; directing an attack against civilians; willful killing; destruction of property; pillaging; sexual slavery; and rape) and three counts of crimes against humanity (murder, rape and sexual slavery) allegedly committed during an attack on the village of Bogoro on February 24, 2003. For all of the crimes except those related to child soldiers, he is accused of having committed the crimes through "indirect co-perpetration," where the accused used a hierarchical organization (the FNI) to carry out the crimes. [ ] Ngudjolo pleaded not guilty to all charges. He did not deny that atrocities were committed in Bogoro. However, he denied that he commanded the FNI during the attack."<sup>134</sup>

In April 2013 French news media on Africa *Jeune Afrique* reported that the Prosecutor of the International Criminal Court asked that a new trial be held against the former head of the Front des Nationalistes et Intégrationnistes (FNI), Mathieu Ngudjolo Chui. Mathieu Ngudjolo had been accused of trying to erase the entire population of the village of Bogoro in Ituri (Oriental province) with the Force de résistance patriotique en Ituri (FRPI). However, he was acquitted in December 2012 and sought asylum in the Netherlands.<sup>135</sup>

In a 2012 profile on the DRC, *Ritimo*, a French information and documentation network for solidarity and sustainable development, named Peter Karim as head of the Front des Nationalistes et Intégrationnistes (FNI).<sup>136</sup>

### 1.3.3. Lord's Resistance Army (LRA)

In July 2012 Afro-centric news online media *Afrik.com* stated that the LRA formed in 1986,

"The rebellion named L'Armée de résistance du Seigneur started in 1986, and in 2012 still remains a mortal threat to civilians in Uganda, South Sudan, the DRC and the Central African Republic."<sup>137</sup>

In July 2012 *Afrik.com* reported that, the LRA officially fought to overthrow Ugandese President Yoweri Museveni and establish a regime founded on the Ten Commandments of the Bible.<sup>138</sup>

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<sup>134</sup> Open Society Justice Initiative, The trial of Katanga and Ngudjolo, Ngudjolo Acquitted by ICC, 18 December 2012, <http://www.katangatrial.org/about-this-website/>, accessed 12 April 2013

<sup>135</sup> Jeune Afrique, RDC : le procureur de la CPI veut un nouveau procès contre l'ex-milicien Ngudjolo, 6 April 2013, <http://www.jeuneafrique.com/Article/DEPAFP20130406105144/actualite-afriquerdc-le-procureur-de-la-cpi-veut-un-nouveau-proces-contre-l-ex-milicien-ngudjolo.html>, accessed 27 April 2013

<sup>136</sup> Ritimo, Glossaire sur la RDC, 7 December 2012, <http://www.ritimo.org/article4563.html>, accessed 24 April 2013

<sup>137</sup> Afrik.com, Ouganda : l'Armée de résistance du Seigneur demeure une menace pour les populations, 11 July 2012, <http://www.afrik.com/article26163.html>, accessed 24 April 2013

<sup>138</sup> Afrik.com, Ouganda : l'Armée de résistance du Seigneur demeure une menace pour les populations, 11 July 2012, <http://www.afrik.com/article26163.html>, accessed 24 April 2013



According to *Afrik.com* all military operations that have aimed at stopping the LRA, since 2009, have failed despite the support of the African Union and the United States. Since 2001 L'Armée de résistance du Seigneur stands on the United States official list of criminal organisations; and since 2005 the International Criminal Court has issued a warrant against his leader Joseph Kony for war crimes and crimes against humanity. *Afrik.com* reported unnamed NGO sources which stated that the LRA had killed over 2,400 people and had abducted at least 3,400 people between 2009 and 2012. According to *Afrik.com*, the LRA faces heavy human losses due to the military operations held against them and to face those losses they use forced conscription of child soldiers. *Afrik.com* stated that the LRA fighting forces are made up to 80% of child soldiers. Citing sources from *UNICEF*, *Afrik.com* stated that the fear of abduction forces 40,000 children to flee their villages during the night to hide in the streets and the towns of Northern Uganda.<sup>139</sup>

In March 2011 the *Office of the United Nations High Commissioner for Refugees (UNHCR)* stated that there had been a recent upsurge in violence against civilians by the Lord's Resistance Army in north-eastern DRC, targeting more populated areas,

"The UN refugee agency said Tuesday it is alarmed by an upsurge in violence against civilians by a rebel Ugandan group in north-eastern Democratic Republic of the Congo. A particularly worrying development is that the Lord's Resistance Army, or LRA, appears to be targeting more populated areas. Since January, the LRA has intensified its attacks in Orientale province, killing at least 35 people, abducting 104 others and displacing more than 17,000 people. Since the start of the year, UNHCR has received reports of 52 raids. The rebel group has traditionally attacked rural targets, but the LRA's latest attacks have centred on the towns of Niangara, Dungu, Faradje and Ango, which lie in the Haut and Bas Uele districts.

The latest attack was on February 24 against the town of Banangana, where eight people were killed and 30 abducted. A 14-year-old girl is reported to be fighting for her life after being shot in the chest. On February 11, the LRA launched an attack on Faradje territory, forcing several aid agencies to evacuate staff and leaving residents to fend for themselves. There have also been attacks on vehicles transporting humanitarian assistance. On February 21, a truck ferrying relief supplies and food for NGO Solidarités was attacked in the vicinity of Garamba National Park. LRA violence is seriously hampering humanitarian work in the province. According to UN data, some 2,000 people have been killed and 2,500 abducted, including 892 children, in attacks against civilians across Orientale province since December 2007. [ ] Those who are abducted are used as porters, forced to work in the fields, or used as sex slaves or new recruits. Attacks are often accompanied by extreme cruelty, including murder, mutilation, or amputation of the lips and ears – apparently aimed at terrorizing people with a view to displacing entire populations. Trauma lasting months or years is common among those who have fled.<sup>140</sup>

In February 2012 US-based advocacy NGO *Resolve* stated that the Joint Intelligence and Operations Center (JIOC) in Dungu, lacks the capacity to investigate LRA activity, but that some joint operations had led to the rescue of LRA abductees in remote areas,

"The Joint Intelligence and Operations Center (JIOC) in Dungu, Congo attempts to improve coordination between Ugandan and Congolese forces, as well as UN peacekeepers and U.S. military advisers, but has had limited success. The JIOC lacks the capacity to thoroughly investigate reports of LRA activity or determine the perpetrators of many reported attacks, inhibiting a common understanding of the LRA threat and joint operational planning. Despite the discord in Dungu, Congolese and Ugandan units in more remote

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<sup>139</sup> *Afrik.com*, Ouganda : l'Armée de résistance du Seigneur demeure une menace pour les populations, 11 July 2012, <http://www.afrik.com/article26163.html>, accessed 24 April 2013

<sup>140</sup> The Office of the United Nations High Commissioner for Refugees, Lord's Resistance Army attacks populated areas of north-eastern Congo, 1 March 2011 <http://www.unhcr.org/4d6d24e06.html>, accessed 17 April 2013

areas have conducted some joint operations that successfully engaged LRA groups and even rescued LRA abductees.[ ]

In Congo, the U.S. advocated for the U.S.-trained 391st battalion of the national military to deploy to northern Congo in April 2011 to protect civilians from LRA raids, and contracts two advisers to counsel the battalion. Though initially welcomed by local communities appreciative of the battalion's professionalism compared to other Congolese forces, the battalion has yet to prove it can actively protect civilians from LRA raids. The U.S. has also announced plans to provide "targeted training" to South Sudanese forces that will deploy in LRA-affected areas, and given \$500,000 worth of non-lethal supplies to the CAR military forces deployed in the southeast"<sup>141</sup>

In February 2012 US-based advocacy NGO *Resolve* stated that the LRA has evolved tactically in order to survive in its new operating environment, breaking into smaller groups and limiting its use of electronic communications, while still managing to retain cohesion among its senior commanders,

"Congo, where the LRA committed over 75 percent of its attacks in 2011, has already forced Uganda to withdraw its troops from its territory. Information sharing and operational coordination at a local level is often weak or absent altogether [ ] the LRA has evolved tactically in order to survive in its new operating environment. It evades pursuing militaries by breaking into smaller groups and limiting its use of electronic communications, while still managing to retain cohesion among its senior commanders. In the second half of 2011, the LRA dramatically reduced its attacks, particularly those involving killings of civilians. Regional military forces interpret these trends as a sign that the rebel group's capacity has been severely decimated. However, the LRA's proven ability to protect its core commanders and to regenerate itself if given the opportunity should inspire caution. [ ] If current initiatives fail to break apart the LRA's command structure, the group will be poised to survive indefinitely and eventually replenish its strength in the tri-border region. [ ] The most urgent is working with the African Union to strengthen regional cooperation, especially to ensure that Congo allows the Ugandan military conditional access to Congolese territory affected by the LRA.

[ ] The fragility of Congolese politics following the November 2011 elections make it increasingly uncertain that President Kabila will allow Ugandan troops to operate freely against the LRA in northern Congo. The advisers are working primarily with Ugandan troops, so restricting the Ugandans' movements in Congo will severely impact the effectiveness of the advisers, especially if senior LRA commanders realize northern Congo's potential to become a safe haven."<sup>142</sup>

In February 2012 US-based advocacy NGO *Resolve* stated that Congolese officials have justified past decisions to bar Ugandan forces from Congolese territory by downplaying the LRA threat and blaming some reported LRA attacks on Ugandan forces and local bandits,

"Congolese President Joseph Kabila has ordered draw downs of Ugandan forces in Congo several times since allowing them to re-enter in December 2008, most recently in September 2011 during the run-up to Congo's contentious presidential elections. In late 2011, most Ugandan forces were barred from Congolese territory and remaining units were strictly confined to their bases. Congolese officials have justified these decisions by downplaying the LRA threat and blaming some reported LRA attacks on Ugandan forces and local bandits. Even when Ugandan forces have operated in Congo, tensions at the operational and tactical levels have severely impeded joint operations between Congo and

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<sup>141</sup> The Resolve, Peace Can Be: President Obama's chance to help end LRA atrocities in 2012, February 2012 <http://www.theresolve.org/peace-can-be--3>, accessed 12 April 2013

<sup>142</sup>The Resolve, Peace Can Be: President Obama's chance to help end LRA atrocities in 2012, February 2012 <http://www.theresolve.org/peace-can-be--3>, accessed 12 April 2013

Uganda. The two militaries only sporadically coordinate movements and share information, and Ugandan commanders claim that their Congolese counterparts are reluctant to respond to LRA attacks and arbitrarily deny them permission to pursue LRA groups in certain areas.<sup>143</sup>

On 24 February 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that the US believed that its support of multi government operations against the LRA is having an impact in reducing attacks, although analysts have reservations,

"The US believes its military intervention in central Africa in pursuit of Joseph Kony's Lord's Resistance Army (LRA) is having the desired effect, reducing attacks and improving civilian protection - although analysts have reservations.

[ ] Karl Wycoff, the US deputy assistant secretary for African affairs, in a telephone briefing on 22 February, told IRIN: "Over recent months the military of Uganda, CAR, DRC and South Sudan have continued to carry out operations against the LRA. We are supporting them in these efforts. We are providing logistical support to help the Ugandan military sustain its forward operations against the LRA. We are funding, for example, some airlift, fuel and other transport support for their troops. In the DRC we trained and equipped a Congolese battalion that is now operating in LRA-affected areas of the DRC and we are also working with the UN peacekeeping mission, MONUSCO [UN Organization Stabilization Mission in the DRC]."<sup>144</sup>

In March 2012 the *USDOS* stated that as a result of military pressure and defections, the LRA's core fighters have been reduced to an estimated 150-200, in addition to an unknown number of accompanying abductees,

"The Lord's Resistance Army (LRA) has been active since 1986, making it one of Africa's oldest, most violent, and persistent armed groups. [ ] Lacking public support, the LRA resorted to forcible recruitment to fill its ranks. [ ] As a result of military pressure and defections, the LRA's core fighters have been reduced to an estimated 150-200, in addition to an unknown number of accompanying abductees, women and children. However, the LRA retains the capacity to cast a wide shadow across the region because of its brutality and the fear it arouses in local populations. [ ] The United Nations Security Council has repeatedly condemned ongoing attacks carried out by the LRA and commended the important efforts undertaken by militaries in the region to address the threat posed by the LRA. The UN has peacekeeping operations in South Sudan and the DRC whose mandates include helping to address the LRA. On November 22, 2011, the African Union formally designated the LRA as a terrorist group and authorized an initiative to enhance regional cooperation toward the elimination of the LRA."<sup>145</sup>

On 20 April 2012 international NGO *Oxfam* stated that renewed military action against the LRA risks triggering further devastation for local people in DRC unless more is done to protect civilians and prevent retaliations and called on UN peacekeeping forces to strengthen its work encouraging rebels to defect from the LRA, a strategy which has been shown to work and is repeatedly cited by local communities as a key solution to the conflict,

"Renewed military action against the Lord's Resistance Army (LRA) risks triggering further devastation for local people in DR of Congo, Central African Republic, and South Sudan

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<sup>143</sup> The Resolve, Peace Can Be: President Obama's chance to help end LRA atrocities in 2012, February 2012

<http://www.theresolve.org/peace-can-be--3>, accessed 12 April 2013

<sup>144</sup> Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN), SECURITY: Questions over progress against the LRA, 24 February 2012, <http://www.irinnews.org/Report/94941/SECURITY-Questions-over-progress-against-the-LRA>, accessed 18 April 2013

<sup>145</sup> US Department of State, The Lord's Resistance Army, Fact Sheet, March 23, 2012, <http://www.state.gov/r/pa/prs/ps/2012/03/186734.htm>, accessed 9 April 2013

unless more is done to protect civilians and prevent retaliations by one of Africa's most brutal rebel groups, ten local organizations and international agencies said today.[ ] people living in LRA areas increasingly fear the repercussions for remote communities in central Africa. [ ] Previous attempts to combat the LRA militarily have not solved the problem of the LRA and have had a devastating impact on local people, prompting retaliations against civilians and dispersing the rebels across a much larger area, to target yet more isolated villages.

[ ] "We really question how any military intervention now will help to protect all these people against retaliation attacks from the LRA," said Ernest Sugule, president of Congolese organization SAIPD. "The LRA is a guerrilla group mainly comprised of ruthless commanders and forcibly abducted children. The new military offensive cannot discriminate between combatants and non-combatants and will only result in further loss of innocent lives." [ ] The agencies also called on UN peacekeeping forces to actively patrol areas at risk of attack and to strengthen its work encouraging rebels to defect from the LRA, a strategy which has been shown to work and is repeatedly cited by local communities as a key solution to the conflict."<sup>146</sup>

On 3 February 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that the LRA were more than 1,000km from Kinshasa and so not considered a key security issue for the DRC. A proposed AU intervention force, consisting of 3,500-5,000 troops from the DRC and other affected countries, would be mandated to end the LRA. However the *IRIN* reported that the LRA was not yet a "spent force" and that the belief that "the end is nigh" for the LRA underestimates its resilience and overestimates the unity and capability of the forces ranged against it, according to analysts,

"The belief that the end is nigh for Joseph Kony's Lord's Resistance Army (LRA) - a small but ruthless transnational armed group operating in four African states - underestimates its resilience and overestimates the unity and capability of the forces ranged against it, say analysts. The LRA is seen as being in "survival mode". It has a lightly armed 250-strong militia dispersed across a territory half the size of France, and uses "terror" tactics to subdue local populations and is facing a coordinated response from the armies of the Democratic Republic of Congo (DRC), Central African Republic (CAR), South Sudan, Uganda and the USA. In recent weeks African Union (AU) special envoy for affairs relating to the LRA Francisco Madeira, and the Special Representative of the UN Secretary-General Abou Moussa have toured Kinshasa, Bangui, Juba and Kampala to discuss regional military cooperation, following authorization from the AU Peace and Security Council in November 2011, with the support of the UN, for them to deal decisively with the LRA."<sup>147</sup>

In February 2013 *IRIN* reported that Ashley Benner, a policy analyst at the Enough Project - a US NGO lobbying for an end to mass atrocity crimes stated that,

"The proposed AU intervention force will consist of approximately 3,500-5,000 troops from the four affected countries. The mandate and goals of the mission are to end the LRA, protect civilians, and lead to security and stability in the affected countries." The USA has deployed about 100 military advisers - they carry weapons for self-defence only - to assist the region's military forces, but Benner said this would not be sufficient. "The advisers need to be bolstered by more capable troops, greater intelligence and logistical capabilities,

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<sup>146</sup> Oxfam International, Military action against LRA rebels risks new wave of retaliations, charities warn, 20 April 2012, <http://www.oxfam.org/en/pressroom/pressrelease/2012-04-20/military-action-against-lra-rebels-risks-new-wave-retaliations-c-0>, accessed 10 April 2013

<sup>147</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN), Analysis: The LRA - not yet a spent force, 3 February 2012 <http://www.irinnews.org/Report/94794/Analysis-The-LRA-not-yet-a-spent-force>, accessed 12 April 2013

including helicopters, improved collaboration between regional forces, and increased efforts to encourage LRA members to leave the group," she added. [ ] The LRA was also not a top priority for the four affected countries: [ ] they were more than 1,000km from Kinshasa and so not seen as a key security issue for the DRC; [ ] Last year DRC President Joseph Kabila asked his counterpart Yoweri Museveni to halt operations in his country against the LRA by the Uganda People's Defence Force (UPDF), and it is unclear how this impasse will be resolved."<sup>148</sup>

In January 2013 the online humanitarian information source for OCHA (Office for the Coordination of Humanitarian Affairs) *ReliefWeb* stated that the North East of Orientale province provides "perfect sanctuary" for LRA rebels,

"The North East of Orientale province in DRC and South East CAR provide perfect sanctuary for LRA rebels. The areas lack infrastructure and basic state security institutions. In addition both governments have failed to deal with non-state armed actors, including the LRA, resulting in a pool of un-demobilised armed men and boys operating over vast swathes of land with near impunity. These include the LRA but also poachers, disgruntled security forces, local defence units in lieu of effective state security institutions, and nomadic armed groups such as the Mbororo. The result is an extremely murky picture in which attacks and banditry are rife.

Those responsible are usually hard to identify. Violence occurs to eke out a survival, in retaliation to (or perceived) hostility from other communities and to impose social dominance at a very local level, from village, to community, to sub-prefecture, to province and finally to the national level. Both countries have also suffered from serious insurrections forcing both governments in Kinshasa and Bangui to prioritise other issues. The M23 rebellion in DRC from early 2012 diverted attention in Kinshasa but also from regional states and abroad to deal with the explosion of conflict in North Kivu province. As a result, Congolese army units left a security vacuum when they were moved out of LRA affected areas to deal with the new rebellion."<sup>149</sup>

In 2013 the *Office for the Coordination of Humanitarian Affairs (OCHA)* stated that there had been a total of 54 presumed LRA attacks reported in the DRC since January 2013,

Since January 2013, a total of 54 presumed LRA attacks have been reported in the DRC, resulting in 17 deaths and 53 abductions, including 9 children. Most attacks in the DRC occurred in Dungu territory (63%) of Haut Uélé district in Orientale Province.

[ ] The LRA continues to spread fear and pose a significant threat to civilians living in the affected areas of the DRC [ ] March 2013 saw a spike in incidents of presumed LRA attacks with 30 attacks in the DRC alone, more than any other month since January 2012. Over 420,000 people remain displaced from their homes in LRA-affected areas of CAR, DRC and South Sudan. This is a 5% decrease from the 2012 caseload. Some 66 LRA attacks reported in Q1 2013 resulted in 30 deaths and 87 abductions (10% of whom were children). Insecurity in  
There is an estimated shortfall of US\$83.6 million in funding for humanitarian response in LRA-affected areas of CAR and DRC."<sup>150</sup>

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<sup>148</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN), Analysis: The LRA - not yet a spent force, 3 February 2012 <http://www.irinnews.org/Report/94794/Analysis-The-LRA-not-yet-a-spent-force>, accessed 12 April 2013

<sup>149</sup> Conciliation Resources, East & Central Africa: Security & conflict trends in 2012, January 2013, <http://www.c-r.org/comment/lra-conflict-security-trends-2012-marco-jowell>, accessed 10 April 2013

<sup>150</sup> Office for the Coordination of Humanitarian Affairs (OCHA), LRA Regional Update, January-March 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/LRA%20Q1%202013%20FINAL.pdf>, accessed 17 June 2013

In January 2013 the online humanitarian information source for OCHA (Office for the Coordination of Humanitarian Affairs) *ReliefWeb* stated that LRA activity in the DRC has been more frequent than in other affected states with over 30 people killed in the past year and over 3,300 displaced,

"LRA activity in the DRC and CAR has been far more common than in other affected states. In the last year the LRA killed more than 50 people in CAR and over 30 people in DRC. Both states have recorded massive displacement; over 2,000 in CAR and over 3,300 in DRC.[ ] LRA activity has been limited to peripheral and borderland areas of both countries where state control or even presence is minimal at best. Even the deployment of 100 US military advisors has not resulted in any real significant gains. The LRA continue to operate in small groups and have a disproportionate effect in terms of their numbers."<sup>151</sup>

On 8 March 2013 the *Small Arms Survey's (SAS), Lord's Resistance Army Update* stated that it is unclear how many fighters are now left in DRC but reported that LRA attacks continued through the end of 2012 and beginning of 2013, with some groups moving between CAR and DRC,

"Joseph Kony and his forces continue to pose a threat to civilians in DRC and Central African Republic (CAR). While the Ugandan offensive may have significantly weakened the LRA—almost two-thirds of LRA combatants have been killed, captured, or defected since late 2008—it has also pushed Kony and his fighters into new territory and caused them to adopt new survival strategies. [ ] There are also unconfirmed reports of LRA fighters harvesting tusks from elephants in DRC, presumably to barter for guns and ammunition. While the LRA evolves in order to survive, institutional responses, such as a regional United Nations strategy and an African Union (AU) mission against the LRA, have been plagued by inaction, bureaucracy, and lack of funding.

On 21 January 2013, Ugandan soldiers reportedly shot and killed Lt. Col. Vincent Okumu, known by the nom de guerre Binany, near Djemah. Binany had been in charge of all DRC-based LRA groups, or about 50 fighters. Kony's former personal bodyguard, Binany exemplified a typical LRA commander; in his 30s, abducted at a very young age and therefore uneducated, and brought up through the ranks under Kony's tutelage. It is unclear how many fighters are now left in DRC but reported LRA attacks continued through the end of 2012 and beginning of 2013. Some groups may move between CAR and DRC, escaping Ugandan army pursuers and attacking civilians to capture food and people."<sup>152</sup>

### 1.3.4 Mai Mai community-based militia groups

In January 2012 Belgian media *RTL* stated that Mai Mai local auto-defense militia groups were active in North Kivu and South Kivu. According to *RTL*, some elements of Mai Mai operated with the Forces démocratiques de Libération du Rwanda (FDLR) and some against. *RTL* further reported that both armed groups have been pursued by DRC armed forces since 2009. *RTL* stated that due to their beliefs in magic, the Mai Mai cover their bodies with a mixture/lotion that they believe will prevent them from being shot.<sup>153</sup>

In November 2011 French daily newspaper *20 minutes* reported that sanctions had been made by the U.N. Security Council Committee against 35 year old Ntabo Ntaberi Sheka who is subject to a worldwide travel ban and asset freeze. According to the U.N. Sanction Committee, Sheka

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<sup>151</sup> Conciliation Resources, East & Central Africa: Security & conflict trends in 2012, January 2013, <http://www.c-r.org/comment/lra-conflict-security-trends-2012-marco-jowell>, accessed 10 April 2013

<sup>152</sup> HSBA - The Human Security Baseline Assessment for Sudan and South Sudan, Lord's Resistance Army, 8 March 2013, [http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/south-sudan/armed-groups/lra/LRA\\_8\\_March.pdf](http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/south-sudan/armed-groups/lra/LRA_8_March.pdf), accessed 12 April 2013

<sup>153</sup> RTL.be, RDC: dix morts lors de combats entre l'armée et des Mai-Mai au Kivu, 7 January 2012, <http://www.rtl.be/info/monde/international/848688/rdc-dix-morts-lors-de-combats-entre-l-armee-et-des-mai-mai-au-kivu>, accessed 16 April 2013

committed serious violations of international law between July and August 2010 against civilians he accused of collaborating with Congolese government forces. Quoting the Committee, *20 minutes* reported, "Children were raped and were abducted, subjected to forced labour and subjected to cruel, inhuman or degrading treatment."<sup>154</sup>

In January 2012 French international news radio *RFI* reported that Ntabo Ntaberi Sheka who was wanted for crimes and rapes - was running for Parliament in November 2011 in Walikele in North Kivu.<sup>155</sup> *RFI* and *20mins* reported that Sheka is accused of having organised a mass rape of 387 people in about 12/13 villages of the region.<sup>156</sup>

In October 2012 *French global news agency Agence France Presse (AFP)* reported the killing of 8 people including 2 park keepers and a national soldier in the Virunga National Park in an attack by the Mai Mai Pareco. According to a statement by the Park Director, many illegal armed forces operating in the North Kivu region had settled in the Park. Over 130 Virunga Park keepers had died in the exercise of their duties since 1996.<sup>157</sup>

In November 2012 Belgian media *RTL* reported attacks perpetrated by the Mai Mai militia led by Chief Paul Sadala known as "Morgan" in the villages of Masikini, Mandimu and Makodisala and in Mambasa (Oriental province) resulting in the death of 25 civilians. Women were raped, 3 women were killed for trying to resist being raped, some children under the age of 5 were reported to be missing and Motumu village was burnt down. According to the administrator of the Mambasa territory, FARDC pursued the Mai Mai attackers.<sup>158</sup>

In November 2012 Belgian media *RTL* reported that the Mai Mai militia headed by Chief Paul Sadala was responsible for many human rights violations in the Ituri district and the North Kivu province. The militia killed 20 men who refused to join their group on 30 October 2012 in Sukisa I in Mambasa. The militia also attacked Epulu natural reservation (in Ituri) on 24 June 2012 resulting in the death of 7 people and 15 okapis.<sup>159</sup>

On 25 January 2013 international medical humanitarian organization *Doctors Without Borders/Médecins Sans Frontières (MSF)* stated that thousands of civilians had fled into the surrounding bush as tensions increased between government forces and Mai Mai militias in Katanga province, south eastern DRC,

"As tensions increase between government forces and Mai-Mai militias in Katanga province, southeastern Democratic Republic of Congo, all parties must avoid harming thousands of civilians who have fled into the surrounding bush, Doctors Without Borders/Médecins Sans Frontières (MSF) said today. The exact extent of the displacement is hard to quantify, but most of the villages along a 115-kilometer [about 71 miles] road from Shamwana to Dubie are empty, as are villages along a 70-kilometer [about 43 miles] stretch between Shamwana and Mpiana. "Civilians risk being caught up in the fighting and

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<sup>154</sup> 20 minutes, RDC: Un chef de milice sanctionné par l'ONU, 20 November 2011, <http://www.20minutes.fr/ledirect/833108/rdc-chef-milice-sanctionne-ONU>, accessed 18 April 2013

<sup>155</sup> RFI, RDC: le chef Mai-Mai, Kyungu Mutanga, a repris ses attaques dans le Nord-Katanga, 12 January 2012, <http://www.rfi.fr/afrique/20120112-le-chef-mai-mai-kyungu-mutanga-repris-attaques-le-nord-katanga>, accessed 16 April 2013

<sup>156</sup> RFI, RDC: le chef Mai-Mai, Kyungu Mutanga, a repris ses attaques dans le Nord-Katanga, 12 January 2012, <http://www.rfi.fr/afrique/20120112-le-chef-mai-mai-kyungu-mutanga-repris-attaques-le-nord-katanga>, accessed 16 April 2013; 20 minutes, RDC: Un chef de milice sanctionné par l'ONU, 20 November 2011, <http://www.20minutes.fr/ledirect/833108/rdc-chef-milice-sanctionne-ONU>, accessed 18 April 2013

<sup>157</sup> AFP, RDC: 8 morts lors d'une attaque de miliciens dans le parc des Virunga, 26 October 2012, [http://www.google.com/hostednews/afp/article/ALeqM5hsTB\\_iwyJfigOGp3LLTckHgX3Wcg?docId=CNG\\_4e96378017a04a6641e226a314b4fe8d.8b1](http://www.google.com/hostednews/afp/article/ALeqM5hsTB_iwyJfigOGp3LLTckHgX3Wcg?docId=CNG_4e96378017a04a6641e226a314b4fe8d.8b1), accessed 16 April 2013

<sup>158</sup> RTL.be, RDC: 25 morts dans une attaque attribuée à la milice de Paul Sadala, dit "Morgan", 3 November 2012, <http://www.rtl.be/info/monde/international/918914/rdc-25-morts-dans-une-attaque-attribuee-a-la-milice-de-paul-sadala-dit-morgan->, accessed 16 April 2013

<sup>159</sup> RTL.be, RDC: 25 morts dans une attaque attribuée à la milice de Paul Sadala, dit "Morgan", 3 November 2012, <http://www.rtl.be/info/monde/international/918914/rdc-25-morts-dans-une-attaque-attribuee-a-la-milice-de-paul-sadala-dit-morgan->, accessed 16 April 2013

mistaken for combatants," said Christine Slagt, MSF project coordinator in Shamwana. "Some militia groups are preventing people from leaving the area."

This week, MSF removed nonessential staff from its referral hospital in Shamwana, about 300 kilometers [about 186 miles] from the provincial capital Lubumbashi, leaving a skilled core team with surgical capacity to respond to an expected increase in war-wounded patients."<sup>160</sup>

In January 2012 French international news radio *RFI* reported that Gédéon Kyungu Mutanga and 20 Mai Mai militia had surrendered to the U.N. forces on 12 May 2006. According to *RFI*, Gédéon Kyungu Mutanga had been sentenced to death on 9 March 2009 by the military court of Lubumbashi on the charge of crimes against humanity, rebellion and terrorism after a 19 month trial for crimes he had committed in the High Katanga between 2001 and 2006. *RFI* reported that he escaped from the Lubumbashi prison on 7 September 2011 with 1,000 other detainees. After he escaped he reportedly organised a militia within a few months, recruiting young men and equipping them with guns. *RFI* reported that Gédéon Kyungu Mutanga's main goal was to fight the FARDC. *RFI* reported that a 100,000 dollar reward was offered by the authorities for any information leading to his arrest and the Bishop of Kilwa-Kasenga (North province of Katanga) demanded that a serious investigation be conducted.<sup>161</sup>

In January 2013 Belgian online news media *7 sur 7* reported that the Kata Katanga Mai Mai group is headed by Kyungu Mutanga known as "Gedeon" who escaped from Lubumbashi prison in September 2012 along with 1,000 other detainees. According to the statement of DRC Minister of Interior Mr Muyej, the government and local authorities were trying to eradicate the Gedeon Mai Mai group along with other armed groups "who commit acts of terrorism, slaughters, thefts and other acts of destruction."<sup>162</sup>

In January 2013 *7 sur 7* reported that the government was ready to dialogue with those who give up fighting but that the government warned that "those who resist will be tracked down."<sup>163</sup>

On 15 February 2013 the Report of the Secretary-General of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *United Nations Security Council* stated that the Chief of Staff of Land Forces, Major General Gabriel Amisi, had been suspended following the publication of the report of the Group of Experts on the Democratic Republic of the Congo, which documented his collaboration with poachers and armed groups, including Mai Mai Raia Mutomboki and Mai Mai Nyatura. Although elements from Mai Mai Nyatura were prepared to integrate into the armed forces, others rejected the process and continued to carry out attacks in Masisi territory,

"On 22 November, the President of the Democratic Republic of the Congo, Joseph Kabila, suspended the Chief of Staff of Land Forces, Major General Gabriel Amisi, following the publication of the report of the Group of Experts on the Democratic Republic of the Congo, in which the Group of Experts documented that the Chief of Staff had been collaborating with poachers and armed groups, including Mayi-Mayi Raia Mutomboki and Mayi-Mayi Nyatura. He was replaced by Lieutenant General François Olenga.

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<sup>160</sup> Doctors Without Borders/Médecins Sans Frontières (MSF) DRC: Thousands of Displaced Civilians at Risk in Katanga Province, 25 January 2013, <http://www.doctorswithoutborders.org/press/release.cfm?id=6578>, accessed 10 April 2013

<sup>161</sup> RFI, RDC: le chef Mai-Mai, Kyungu Mutanga, a repris ses attaques dans le Nord-Katanga, 12 January 2012, <http://www.rfi.fr/afrique/20120112-le-chef-mai-mai-kyungu-mutanga-repris-attaques-le-nord-katanga>, accessed 16 April 2013

<sup>162</sup> *7 sur 7*, RDC: 13 morts lors de combats au Katanga, 23 January 2013, <http://www.7sur7.be/7s7/fr/1505/Monde/article/detail/1567401/2013/01/23/RDC-13-morts-lors-de-combats-au-Katanga.dhtml>, accessed 16 April 2013

<sup>163</sup> *7 sur 7*, RDC: 13 morts lors de combats au Katanga, 23 January 2013, <http://www.7sur7.be/7s7/fr/1505/Monde/article/detail/1567401/2013/01/23/RDC-13-morts-lors-de-combats-au-Katanga.dhtml>, accessed 16 April 2013



[ ] Elsewhere in the province, other armed groups increased their activities. FARDC attempted a dual approach of conducting operations against them, while selectively encouraging some to integrate into the national armed forces. Although a number of elements from Mayi-Mayi Nyatura and Alliance des patriotes pour un Congo libre et souverain (APCLS) reported for integration, others rejected the process and continued to carry out attacks on civilians in parts of Masisi territory."<sup>164</sup>

On 15 February 2013 the Report of the Secretary-General of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *United Nations Security Council* stated that other Mai Mai groups in northern North Kivu tried to increase their strength under the command of "General" Lafontaine, in collaboration with M23 elements, however, several Mai Mai splinter groups reportedly ended their alliances with M23,

"Other Mayi-Mayi groups in northern North Kivu sought to increase their strength under the overall command of self-proclaimed "General" Lafontaine, in collaboration with M23 elements. In Beni territory, the number of armed combatants in the Allied Democratic Forces (ADF) reportedly grew to 1,300 as of January 2013. On 14 December, ADF attacked FARDC and occupied Boga village, killing two FARDC soldiers. On 19 January, FARDC repulsed an attack by ADF at Tedeu, during which five ADF elements were reportedly killed.

[ ] Several Mayi-Mayi splinter groups apparently broke off their alliances with M23 proxy groups operating in the Moyens and Hauts Plateaux and began negotiations with FARDC. On 5 December, over 80 Mayi-Mayi elements from the "Mayele" group assembled in Lusambo, in Uvira territory, reportedly for integration into FARDC."<sup>165</sup>

On 15 February 2013 the Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *Security Council* stated that various Mai Mai groups also remained active around the mineral-rich areas of Punia, Pangi, Kabambare and especially Lubutu. Former Mai Mai combatants gathered at various points around Kindu on 21 November to demonstrate, after the takeover of Goma by M23. In Katanga, the Mai Mai group led by Gédéon Kyungu Mutanga, known as "Kata Katanga", continued to clash with FARDC in the Manono and Pweto territories in northern Katanga,

"[ ] Various Mayi-Mayi groups also remained active around the mineral-rich areas of Punia, Pangi, Kabambare and especially Lubutu. Following the takeover of Goma by M23, students, civil society representatives and former Mayi-Mayi combatants gathered at various points around Kindu on 21 November to demonstrate, threatening to attack the Governor's office and MONUSCO offices. Congolese national police and FARDC elements deployed to deter any violence. In Katanga, the Mayi-Mayi group led by Gédéon Kyungu Mutanga, known as "Kata Katanga", continued to clash with FARDC in the Manono and Pweto territories in northern Katanga, seizing weapons and reaching out to former Mayi-Mayi militia to seek allies for its purported agenda in support of the secession of Katanga Province. Other Mayi-Mayi groups, also apparently affiliated with Gédéon, expanded their activities in central Katanga, from Mitwaba westward into Malemba-Nkulu and Bukama territories. Rumours of Mayi-Mayi regroupings towards the west of Manono caused an estimated 12,000 people to flee the town in fear of an imminent attack. As at 31 December, Katanga hosted over 316,000 internally displaced persons, a sharp increase from the 55,500 who had been in the Province at the beginning of 2012. [ ] In Mambasa territory,

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<sup>164</sup> United Nations Security Council, Report of the Secretary-General on the United Nations, Organization Stabilization Mission in the Democratic, Republic of the Congo, 15 February 2013, [http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2013\\_96.pdf](http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_96.pdf), accessed 10 April 2013

<sup>165</sup> United Nations Security Council, Report of the Secretary-General on the United Nations, Organization Stabilization Mission in the Democratic, Republic of the Congo, 15 February 2013, [http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2013\\_96.pdf](http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_96.pdf), accessed 10 April 2013

Mayi-Mayi Simba continued to carry out attacks against civilians in artisanal gold mining areas."<sup>166</sup>

On 15 February 2013 the Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to the *Security Council* also stated that on 6 January MONUSCO, supported by FARDC pushed back several hundred Mai Mai Simba combatants who had entered Mambasa the previous day, Mai Mai Raia Mutomboki, Mai Mai Simba/Lumumba and the Mai Mai Gédéon were among the armed groups that continued to take advantage of the security void left by the redeployed FARDC units to areas affected by the M23 rebellion,

"[ ] However, during the reporting period, the Government did not seek MONUSCO support for FARDC operations against Mayi-Mayi groups in central Katanga.[ ] On 6 January, a MONUSCO armoured personnel carrier based at the mobile operating base in Mambasa supported FARDC with heavy machine gun fire and jointly pushed back the several hundred Mayi-Mayi Simba combatants who had entered Mambasa town the previous day and caused FARDC to temporarily withdraw from the town.

[ ] Other armed groups, such as the Mayi-Mayi Raia Mutomboki, FDLR, the Mayi-Mayi Simba/ Lumumba and the Mayi-Mayi Gédéon, continued to take advantage of the security void left by the redeployed FARDC units to areas affected by the M23 rebellion. They launched violent attacks in various areas, and committed serious human rights violations against the civilian population. [ ] In Orientale Province, in November, at least 66 women, including four minors, were reportedly raped by Mayi-Mayi Simba/Lumumba combatants in Mambasa territory. The victims were reportedly targeted during attacks on villages for their perceived collaboration with FARDC during operations against Mayi-Mayi Simba, aimed at chasing away the rebels from the mining area in Southern Mambasa. The number of cases may be far higher. Investigations into these violations are ongoing."<sup>167</sup>

In March 2013 *Radio Okapi* reported an attack by the Mai Mai militia in Lubumbashi (in Katanga province) killing 35 people. According to *Radio Okapi*, about 250 Mai Mai fighters (from the Kata Kata group) later surrendered to the MONUSCO.<sup>168</sup>

On 26 March 2013 the online humanitarian information source for OCHA (Office for the Coordination of Humanitarian Affairs) *ReliefWeb* stated that around 500 people had been living in the grounds of the MSF hospital in Shamwana in order to seek refuge from fighting between government forces and Mai Mai militias in Katanga province,

"Fighting between government forces and Mai-Mai militias in the Katanga province of the Democratic Republic of Congo (DRC) has caused thousands of people to flee their homes and hundreds to seek refuge at the Médecins Sans Frontières/Doctors Without Borders (MSF) hospital in Shamwana. For the past few weeks, around 500 people have been living in the grounds of the MSF hospital. After it proved difficult to maintain a satisfactory level of hygiene and fearing a disease outbreak, the medical team managed to convince the town's remaining residents to move outside the compound. "People living here are terrified" said MSF's Dr Thomas Mollet in Shamwana. "We're surrounded by empty villages and have seen a drop in patient numbers at the hospital. People have fled and don't dare to seek medical treatment - they're too scared".

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<sup>166</sup> United Nations Security Council, Report of the Secretary-General on the United Nations, Organization Stabilization Mission in the Democratic, Republic of the Congo, 15 February 2013, [http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2013\\_96.pdf](http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_96.pdf), accessed 10 April 2013

<sup>167</sup> United Nations Security Council, Report of the Secretary-General on the United Nations, Organization Stabilization Mission in the Democratic, Republic of the Congo, 15 February 2013, [http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2013\\_96.pdf](http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_96.pdf), accessed 10 April 2013

<sup>168</sup> Radio Okapi, RDC: l'attaque des Mai-Mai à Lubumbashi a fait "environ 35" morts, 24 March 2013, <http://radiookapi.net/lu-sur-le-web/2013/03/24/rdc-lattaque-des-mai-mai-lubumbashi-fait-environ-35-morts-rtbf>, accessed 16 April 2013

MSF outreach activities in the surrounding area have been affected by the fighting. Some Congolese nurses employed by MSF have been forced to leave their posts and flee with the population into the bush. The MSF health centres in Monga and Kishale have been looted, and solar panels stripped from the roof. The team is striving to deliver medicines to the remaining health posts in the area. Several patients with urgent referrals from health clinics have not made it to the hospital. The medical consequences are often severe when people cannot access essential healthcare. Last week a child died of severe malaria after a road block delayed arrival at the hospital. "We're seeing patients who arrive at a very late stage, often in a life-threatening condition, and in need of emergency care," said Dr Mollet. "One of our first cases was a pregnant woman who had been in labour for days but was too afraid to travel when complications arose. Her baby died before she reached our hospital but we were able to save her life."<sup>169</sup>

### 1.3.5. Alliance Pour le Congo Libre et Souverain (APCLS)

French language sources consulted in this research used APLCS to refer to "Alliance des patriotes pour un Congo libre et souverain."

In 2011 the *US State Department Country Report on Human Rights Practices* stated that the APCLS had perpetrated serious human rights abuses in DRC during the year, including the rape of 85 individuals including 10 minors and one man and the subjection of 11 persons to other cruel, inhuman and degrading treatment during clashes in June with Mai Mai Cheka,

"The APCLS imposed illegal taxes on miners in Walikale. Mai Mai Simba exploited and taxed the exploitation of gold, diamond, and cassiterite deposits, and smuggled ivory, in Maiko Park in Maniema and Orientale provinces. Mai Mai Muhamba smuggled ivory and coffee in North Kivu. In addition, elements of the FARDC exerted control over mining operations throughout the eastern DRC.[ ] The UNGOE reported that four eastern DRC mineral trading counters-- ITT Mining, Huaying Trading Company, Donson, and Etablissement Namukaya --purchased minerals without exercising due diligence to ensure they were conflict-free. According to the UNGOE, the main onward purchasers from ITT, Huaying, and Donson were the investment companies Tolead, Unilink Trading, and Chengjian Tower. A Tanzanian company called Safaa Mining SPRL also purchased copper from an RMG [ ] There were credible reports that the following armed groups perpetrated serious human rights abuses in DRC during the year: ADF/NALU, APCLS, FDLR, FNL, LRA, Mai Mai Cheka, Mai Mai Yakutumba, and FRPI.

[ ] during clashes in June between the RMGs Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) and Mai Mai Cheka near Mutongo village in Walikale Territory, North Kivu, 85 individuals including 10 minors and one man were raped and 11 persons were subjected to other cruel, inhuman and degrading treatment. At least 20 villages in the area were looted. APCLS combatants allegedly perpetrated the majority of these abuses. Indirect sources also alleged 35 other women were raped during the clashes, but the UNJHRO could not directly interview the alleged victims. Its investigation continued at year's end"<sup>170</sup>

In February 2012 the website *African Arguments Online* hosted by the Royal African Society and World Peace Foundation, part of the Guardian Africa Network stated that the APCLS represented

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<sup>169</sup> Doctors Without Borders/Médecins Sans Frontières (MSF), Lives at risk as fighting continues in Katanga province, DRC, 20 Feb 2013 <http://reliefweb.int/report/democratic-republic-congo/lives-risk-fighting-continues-katanga-province-drc>, accessed 10 April 2013

<sup>170</sup> US Department of State, 2011 Human Rights Report, May 24, 2012, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/186183.html>, accessed 2 April 2013

a significant breakaway movement from the larger PARECO configuration and still refused integration,

"A significant breakaway movement, the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) led by 'General' Janvier Buingo Karairi and mostly consisting of members of the Hunde ethnic group, broke off from the larger PARECO configuration in April 2008, and has thus far refused integration."<sup>171</sup>

In June 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that a team of aid workers had been detained by the APCLS,

"WFP is now working on ways to reach the spontaneous sites. Road conditions rather than security are the biggest issue, a staff member indicated. The agency's own workers have not been targeted by armed groups in recent months, except when a team was detained for a few hours by the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS), an armed group that controls part of western Masisi"<sup>172</sup>

In March 2012 *Radio Okapi*, a radio station co-funded by the MONUSCO, reported clashes between the FARDC and the Alliance des patriotes pour un Congo libre et souverain (APCLS) in the Masisi territory – North Kivu (in Kinyumba, close to Nyabiondo), and stated that the APCLS were a Mai Mai group led by Janvier Karairi. *Radio Okapi* reported that Chief Janvier Karairi had recently declared that "APCLS remain hostile to the Monusco forces." *Radio Okapi* reported that APCLS attacked Nyabiondo in October 2011 during a meeting held by the territory security council. The incident caused several persons to be displaced.<sup>173</sup>

On 27 February 2013 the *UN Daily News* service stated that the United Nations peacekeeping operation in the DRC sheltered 400 people following fighting between Congolese armed forces and elements of the APCLS,

"The United Nations peacekeeping operation in the Democratic Republic of the Congo (DRC) is sheltering some 400 people in what remains a tense situation following fighting between national troops and an armed group, a spokesperson for the world body said today. "The UN Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO) reports that, earlier today, near its base in Kitchanga, North Kivu, heavy fighting took place," deputy UN spokesperson Eduardo del Buey told journalists in New York. The situation remains "tense" following the clashes between Congolese armed forces and elements of the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS), an armed group, Mr. del Buey added.

At least one civilian was killed and nine other people injured, MONUSCO reported, including one of its peacekeepers, who was shot in the arm and remains in stable condition. The sheltering of civilians at its base in Kitchanga falls within the Mission's mandated role to protect civilians, defend human rights and support provisions of humanitarian aid. Nearly a million people have been displaced in North Kivu by clashes between DRC's national army and fighters from the rebel M23 group, and in recent weeks, more than 300,000 people have been displaced by additional fighting in the southeastern province of Katanga."<sup>174</sup>

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<sup>171</sup> African Arguments, DR Congo: North Kivu's False Peace, 29 February 2012, <http://africanarguments.org/2012/02/29/north-kivu's-false-peace-by-michael-deibert/>, accessed 12 April 2013

<sup>172</sup> African Press International, A convoy of WFP trucks in Masisi, North Kivu: Thousands of displaced out of reach 26 September 2012 <http://africanpress.me/2012/09/page/3/>, accessed 10 March 2013

<sup>173</sup> Radio Okapi, Nord-Kivu: nouveaux affrontements entre FARDC et miliciens de l'APCLS à Nyabiondo, 5 March 2012, <http://radiookapi.net/actualite/2012/03/05/nord-kivu-nouveaux-affrontements-entre-fardc-miliciens-de-lapcls-nyabiondo>, accessed 24 April 2013

<sup>174</sup> UN Daily News, 27 February 2013, <http://www.un.org/news/dh/pdf/english/2013/27022013.pdf>, accessed 12 April 2013

On 5 March 2013 *ECHO Daily Flash*, the news service of the European Community Humanitarian Office (ECHO) stated that the town of Kitchanga had been under the control of the APCLS since 2 March,

"Clashes between two rival factions of M23 broke out last week in the Rutshuru region, about 30 kilometres from Goma, after its military command dismissed the group's political leader, Jean-Marie Runiga. M23 rebels have retaken a major town in the east of the country (Rutshuru) on last Saturday after it was seized by the army.

In Masisi territory, the town of Kitchanga is under the control of the APCLS (l'Alliance des patriotes pour un Congo libre et souverain) since 2 March. Approximately 3,000 people (mostly Tutsis) have sought refuge around the MONUSCO base."<sup>175</sup>

On 7 March 2013 the *UN Office for the Coordination of Humanitarian Affairs (OCHA)* stated that clashes between FARDC and APCLS had killed tens of civilians, wounded hundreds of people and displaced thousands since February,

"[ ] the clashes between the DRC armed forces (FARDC) and the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS) have killed tens of civilians, including a humanitarian worker, wounded hundreds of people and displaced thousands since fighting began in late February. Some 5,000 of those displaced have sought refuge around the UN peacekeeping base in Kitchanga. [ ] tens of thousands of people in the Democratic Republic of the Congo (DRC) are in danger as clashes continue between national troops and an armed group in the town of Kitchanga, displacing thousands and affecting humanitarian facilities and access to basic services."<sup>176</sup>

On 28 March 2013 the *United Nations Security Council* approved Resolution 2098 which authorised the deployment of an intervention brigade with an offensive mandate to eastern DRC, the text of the resolution expressed concern at the heightened instability across eastern DRC resulting from the activity of armed groups, including the Alliance des Patriotes pour un Congo libre et souverain (APCLS),

"Expressing its concern at the heightened instability across eastern DRC resulting also in part from the increased activity of other armed groups, including the Alliance des Patriotes pour un Congo libre et souverain (APCLS) and the Allied Democratic Forces (ADF) in North Kivu, the Mayi-Mayi Gedeon and the Mayi-Mayi Kata-katanga in Katanga Province, the Lord's Resistance Army (LRA) in Orientale Province, and further expressing concern at Rwandan reports of attacks by the FDLR on Rwandan territory

[ ] Strongly condemns the M23, the FDLR, the ADF, the APCLS, the LRA, the National Force of Liberation (FNL), the various Mayi Mayi groups and all other armed groups and their continuing violence and abuses of human rights, including summary executions, sexual and gender based violence and large scale recruitment and use of children, demands that all armed groups cease immediately all forms of violence and destabilizing activities and that their members immediately and permanently disband and lay down their arms, and reiterates that those responsible for human rights abuses and violations of international humanitarian law will be held accountable and should not be eligible for integration into the FARDC or other elements of state security forces."<sup>177</sup>

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<sup>175</sup> European Commission, Humanitarian Aid & Civil Protection, News - ECHO Daily Flash, 5 March 2013 [http://ec.europa.eu/echo/news/echo-flash/2013/20130305\\_en.htm](http://ec.europa.eu/echo/news/echo-flash/2013/20130305_en.htm), accessed 19 April 2013

<sup>176</sup> United Nations Mission in South Sudan (UNMISS), Media & Spokesperson Unit, Communication & Public Information Office MEDIA MONITORING REPORT, 8 March 2013,

<http://unmiss.unmissions.org/LinkClick.aspx?fileticket=PU3M2D2iCIQ%3D&tabid=3540&language=en-US>, accessed 10 April 2013

<sup>177</sup> United Nations Security Council, SC/10964 Security Council, 'Intervention Brigade' Authorized as Security Council Grants Mandate Renewal for United Nations Mission in Democratic Republic of Congo, Resolution 2098 (2013) Enables 'Offensive' Combat Force, To

### 1.3.6. Coalition of Congolese Patriotic Resistance (PARECO)

[\[See also Section 1.3.4 Mai Mai community based militia groups\]](#)

In 2013 the *Rift Valley Institute* reported that PARECO began with a broad based coalition from communities including the Hunde, hutu, Nande, Nyanga and Tembo but that the Hutu community provided its largest number of troops and military leaders. The *Rift Valley Institute* reported that PARECO was created during an escalation in conflict in eastern DRC in 2006 and 2007 and was integrated into the army in 2009.<sup>178</sup>

In 2011 Belgian *Group for Research and Information on Peace and Security (Groupe de recherche et d'information sur la paix et la sécurité- GRIP)* and *Bonn International Center for Conversion (BICC)* reported that in North Kivu, the Mai Mai coalition des Patriotes résistants congolais (PARECO) as well as the combatants from the National Congress for the Defence of the People (CNDP) and other Mai Mai groups had been incorporated into the FARDC in January 2009. The CNDP and PARECO both announced that they were turning themselves into political parties. However, "mass desertions have occurred from the ranks of the newcomers (particularly the Hutu fighters in the CNDP and members of PARECO."<sup>179</sup>

In September 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that the "havoc" caused by the FDLR, renegade ex-members of the PARECO has deprived residents of the region of peace,

"More than 50,000 Congolese refugees have fled to Rwanda over the last fifteen years, with the numbers soaring in the last few weeks, leaving humanitarian organisations over stretched. The Democratic Republic of the Congo (DRC) has been volatile for several years, affecting regional peace, security and stability. The challenges in the DRC are not strictly an internal matter and, therefore, regional leaders should seek a lasting solution as peace in the region benefits the entire region. Fighting between Congolese soldiers and rebel groups, like the Mayi Mayi, in addition to the havoc caused by the FDLR, renegade ex-members of the former CNDP and PARECO, and Uganda's Lords Resistance Army, has deprived residents of DRC and the region of peace.

The regional leaders must make resolving the violence a top priority. The numerous meetings between Ministers of Defence as well as Military and Security Chiefs are a step in the right direction. East Africans as well as other people affected by the armed violence must demand their respective governments for quick intervention. The solution is political, and it is essential that the regional countries join efforts to quickly come up with a lasting solution. Two years ago saw a major breakthrough in efforts to pacify one of the world's most volatile parts of the Congo, when Rwanda and DRC armies carried out a joint operation, dubbed Umujo Wetu, against FDLR, which left the militia weakened and dispersed. Such kind of joint efforts contribute a lot to bringing peace to the region."<sup>180</sup>

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'Neutralize and Disarm' Congolese Rebels, Foreign Armed Groups, 28 March 2013, <https://www.un.org/News/Press/docs/2013/sc10964.doc.htm>, accessed 17 June 2013

<sup>178</sup> Rift Valley Institute, PARECO: Land, Local Strongmen and the Roots of Militia Politics in North Kivu, 2013, ISBN 978-1-907431-09-8, <http://www.refworld.org/docid/51d2c5304.html>, accessed 21 July 2013

<sup>179</sup> Groupe de recherche et d'information sur la paix et la sécurité (GRIP), Armes légères dans l'est du Congo. Enquête sur la perception de l'insécurité, 2011, [http://www.grip.org/sites/grip.org/files/LIVRES\\_DU\\_GRIP/E-BOOKS/302-303/LES\\_LIVRES\\_DU\\_GRIP\\_302-303.pdf](http://www.grip.org/sites/grip.org/files/LIVRES_DU_GRIP/E-BOOKS/302-303/LES_LIVRES_DU_GRIP_302-303.pdf), accessed 13 April 2013

In English, [http://archive.grip.org/en/siteweb/images/LIVRES\\_DU\\_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf](http://archive.grip.org/en/siteweb/images/LIVRES_DU_GRIP/Small%20Arms%20in%20Eastern%20Congo.pdf)

<sup>180</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN), DRC: Army commander seeks solution to Masisi crisis, 26 September 2012, <http://www.irinnews.org/report/96392/DRC-Army-commander-seeks-solution-to-Masisi-crisis>, accessed 18 April 2013

On 26 October 2012 *The Voice of America* (VOA), a multimedia broadcaster funded by the U.S. Government, stated that the Mai Mai Pareco group had ambushed a park patrol traveling with an army escort, killing two rangers, a soldier and five militiamen,

"Officials in the eastern Democratic Republic of Congo say eight people were killed when militiamen attacked rangers in the famed Virunga National Park. The Mai Mai Pareco group ambushed a park patrol traveling with an army escort on Thursday, according to authorities. Two rangers, a soldier and five militiamen were killed in the clash. Virunga Park, known for its rare mountain gorillas, is the site of frequent clashes between soldiers and the rebel and militia groups active in the region. The park lies near Congo's border with Uganda.

Separately, an attack at the home of a prominent Congolese doctor has drawn international condemnation. Rights groups say armed men entered Dr. Denis Mukwege's home in eastern South Kivu Province late Thursday, killed his security guard and held some of his family members at gunpoint. Mukwege, a surgeon and head of a local hospital, was not home at the time. Rights groups say he may have been targeted for his work treating thousands of Congolese women and girls who have been victims of sexual violence."<sup>181</sup>

In February 2013 *Radio Okapi*, a station co-funded by the MONUSCO, reported clashes between the FARDC and the Mai Mai PARECO in the village of Vuhoyo (North Kivu) resulting in the death of 8 militiamen.<sup>182</sup>

### **1. Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU)**

In April 2012 US NGO the *Enough Project* stated that the ADF-NALU is estimated to have 500 fighters,

"Between 2002 and early 2012, the UN repatriated more than 26,000 foreign fighters and dependents. The FDLR has seen its numbers drop tenfold from 20,000 in 2001 to some 3000 at present. The LRA has carried out horrific attacks on civilians in the DRC, as well as in the CAR and South Sudan, but is down to some 300 fighters scattered in small groups across a wide area. Other significant groups are the Uganda ADF-NALU, estimated to have 500 fighters, and the Burundian FNL."<sup>183</sup>

On 27 June 2012 the *United Nations Security Council* demanded that the ADF/NALU immediately cease all forms of violence and human rights abuses against the civilian population in the DRC, in particular against women and children, including rape and other forms of sexual abuse and child recruitment, and called on ADF/NALU to demobilize,

"Thriving in the security vacuum created by the absence of effective State authority in eastern Democratic Republic of the Congo, armed groups continue to constitute the main threat to the security of the population and the general stability of the region and an obstacle to regional cohesion. The continuing military deployments of the Mouvement du 23 Mars (M23), occupying the heights immediately overlooking the town of Goma and threatening it, underscore this threat. In addition to M23, the various Mayi-Mayi groups and other Congolese armed groups, the main foreign armed groups include FDLR, the Allied

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<sup>181</sup> Voice of America, 8 Killed in Clash at DRC's Virunga National Park, October 26, 2012 <http://www.voanews.com/content/eight-killed-in-clash-at-drcs-virunga-national-park/1533876.html>, accessed 17 April 2013

<sup>182</sup> Radio Okapi, Lubero: 8 miliciens tués lors des affrontements entre Mai-Mai Pareco et FARDC, 12 February 2013, <http://radiookapi.net/actualite/2013/02/12/lubero-8-miliciens-tues-lors-des-affrontements-entre-mai-mai-pareco-fardc>, accessed 27 April 2013

<sup>183</sup> Enough Project, The Democratic Republic of Congo: Taking a Stand on Security Sector Reform, 16 April 2012, [http://www.enoughproject.org/files/DRC\\_SSR-Report\\_2012\\_0.pdf](http://www.enoughproject.org/files/DRC_SSR-Report_2012_0.pdf), accessed 18 April 2013

Democratic Forces and National Liberation Army of Uganda (ADF/NALU), LRA and the Forces nationales de libération (FNL).

Demands that all armed groups, in particular mutineers of ex-CNDP and M23, the FDLR, the LRA and the Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU), immediately cease all forms of violence and human rights abuses against the civilian population in the Democratic Republic of the Congo, in particular against women and children, including rape and other forms of sexual abuse and child recruitment, and demobilize."<sup>184</sup>

On 9 January 2013 Dutch NGO the *International Peace Information Service* stated that the ADF-Nalu remained active in North Kivu,

"The Congolese army clashed with the Raia Mutomboki militia in South Kivu, while various other armed groups remain active in North Kivu (ADF-Nalu), Province Orientale (Ituri and Haut-Uele districts) and Katanga."<sup>185</sup>

In March 2012 *Radio Okapi*, a station co-funded by the MONUSCO, reported clashes between the FARDC and Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/Nalu) in Beni (North Kivu). *Radio Okapi* stated that the ADF/Nalu were composed of Ugandese rebels based between Makembi and Parking. Interim Prime Minister Louis Koyagyalo stated he was focused on tackling the activism of foreign armed groups, ADF/NALU and FDLR, operating on Congolese territory. *Radio Okapi* further stated that ADLF/NALU rebels were regularly fighting against the FARDC in North Kivu. The ADLF/NALU has also targeted MONUSCO.<sup>186</sup>

On 19 December 2012 a report by the independent NGO *The International Crisis Group* stated that the ADF-NALU is one of the oldest but least known armed groups in the east of the DRC and the only one in the area to be considered an Islamist terrorist organisation,

"The Allied Democratic Forces-National Army for the Liberation of Uganda (Forces démocratiques alliées-Armée nationale de libération de l'Ouganda, ADF-NALU) is one of the oldest but least known armed groups in the east of the Democratic Republic of Congo (DRC) and the only one in the area to be considered an Islamist terrorist organisation. Although it does not represent the same destabilising threat as the 23 March Movement (M23), it has managed to stand its ground against the Congolese army since 2010. Created in the DRC in 1995 and located in the mountainous DRC-Uganda border area, this Congolese-Ugandan armed group has shown remarkable resilience attributable to its geostrategic position, its successful integration into the cross-border economy and corruption in the security forces. Therefore, before considering any further military action against the ADF-NALU, it would be wise to separate fiction from fact and instead pursue a course of weakening its socio-economic base while at the same time offering a demobilisation and reintegration program to its combatants.

Formed of an alliance of several armed groups supported by external actors (Mobutu Sese Seko's Zaire and Hassan al-Turabi's Sudan), the ADF-NALU initially fought the Ugandan government of Yoweri Museveni. However, despite its Ugandan origins, it never managed to gain a foothold in its own country and instead settled in eastern Congo, particularly in the remote mountainous border areas. There it became integrated into local communities, participated in cross-border trade and forged relationships with various armed groups in

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<sup>184</sup> United Nations Security Council, Resolution 2078 (2012) Adopted by the Security Council at its 6873rd meeting, 28 November 2012, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2078.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2078.pdf), accessed 4 April 2013

<sup>185</sup> International Peace Information Service WEEKLY BRIEFING 3RD, 9 January 2013, <http://www.ipisresearch.be/briefing.php?id=49>, accessed 12 April 2013

<sup>186</sup> Radio Okapi, Nouveaux affrontements entre FARDC et ADF/Nalu à Beni, 29 March 2012, <http://radiookapi.net/actualite/2012/03/29/nouveaux-affrontements-entre-fardc-adfalu-beni>, accessed 24 April 2013



eastern Congo as well as with both Congolese and Ugandan civilian and military authorities. Given their location in this “grey zone”, the ADF-NALU’s lost combatants have been able to survive despite not winning a battle in over fifteen years and having been defeated several times, but never neutralised.”<sup>187</sup>

On 19 December 2012 independent NGO *The International Crisis Group* stated that due to the ADF-NALU’s leader, Jamil Mukulu, a Christian convert to Islam, the group is considered a component of the trend of radical Islamism in East Africa. However, little is known about purported links between ADF-NALU and radical Islamist organisations in the region and according to *The International Crisis Group* ADF-NALU’s allegiance to Islamism appears “superficial,”

“Due to the ADF-NALU’s leader, Jamil Mukulu, a Christian convert to Islam, the group has transformed from a purely Congolese-Ugandan problem into one with regional dimensions, as a component of the trend of radical Islamism in East Africa. However, little is known about such purported links between ADF-NALU and radical Islamist organisations in the region and the group’s allegiance to Islamism seems rather superficial. [ ] The fight against armed groups in eastern Congo continues to be viewed through a military lens, but it would be wise to avoid another ineffective military operation. The International Conference on the Great Lakes Region (ICGLR), the UN, the DRC and Uganda should therefore adopt a different approach that seeks to:

- Formulate an intelligence-based strategy to neutralise the ADF-NALU’s cross-border economic and logistical networks. The officers of the Joint Verification Mechanism deployed by the ICGLR in 2012 should work with the UN group of experts to produce a detailed study of these networks and use it to define an appropriate strategy for undermining the armed group’s economic and logistical base.
- Include the leaders of ADF-NALU’s support networks, inside and outside the DRC, on the list of individuals subject to UN sanctions for their support of armed groups. Congolese and Ugandan military personnel colluding with these networks should be dealt with appropriately by the authorities of their country.
- Rotate on a regular basis Congolese and Ugandan officers deployed in this region.
- Introduce a disarmament, demobilisation and reintegration (DDR) program for Congolese and Ugandan combatants who after investigation are found not to be responsible for war crimes and crimes against humanity. MONUSCO should appeal to donors to fund the program for Congolese ADF-NALU combatants.”<sup>188</sup>

### 1.3.7. Forces Républicaines Fédéralistes (FRF)

In June 2009 *Radio Okapi*, a station co-funded by the MONUSCO, reported that Les forces républicaines fédéralistes (FRF) originated from the Kamombo Highlands and were operating under the commanding authority of Michel Rukunda Makanika. According to *Radio Okapi*, negotiations held between the Congolese authorities and the FRF as part of a national disengagement process had ended. FRF’s political demands included “the administration and

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<sup>187</sup> International Crisis Group, Eastern Congo: The ADF-NALU’s Lost Rebellion Africa Briefing N°9319 Dec 2012, <http://www.crisisgroup.org/en/regions/africa/central-africa/dr-congo/b093-eastern-congo-the-adf-nalus-lost-rebellion.aspx>, accessed 12 April 2013

<sup>188</sup> International Crisis Group, Eastern Congo: The ADF-NALU’s Lost Rebellion Africa Briefing N°9319 Dec 2012, <http://www.crisisgroup.org/en/regions/africa/central-africa/dr-congo/b093-eastern-congo-the-adf-nalus-lost-rebellion.aspx>, accessed 12 April 2013

security of local communities, the return of the displaced population, community reconciliation and the development of the Highlands.”<sup>189</sup>

In 2011 the *Amnesty International* Annual Report covering events of 2010 stated that the FRF were active in Fizi in South Kivu,

“Other local armed groups, including the Mayi-Mayi, the Alliance Pour le Congo Libre et Souverain (APCLS) in Masisi, the Coalition of Congolese Patriotic Resistance (PARECO) in North Kivu, the Forces Républicaines Fédéralistes (FRF) in Fizi in South Kivu, the Front de Résistance Patriotique d’Ituri (FRPI) and the Front Populaire pour la Justice au Congo (FPJC), were also active. Armed groups attacked MONUSCO bases in North Kivu in August and October, and attacked and abducted humanitarian workers on a number of occasions.”<sup>190</sup>

In February 2011 *Journal Minembwe*, an online media for the Banyamulenge community reported that FRF armed forces were also known as “Gumino”. *Journal Minembwe* reported that 500 members were being integrated into the FARDC; some of them getting high responsibility positions.<sup>191</sup>

In February 2011, *Radio Okapi*, a station co-funded by the MONUSCO, reported that 10 FRF leaders from the Highland of Minembwe (in Fizi) had arrived in Bukavu (South Kivu) to be integrated into the FARDC. According to *Radio Okapi* FRF leader *Michel Rukunda* stated that the FRF had decided “to join DRC armed forces to install sustainable peace.”<sup>192</sup>

On 2 February 2011 Jason Stearns, author of the blog Congo Siasa, wrote a guest article for the *Christian Science Monitor* stating that there had been a recent breakthrough in peace negotiations between the national army and the FRF,

“This past week there was a breakthrough in peace negotiations between the national army and the Forces Républicaines Fédéralistes (FRF), a mostly Banyamulenge armed group based in the High Plateau in South Kivu above Uvira and Fizi...The terms appear to be favorable to the Banyamulenge insurgency. Bisogo (previously a colonel in the RCD rebellion) and Rukunda (who I believe was a major, but a staunch critic of Rwanda) will be able to keep their ranks of general and their troops will be integrated into 431st brigade that is deployed in the hills close to where their families are. A key condition of their integration (and that of the CNDP before them) had always been that their troops remain in the Kivus.

[ ] However, the FRF apparently had to drop their demands for back pay and has agreed to hand over all of their stocks of weapons and ammunition. In addition, the contentious status of Minembwe has been deferred for the moment and it seems unlikely - if the peace deal holds - that it will be brought up again. The FRF, along with many other Banyamulenge, had been pushing for the creation of a territory of Minembwe, so they could have had their own administrative services (land and marriage registry, etc.) and electoral district.”<sup>193</sup>

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<sup>189</sup> Radio Okapi, Uvira : les FRF réaffirment leur refus du processus de désengagement, 3 June 2009, <http://radiookapi.net/sans-categorie/2009/06/03/uvira-les-frf-reaffirment-leur-refus-du-processus-de-desengagement>, accessed 24 April 2013

<sup>190</sup> Amnesty International, Annual Report 2011, <https://www.amnesty.org/en/region/democratic-republic-congo/report-2011>, accessed 19 April 2013

<sup>191</sup> Journal Minembwe, Les forces militaires de FRF (Gumino) sont intégrées dans le FARDC, 8 February 2011, <http://journalminembwe.blogspot.fr/2011/02/les-forces-militaires-de-frf-gumino.html>, accessed 24 April 2013

<sup>192</sup> Radio Okapi, Des cadres de FRF à Bukavu pour intégrer l’armée congolaise, 1 February 2011, <http://radiookapi.net/actualite/2011/02/01/des-cadres-de-frf-a-bukavu-pour-integrer-l%E2%80%99armee-congolaise>, accessed 24 April 2013

<sup>193</sup> The Christian Science Monitor, Congo's army reaches breakthrough with Kivus' rebel group, Congo's national army and the Forces Républicaines Fédéralistes reached a breakthrough in peace negotiations this week, which could improve the situation for civilians in the region, by Jason Stearns, Guest blogger, February 2, 2011 <http://www.csmonitor.com/World/Africa/Africa-Monitor/2011/0202/Congo-s-army-reaches-breakthrough-with-Kivus-rebel-group>, accessed 16 April 2013

On 10 August 2011 a guest post by Judith Verweijen on *Congo Siasa*, the blog of Jason Stearns, director of the Rift Valley Institute's Usalama Project, a research project on armed groups in the eastern Congo stated that the FRF had been a small armed group composed of Banyamulenge until their "fragile" integration into the FARDC in January 2011,

"Until their fragile integration into the FARDC in January 2011, the FRF were a small armed group composed of Banyamulenge (an ethnic Tutsi group of pastoralists), which used to be active in a mountain chain in South Kivu called the High Plateaux. It was led by "General" Venant Bisogo, its President, and "General" Michel Makanika Rukunda, the Chief of Staff. [ ] During the 'transition', this group started to fall apart in a faction that rallied around Masunzu, who was linked to the Kinshasa government, and a group of dissidents. This division was the result of two factors. Firstly, the 'transition' heralded changes in the general distribution of power, which triggered factional and inter-personal conflicts. The losers of such struggles often withheld troops from army integration, a strategy also practiced by the FRF. Secondly, this group of dissidents' political vision diverged from that of the Masunzu faction. They were against the suppression of the area of Minembwe as an independent territory, an upgrade in status it had received from the RCD- rebel administration. However, this administrative change had been turned back at the start of the 'transition', which had signified a relative loss of power for the Banyamulenge.

[ ] the integration of armed groups into the military weakens central control over the armed forces, for it allows parallel command chains to proliferate, while integrated groups maintain strong contacts with their former power networks. Sometimes this includes un-integrated armed remnants or break-away factions who resist the integration process. In the case of the FRF, one dissident faction under the leadership of Richard Tawimbi has up to now resisted integration and remains in Minembwe with an unknown number of troops. It is in this respect important to note that the FRF has hardly handed in any arms upon their integration, while they are known to have large arms caches that include heavy weaponry in the Bijabo forest."<sup>194</sup>

On 10 August 2011 a guest post by Judith Verweijen on *Congo Siasa*, the blog of Jason Stearns, director of the Rift Valley Institute's Usalama Project, a research project on armed groups in the eastern Congo stated that the FRF had negotiated top positions in the military command in South Kivu but that sometimes integration fails after a lengthy negotiation process,

"[ ] a part of the integrated FRF troops left the Kananda training centre on August 1st where they had assembled for regiment formation. The stated reason were complaints about salary arrears and the non-recognition of ranks, related to the fact that these troops have not yet passed through biometrical control. This lack of administrative follow-up is a standard problem with the integration of armed groups. Part of the reason for the delays in the recognition of ranks and the distribution of functions is that these usually follow lengthy negotiation processes. This horse-trading and its outcomes tend to fuel factional competition and strife both within and outside the military.

For example, the FRF managed to obtain a number of top positions in the military command in South Kivu, like second-in-command of the Amani Leo operations. Together with the creation of an independent military sector in Minembwe, these appointments were strongly resented by (ex-)Mai Mai, who saw in this move evidence of a policy of the systematic discrimination of 'autochthones' in favor of 'Rwandophones' within the military. Furthermore, the military domination of the purely Banyamulenge ex-FRF on the High Plateaux was resisted by the other ethnic communities living in this area. It contributed to a remobilization of Mai Mai in Bijombo and reinforced local 'ethnic entrepreneurs' or political actors who tap into ethnically colored discourse in order to strengthen their power position.[

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<sup>194</sup> Congo Siasa, Guest Blog: the FRF armed group, Judith Verweijen, Profile of the FRF (Forces Républicaines Fédéralistes), 10 August 2011, <http://congosiasa.blogspot.co.uk/2011/08/guest-blog-frf-armed-group.html>, accessed 19 April 2013

] To conclude, the policy of ongoing armed-group integration into the FARDC, which has recently been officially abandoned by the DR government, presents a mixed record. It has been justified by portraying it as an incremental process, yet there are few signs that it has actually contributed to diluting the influence of these groups."<sup>195</sup>

On 3 August 2012 US NGO *Watchlist on Children and Armed Conflict* stated that between 5-19 July 2012, 33 child soldiers were released from a faction of the Forces Républicaines et Fédéralistes (FRF) in South Kivu,

"Between July 5 and 19, 2012, thirty-three child soldiers were released from a breakaway faction of the Forces Républicaines et Fédéralistes (FRF), an armed group active around Minembwe in the Eastern province of South Kivu, DRC. The children had been with the armed group for at least two to three months. The demobilization operation was made possible after a community-based organization (CBO) established a dialogue with the armed group, which had been recruiting children between the ages of 14 and 17 among its own Banyamulenge community (an ethnic Tutsi population living in Eastern DRC) for some time.

[ ] When the armed group eventually agreed to release the children, the CBO alerted our partner organization, which then organized a mission to the area together with MONUSCO and representative from a transit center for former child soldiers in Bukavu, South Kivu. The joint efforts of these actors enabled twenty-two children (including three girls) to immediately re-join their families in the area. The armed group was operating in a remote location, which constituted a challenge for the removal of the remaining 11 children whose families did not live in the region or had not yet been traced. Nevertheless, with the logistical support of a MONUSCO helicopter, the remaining children were safely transferred to the transit centre in Bukavu, where they will receive further psychosocial support and vocational training while waiting to be re-integrated in a family setting."<sup>196</sup>

In 2012 the *US Department of State Country Report on Trafficking in Persons* stated that 52 children had been identified and removed during the year as a result of MONUSCO's government-requested assistance in demobilizing children associated with the FRF,

"As a result of MONUSCO's government-requested assistance in demobilizing children associated with the FRF prior to the group's integration into the FARDC, 52 children were identified and removed during the year, though it was estimated that this group contained greater numbers of children than were identified."<sup>197</sup>

In January 2013 US news website *The Atlantic* stated that Sudanese and Iranian-produced ammunition was used by the Forces Républicaines Fédéralistes in South Kivu,

"The reason for the presence of Iranian munitions is far vaguer in the DRC, where mixed Sudanese and Iranian-produced ammunition was used by the Forces Républicaines Fédéralistes, a militia consisting of members of the Banyumulenge, a Tutsi sub-group in South Kivu. It's unknown how this militia, out of the dozens of armed organizations in the DRC, ended up with the ammunition. "Hard to say," Jason Stearns, a leading expert on the DRC, wrote in an email, "but the FRF and most other militants in the region buy their

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<sup>195</sup> Congo Siasa, Guest Blog: the FRF armed group, Judith Verweijen, Profile of the FRF (Forces Républicaines Fédéralistes), 10 August 2011, <http://congosiassa.blogspot.co.uk/2011/08/guest-blog-frf-armed-group.html>, accessed 19 April 2013

<sup>196</sup> Watchlist on Children and Armed Conflict, Local Civil Society Engagement in the UN-Led MRM: An Example from South Kivu, Democratic Republic of Congo, 3 August 2012, <http://watchlist.org/local-civil-society-engagement-in-the-un-led-mrm-an-example-from-south-kivu-democratic-republic-of-congo/>, accessed 15 June 2012

<sup>197</sup> US Department of State, Trafficking in Persons Report 2012, <http://www.state.gov/documents/organization/192594.pdf>, accessed 12 April 2013

weapons from the national armies of the Congo, Burundi, Tanzania and Rwanda. It's likely to have been shipped there first and then sold to the FRF."<sup>198</sup>

### 1.3.8. de Résistance Patriotique d'Ituri (FRPI)

In 2013 the *Rift Valley Institute* reported that the FRPI grew out of Lendu self-defence groups in Ituri and political machinations devised in Kamapala, Kinshasa, and the RCD-K/ML base in Beni.<sup>199</sup>

On 10 August 2011 a guest post by Henning Tamm on *Congo Siasa* reported that the FRPI was led by Cobra Matata and that the government was negotiating reintegration with him, however Henning Tamm stated that the government was not expected to accept Cobra Matata's conditions,

"[ ] What about Cobra's FRPI in these grand schemes? Semire and Mpigwa would want to keep COGAI, which would then be a coalition between the FRPI and their new movement. However, given Cobra's current negotiations with the government, they said they were suspicious that he might give up his armed struggle. In fact, the Congolese government has finally reacted to Cobra's demands. In June, President Kabila sent Major General Dieudonné Amuli, who himself hails from the district, to Ituri in order to negotiate an end to the "Cobra problem." Since then, talks have been ongoing and the Congolese army has begun to provide the FRPI rebels with food. [ ] Given the government's experience with the CNDP, we should not expect that it will accept Cobra's conditions for reintegration. On the other hand, Cobra now has his new COGAI allies as a bargaining chip, and he might hold out to see how things develop in North Kivu. It is thus difficult to envision how the ongoing negotiations could succeed in the near future. Ituri is bound to remain fragile."<sup>200</sup>

On 10 August 2011 a second guest post by Henning Tamm on *Congo Siasa* stated that in mid-May, a new Ituri rebel coalition (COGAI, Coalition des Groupes Armés de l'Ituri) had been announced, consisting of four groups: the FRPI; the Front Populaire pour le Développement Durable de l'Ituri (FPDDI); the Force Armée pour la Révolution (FAR); and the Forces Armées d'Intégration de l'Ituri (FAII). The coalition was born when rebel leaders asked Cobra Matata, leader of the FRPI, to become the head of a new rebel coalition after rumors he planned to form an alliance with M23 and potentially become powerful enough to threaten their villages,

"[ ] in mid-May, a new Ituri rebel coalition (COGAI, Coalition des Groupes Armés de l'Ituri) was announced. [ ] COGAI officially consists of four groups: the FRPI; the Front Populaire pour le Développement Durable de l'Ituri (FPDDI); the Force Armée pour la Révolution (FAR); and the Forces Armées d'Intégration de l'Ituri (FAII). [ ] local sources believe that there is at least one issue that unites Iturians – immense frustration with and mistrust in the central government. COGAI, like the MRC before it, is trying to tap into these grievances: its founding document calls for the creation of Ituri as a province in line with article 226 of the 2006 constitution. Other demands include the creation of a new military region; the honorable reinsertion of ex-combatants into society; the reintegration of "soldiers" and the recognition of their ranks; the closing down of illegal army roadblocks; and the immediate departure of Col. Fal Sikabwe, the Congolese commander of Ituri.[ ] Opinions on how seriously COGAI should be taken are divided.

It is extremely difficult to assess this rebel coalition's cohesion and origins. We spoke to a COGAI member who played an important role in the UPC rebellion and who had been

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<sup>198</sup> The Atlantic, How Did Iranian Bullets Wind Up in Africa? 21 January 2013, <http://www.theatlantic.com/international/archive/2013/01/how-did-iranian-bullets-wind-up-in-africa/267329/> accessed 15 June 2013

<sup>199</sup> FNI and FRPI: Local resistance and regional alliances in north-eastern Congo, 2013, ISBN 978-1-907431-19-7, <http://www.refworld.org/docid/51d3d3be4.html>, accessed 21 July 2013

<sup>200</sup> Congo Siasa, Coalitions and Defections in a Context of Uncertainty – A Report from Ituri (Part I), 24 August 2012, <http://congosiasa.blogspot.co.uk/2012/08/coalitions-and-defections-in-context-of.html>, accessed 19 April 2013

authorized by Semire and Mpigwa to speak on their behalf. According to him, the idea of COGAI was born when Semire and other Hema heard of rumors that M23 had contacted Cobra Matata and had asked him to form an alliance. Afraid that Cobra would then grow powerful enough to threaten their villages, they decided to act swiftly and offered Cobra to become the head of a new rebel coalition, which he accepted. They further claim that they added 480 fighters to Cobra's troops."<sup>201</sup>

On 4 May 2012 the *Office for the Coordination of Humanitarian Affairs (OCHA)* stated that humanitarian actors were deeply concerned with the possible humanitarian consequences of the increasing tensions between the FARDC and the armed group Patriotic Resistance Front of Ituri (FRPI) in the south of Irumu Territory,

"In Province Orientale, humanitarian actors are deeply concerned with the possible humanitarian consequences of the increasing tensions between the FARDC and the armed group Patriotic Resistance Front of Ituri (FRPI) in the south of Irumu Territory. While humanitarian operations have been suspended, it is feared that civilian populations will suffer human rights abuses and end up caught in between the warring parties in the case of eventual fighting. Also in Province Orientale, local health sector sources report that fighting between the FARDC and a local armed group in Bafwasende Territory has led to more than 4,500 new IDPs."<sup>202</sup>

In June 2012 Congolese web media *Digitalcongo.net* reported that FRPI was consolidating its position in the area between Nombe and Kagaba in the South West of Bogoro in Ituri (part of Oriental Province) resulting in "an unpredictable security situation in South Irumu".<sup>203</sup>

On 5 December 2012 online African news magazine *Think Africa Press* stated that aid projects in Ituri that summer had ground to a halt as the FRPI attacked civilians along the shores of Lake Albert,

"All through the summer, as diplomats passed time debating 'solutions', the military build-ups continued. Weapons, soldiers and equipment slid across the Ugandan border, often at Kasindi which was controlled by Mbusa Nyamwisi's brother until the Kabila government removed him. Alliances were cemented in Rwenzori and further north in Ituri an attempt to integrate troops of Cobra Mata into the national army saw 1000 of them disappear off the official head-count. Aid projects in Ituri ground to a halt as militia activity increased and the FRPI attacked civilians along the shores of Lake Albert."<sup>204</sup>

In May 2012 radio-TV media *LAVDC- Radio Télévision la voix de la démocratie congolaise* reported an article by *French international news radio RFI* reporting the trial of Germain Katanga and Mathieu Ngudjolo at the International Criminal Court on 15 May 2012. The two former leaders were charged for crimes committed by FRPI (Forces de résistance patriotique d'Ituri) and FNI (Front des nationalistes et intégrationnistes) respectively on 24 February 2003 in Bogoro.<sup>205</sup>

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<sup>201</sup> Congo Siasa, Coalitions and Defections in a Context of Uncertainty – A Report from Ituri (Part I), 24 August 2012, <http://congosiasa.blogspot.co.uk/2012/08/coalitions-and-defections-in-context-of.html> , accessed 19 April 2013

<sup>202</sup> Office for the Coordination of Humanitarian Affairs (OCHA), Humanitarian Action in the Democratic Republic of the Congo (DRC) Weekly Bulletin Produced with the support of the Humanitarian Information Group (HIG), 4 May 2012, <http://reliefweb.int/sites/reliefweb.int/files/resources/Humanitarian%20Action%20in%20the%20Democratic%20Republic%20of%20the%20Congo%2004%20May%202012.pdf>, accessed 10 April 2013

<sup>203</sup> Digitalcongo.net, Province Orientale : le FRPI consolide ses positions au Sud-Ouest de Bogoro, 11 June 2012, <http://www.digitalcongo.net/article/84457>, accessed 25 April 2013

<sup>204</sup> Think Africa Press, Bordering on the Dangerous: The Invisible Frontline in North Kivu, 5 December 2012, <http://thinkafricapress.com/drc/unreported-invisible-frontline-north-kivu>, accessed 16 April 2013

<sup>205</sup> LAVDC, RDC: les crimes commis en Ituri une nouvelle fois devant la justice internationale à La Haye, 15 May 2012, <http://www.lavdc.net/portail/?p=12770>, accessed 25 April 2013

According to a March 2013 profile by Swiss NGO TRIAL (*“Track Impunity Always”*), Germain Katanga named “Simba”, former leader of FRPI forces, was still awaiting the ICC decision.<sup>206</sup>

On 24 August 2012 a guest post by Henning Tamm on *Congo Siasa* stated that a mutiny in Marabo, Ituri, had consequences for the FRPI,

"While international media have focused their attention on North Kivu, a lot has happened in Ituri. [ ] On February 14, 2012 an army defection occurred in Marabo, around 40km west of Bunia. The leaders of this mutiny were officers from North Kivu, and several reliable sources confirm that there was a link between the Marabo mutiny and the M23 rebellion in North Kivu. In fact, there have been suggestions that the mutiny in Marabo was supposed to occur simultaneously with M23 machinations in North Kivu but had to be pushed forward due to a leak. The army commander in charge of operations in Ituri, Col. Fal Sikabwe, has openly accused its ringleader Col. Germain of collaborating with M23, although we should be careful not to exaggerate the links between events in Ituri and those in North Kivu.

The Marabo mutiny had consequences for an originally more local issue, that of Cobra Matata's FRPI (Force de Résistance Patriotique d'Ituri). Cobra has been one of the key FRPI figures since its very beginnings around 2000. In 2002, having killed the FRPI's first leader ("Col." Kandro), Cobra became military chief of staff when Germain Katanga – currently on trial at the ICC – was named president of the group. Cobra was finally integrated into the Congolese army in 2007, but defected in mid-2010 and returned to Walendu Bindi collectivity, the FRPI's stronghold in Irumu territory (southern Ituri). According to a community leader, Cobra himself gave three reasons for his defection: He didn't obtain a proper position in the army, his housing conditions in Kinshasa were poor, and he did not receive his salary. Although the FRPI gained some strength after Cobra's return to the bush, it remained in the Tsey forest and only ventured out into other parts of Walendu Bindi for hit-and-run operations. "Col." Mbadu Adirodu, who had been in charge of the FRPI after Cobra left in late 2007, moved into his position of second-in-command."<sup>207</sup>

On 24 August 2012 a guest post by Henning Tamm on *Congo Siasa* also stated that the FRPI had taken advantage of the security vacuum created by redeployments following the "Marabo mutiny" of February 2012, taken control of most of Walendu Bindi and listed its conditions for reintegrating into the army to officials, including that the troops be integrated whilst continuing to be based in Ituri . At the time the leader of the FRPI claimed that it had 1,500 fighters, however, this remained unconfirmed and was considered an exaggeration by observers,

"So how did the Marabo mutiny in February 2012 relate to the FRPI? Concerned by these army defections, General Gabriel Amisi ("Tango Four") came to Bunia. He wanted to speed up the regimentation process, which he had initiated to restructure the army, and asked soldiers to regroup in several military centers. Cobra's FRPI took advantage of the security vacuum created by these redeployments and took control of most of Walendu Bindi.[ ] At the end of February [ ] Cobra listed his conditions for reintegrating into the army to the officials, who said they would have to forward Cobra's demands to the provincial level (Kisangani), from where they would be sent to the government in Kinshasa. [ ] among other things, Cobra demanded that he and his troops be integrated whilst remaining based in Ituri. At the time, Cobra claimed that his FRPI had 1,500 fighters – a figure that could not be confirmed and was considered exaggerated by observers.

For a long time, the Congolese government simply didn't respond to Cobra's demands. In the meantime, local community leaders organized food collections for FRPI troops so that

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<sup>206</sup> TRIAL, Germain Katanga, 22 March 2013, <http://www.trial-ch.org/fr/ressources/trial-watch/trial-watch/profils/profile/683/action/show/controller/Profile.html>, accessed 25 April 2013

<sup>207</sup> Congo Siasa, Coalitions and Defections in a Context of Uncertainty – A Report from Ituri (Part I), 24 August 2012, <http://congosiasa.blogspot.co.uk/2012/08/coalitions-and-defections-in-context-of.html> , accessed 19 April 2013

they wouldn't continue to prey on civilians. While this local arrangement worked relatively well, it is also indicative of a central authority that most (if not all) Iturians consider absent at best and exploitative at worst. It was only after the M23 trouble had started in North Kivu that the Congolese government and the army command seemed to begin caring about the FRPI. By then, however, there were rumors about links between M23 and Cobra's FRPI, and a new Ituri rebel coalition (COGAI, Coalition des Groupes Armés de l'Ituri) had formed. As one well-informed observer suggested, the government had wasted its chance to negotiate with Cobra from a position of relative strength."<sup>208</sup>

In November 2012 the international women's human rights organisation *Women's Initiatives for Gender Justice* stated that the Congolese armed forces have used significant financial incentives to encourage General Banaloki of the Front for Patriotic Resistance in Ituri (FRPI) to consider integrating,

"Since the outbreak of the M23 rebellion, the Congolese army has made efforts to integrate Congolese armed groups into the army. For example, in the Ituri district, the Congolese armed forces have used significant financial incentives to encourage General Banaloki of the Front for Patriotic Resistance in Ituri (FRPI) to consider integrating, and in other areas the Alliance des patriotes pour un Congo libre et souverain (APCLS) has received increased support from the Congolese army in the form of uniforms and weapons. Likewise, north of M23 territory, the Congolese armed forces have attempted to establish an operational alliance with the Front populaire pour le démocratie."<sup>209</sup>

In 2013 the *Rift Valley Institute* reported that the FRPI was resisting arming integration.<sup>210</sup>

### 1.3.9. Front Populaire pour la Justice au Congo (FPJC)

In 2010 *Journal Le Millénaire*, an "independent journal of information and analysis," based in Bunia (Ituri), reported Sharif Manda as stating that the FPJC is not ethnically based and fights against the FARDC,

"is a political-armed movement free of tribal consideration. We fight against the FARDC and not against any tribe in Ituri. Our demands are national and not tribal. Our members come from all Ituri tribes – and even from the DRC."<sup>211</sup>

In a December 2012 profile on the DRC, *Ritimo*, a French information and documentation network for solidarity and sustainable development, reported that the Front Populaire pour la Justice au Congo (FPJC) was founded by Sharif Manda in 2008 as a non ethnic based movement, distinct from FRPI (Force de Résistance Populaire de l'Ituri). According to *Ritimo*, FPJC authorities allegedly "comprise former members of the Union des Patriotes Congolais (UPC) - headed by Thomas Lubanga- and the Force de Résistance Populaire de l'Ituri as well as the Front des Nationalistes et Intégrationnistes (FNI) – headed by Peter Karim."<sup>212</sup>

In 2010 *Journal Le Millénaire* reported that the FPJC have a singular way of operating: No headquarters, no identified zone within Irumu. According to *Journal Le Millénaire* FPJC members are identical to civilians and that the community appeared to give them some support. They mainly

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<sup>208</sup> Congo Siasa, Coalitions and Defections in a Context of Uncertainty – A Report from Ituri (Part I), 24 August 2012, <http://congosiasa.blogspot.co.uk/2012/08/coalitions-and-defections-in-context-of.html>, accessed 19 April 2013

<sup>209</sup> ICC Women, Informal Summary of the Final Report of the United Nations Group of Experts of the Democratic Republic of the Congo S/2012/843, 15 November 2012, <http://www.iccwomen.org/documents/Informal-Summary-of-DRC-GoE-report-November-2012.pdf>, accessed 16 April 2013

<sup>210</sup> FNI and FRPI: Local resistance and regional alliances in north-eastern Congo, 2013, ISBN 978-1-907431-19-7, <http://www.refworld.org/docid/51d3d3be4.html>, accessed 21 July 2013

<sup>211</sup> *Journal Le Millénaire*, FPJC, une particulière réalité en Ituri, 2010, <http://www.lemillenaireinfoplus.com/pages/ituri/fpic-une-particuliere-realite-en-ituri.html>, accessed 25 April 2013

<sup>212</sup> *Ritimo*, Glossaire sur la RDC, 7 December 2012, <http://www.ritimo.org/article4563.html>, accessed 24 April 2013



target weapons, ammunitions and basic goods. *Journal Le Millénaire* report FPJC's main political demands as: Equity in justice with regard to Ituri issues, general amnesty for all Ituri militiamen and for Ituri to become a "province" as expressed in the Constitution. *Journal Le Millénaire* stated that FPJC comprise a lot of Lendu and Ngity people; but they also have Hema, Alur and Lubgara commanding officers, as well as people from other provinces and districts including North Kivu and High Uele. The *Journal Le Millénaire* stated that "[...] they oppose armed resistance, FPJC always believed in dialogue. Sharif Manda addressed various memos to the government in Kinshasa to look for a peaceful resolution to the crisis."<sup>213</sup>

In its 2011 Annual Report covering the events of 2010 *Amnesty International* stated that the FPJC were active in South Kivu,

"Other local armed groups, including the Mayi-Mayi, the Alliance Pour le Congo Libre et Souverain (APCLS) in Masisi, the Coalition of Congolese Patriotic Resistance (PARECO) in North Kivu, the Forces Républicaines Fédéralistes (FRF) in Fizi in South Kivu, the Front de Résistance Patriotique d'Ituri (FRPI) and the Front Populaire pour la Justice au Congo (FPJC), were also active. Armed groups attacked MONUSCO bases in North Kivu in August and October, and attacked and abducted humanitarian workers on a number of occasions."<sup>214</sup>

In June 2012 *Radio Okapi* reported on the trial of seven FPJC fighters taking place in a military court in Kinshasa. Former FPJC leader Sharif Manda [who was arrested in September 2010<sup>215</sup>] was a witness in the trial of Germain Katanga [former FRPI leader] and Mathieu Ngudjolo [former FNI leader] at the ICC.<sup>216</sup>

On 15 May 2013 the report of the Secretary-General to the *United Nations Security Council* regarding the promotion and protection of the rights of children and children and armed conflict stated that fifty-two children were recruited into the FCJP and that 80% of the recruitment cases in 2012 took place in North Kivu and South Kivu,

"In 2012, 578 children, including 26 girls, were recruited into armed forces and armed groups. The main perpetrators were Mai Mai groups (263), including the Mai Mai groups under the command of "Colonel Tawimbi" operating in the area of Uvira (116), the Mai Mai groups under the command of "General Lafontaine" and former Patriotes résistants congolais (PARECO) elements (29), the Mai Mai Alliance des patriotes pour un Congo libre et souverain (APCLS) of "Colonel Janvier" (21) and other Mai Mai groups. Other perpetrators included FDLR (83), M23 (65), the Front de résistance patriotique en Ituri/Front populaire pour la justice au Congo (FRPI/FPJC) (52) and LRA (31). Some 80 per cent of the recruitment cases in 2012 took place in North Kivu and South Kivu."<sup>217</sup>

### 1.3.10. Mouvement de libération indépendante des alliés (MLIA)

In May 2010 *Radio Okapi* reported that the Mouvement de libération indépendante des Alliés (MLIA) started in November 2009 around Dongo (in Equateur) under the leadership of Udjani Mangbama. The 2009 rebellion resulted in the displacement of thousands of people in Kungu and

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<sup>213</sup> Journal Le Millénaire, FPJC, une particulière réalité en Ituri, 2010, <http://www.lemillenaireinfoplus.com/pages/ituri/fpic-une-particuliere-realite-en-ituri.html>, accessed 25 April 2013

<sup>214</sup> Amnesty International Annual Report 2011, <http://www.amnesty.org/es/node/23515>, accessed 12 April 2013

<sup>215</sup> Radio Okapi, Bunia: le leader du FPJC, Sharif Manda aux arrêts, 4 September 2010, <http://radiookapi.net/actualite/2010/09/04/bunia-le-leader-du-fpic-sharif-manda-aux-arrets>, accessed 25 April 2013

<sup>216</sup> Radio Okapi, Le procès des ex-miliciens du FPJC reprend ce mardi à Kinshasa, 12 June 2012,

<http://radiookapi.net/actualite/2012/06/12/le-proces-des-miliciens-du-fpic-reprend-ce-mardi-kinshasa>, accessed 25 April 2013

<sup>217</sup> United Nations Security Council, Report of the Secretary-General to the Security Council (A/67/845-S/2013/245), 15 May 2013. <http://childrenandarmedconflict.un.org/countries/democratic-republic-of-the-congo/>, accessed 12 March 2013

Libenge territories. Approximately 115,000 people had to cross Ubangi river to seek refuge in the Republic of the Congo. *Radio Okapi* reported that Udjani was arrested in May 2010.<sup>218</sup>

On 5 February 2013 the *United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)* stated that Dongo, a town in the Kungu territory of Sud-Ubangi District, maintained a framework of ongoing pacification efforts following the insurgency of the MLIA in 2009,

"On 31 January 2013, Pierre Kamulete, district commissioner of Sud-Ubangi, Equateur province, visited Dongo, within the framework of ongoing pacification efforts in a region that suffered social unrest in 2009 following the insurgency of the Mouvement de Libération indépendant et Alliés (MLIA – Independent Liberation Movement and Allies). The district commissioner was accompanied by a delegation of the Ministry of Interior. During his visit, Mr. Kamulete held meetings with different communities, including Lobala, Boba, Bomboma, Bomboli and Monzombo, which were requesting some assistance to organize a traditional ritual, following the reconciliation forum organized in Dongo from 18 to 19 December 2012. As a goodwill gesture, the district commissioner gave each community an unspecified amount of money to help out the traditional chiefs in organizing their rituals. Following this step, the communities will gather in Gemena for a major reconciliation ceremony under the auspices of the Minister of Interior, and in the presence of several officials of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

MONUSCO is fully engaged in researching peace between communities through awareness sessions, establishing a community radio in the capital city of the district, organizing recreational and sports activities to bring these communities closer to each other, and also creating "local conciliation committees". In Dongo, the head of the Minister of Interior delegation encouraged all the communities to live together peacefully, and asked them to see through the politicians who only think about their personal interests. As he bid them farewell, he said he looked forward to seeing them again, in mid-February 2013, for the signing of a pact of non-aggression between the communities"<sup>219</sup>

In April 2013, *Radio Okapi*, a station co-funded by the MONUSCO, reported that the conflict between the ethnic minorities of Lobala (Enyele), Boba (Monzaya), Bomboma, Bomboli and Monzombo over access to fishing ponds had culminated in an armed rebellion which led to the establishment of MLIA in 2009. In February 2013 the communities signed a peace covenant. In April 2013 *MP Jean-Marie Gapemunoko* stated that the government was going to define fish farming management between the Enyele and the Monzaya in order to complete the reconciliation process.<sup>220</sup>

### 1.3.11 M23

[\[See also Section 1. Security Situation, 1.1.1 Goma\]](#)

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<sup>218</sup> Radio Okapi, Arrestation du chef des insurgés de l'Equateur, 5 May 2010, <http://radiookapi.net/actualite/2010/05/05/arrestation-du-chef-des-insurgés-de-l%E2%80%99equateur>, accessed 25 April 2013; Kinshasa et Brazzaville discutent sur l'extradition de Udjani, 12 May 2010, <http://radiookapi.net/actualite/2010/05/12/kinshasa-et-brazzaville-discutent-sur-l%E2%80%99extradition-de-udjani>, accessed 25 April 2013

<sup>219</sup> MONUSCO United Nations Organization Stabilization Mission in the DR Congo, Local authorities in Equateur province are fully engaged in inter-communal reconciliation, 5 February 2013 <http://monusco.unmissions.org/Default.aspx?ctl=Details&tabid=10662&mid=14594&ItemID=19598> accessed 16 April 2013

<sup>220</sup> Radio Okapi, Conflit Enyele-Monzaya: la réconciliation passe par la gestion des étangs piscicoles, selon un député, 18 April 2013, <http://radiookapi.net/actualite/2013/04/18/conflit-enyele-monzaya-la-reconciliation-passe-par-la-gestion-des-etangs-piscicoles-selon-depute>, accessed 25 April 2013

In August 2012 *Radio Okapi* reported that M23 fighters are former FARDC soldiers who claim to be part of the “Haut commandement militaire de l’Armée nationale congolaise” (ANC) which is the armed branch of the “Congrès national pour la défense du peuple” (CNDP). They deserted the regular army in April 2012 to establish the “Mouvement du 23 mars” (M23). *Radio Okapi* reported that they demanded that the peace agreement signed between the Congolese Government and the CNDP on 23 March 2009 be strictly applied. This agreement provided for political leaders of CNDP to enter DRC’s public institutions and CNDP soldiers to integrate the regular army.<sup>221</sup>

In October 2012 the *IFEX network* of organisations promoting freedom of expression stated that Reporters Without Borders (RWB) and its sister organisation Journaliste en Danger (JED) wrote to the political coordinator of the M23 movement, voicing concern about the dangers for journalists working in M23 controlled territory, especially Rutshuru, in the eastern province of North Kivu,

“RWB and JED came together again in an appeal to the leader of a Congolese rebel movement. The partner organizations wrote to Jean-Marie Runiga, the political coordinator of the M23 rebel movement, voicing concern about the dangers for journalists working in M23-controlled territory, especially Rutshuru, in the eastern province of Nord-Kivu, and asking him to take action to stop the threats and guarantee their safety.”<sup>222</sup>

In November 2012 French global news agency *Agence France Presse (AFP)* reported that M23 threatened the MONUSCO if the latter did not stop supporting the FARDC. After a 3 month period of truce between the FARDC and the M23, new clashes were reported in November in the area of Kibumba (close to Rwanda) which caused thousands of people to flee. As the M23 forces approached Goma, U.N. peacekeepers supported the Congolese army with combat helicopters. M23 military spokesperson Lieutenant-Colonel Vianney Kazarama accused the MONUSCO of bombarding their zones and asked that they show their neutrality instead. He stated that the M23 forces never attacked MONUSCO camps in Kitale and Kiwandja (which they controlled) but implied they could. *AFP* reported that M23 had been fighting in Kivu since April 2012 when they deserted the army. The U.N. accused Rwanda and Uganda of supporting the M23, which both countries denied.<sup>223</sup>

In November 2012 French weekly news magazine *Le Nouvel Observateur* - while reporting on clashes between the FARDC and the M23 armed forces near Goma - stated that M23 were,

“Tutsis who had previously been mobilised by Kinshasa to fight against Rwandese Hutu rebellion in the East under the banner of the Conseil national pour la défense du peuple (CNDP).”<sup>224</sup>

In November 2012 *Le Nouvel Observateur* reported that the M23 rebelled because they claimed not to have been integrated into the Congolese army as stated in the agreement signed on 23 March 2009. They have established a parallel administration in the territories that they had seized, in the hills 30km away from Goma.<sup>225</sup>

In August 2012 *Radio Okapi* reported that M23 rebels had formed a political cabinet composed of one Executive Secretary (“secrétaire exécutif”), 10 Heads of departments (“chefs de départements”

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<sup>221</sup> Radio Okapi, RDC : la rébellion du M23 se dote d’un cabinet politique, 20 August 2012,

<http://radiookapi.net/actualite/2012/08/20/rdc-la-rebellion-du-m23-se-dote-dun-cabinet-politique/#more-129649>, accessed 20 April 2013

<sup>222</sup> Journaliste en danger /Reporters Without Borders, 23 October 2012, Rebel and government leaders asked to protect reporters in Congo, 23 October 2012, available at [http://www.ifex.org/democratic\\_republic\\_of\\_congo/2012/10/23/rebel\\_government\\_protection/](http://www.ifex.org/democratic_republic_of_congo/2012/10/23/rebel_government_protection/), accessed 19 April 2013

<sup>223</sup> Agence France Presse, RDC: la rébellion du M23 "met en garde" l'ONU qui attaque ses positions, 18 November 2012, <http://www.afp.com/fr/node/697549>, accessed 12 April 2013

<sup>224</sup> Le Nouvel Observateur, RDC: 44 morts dans des combats entre le M23 et l'armée congolaise, 15 November 2012, <http://tempsreel.nouvelobs.com/monde/20121115.FAP5124/rdc-44-morts-dans-des-combats-entre-le-m23-et-l-armee-congolaise.html>, accessed 16 April 2013

<sup>225</sup> Le Nouvel Observateur, RDC: 44 morts dans des combats entre le M23 et l'armée congolaise, 15 November 2012, <http://tempsreel.nouvelobs.com/monde/20121115.FAP5124/rdc-44-morts-dans-des-combats-entre-le-m23-et-l-armee-congolaise.html>, accessed 16 April 2013

or ministries) and 10 Assistants (“adjoints”). Amongst the Heads of departments were appointed Sendugu Museveni, René Abandi Munyarugerero, Dr Alexis Kasanzu, Serge Kambasu Ngeve and Me Mahamba Kasiwa. Former Minister for Justice in North Kivu François Rucogoza became Executive Secretary. A former Mai Mai PARECO leader also became part of the Cabinet. In response, Congolese Government spokesperson accused Rwanda of backing M23. According to *Radio Okapi*, Ministries of Defense of the International Conference on the Great Lakes Region (“Conférence internationale sur la région des Grands-lacs”- CIRGL) demanded that M23 stop carrying out anti-constitutional actions such as setting up parallel political and administrative institutions. The M23 had settled their administration in the Rutshuru territory (North Kivu) on 4 August 2012. This administration is composed of local security committees made up of base leaders, local customary authorities and community leaders which are in charge of the security of the population and everyday business.<sup>226</sup>

On 1 January 2013 *BBC News Africa* stated that the UN Security Council had imposed sanctions on leaders of the M23 rebel movement within the DRC,

"The UN Security Council has imposed sanctions on leaders of the M23 rebel movement in DR Congo. Under the measures, those linked to the group will have their assets frozen and be barred from travel. Similar measures were taken against Rwandan FDLR rebels. Made up of deserters from the army, the M23 captured Goma - on DR Congo's eastern border with Rwanda - from government and UN troops last month. It later withdrew from the city, following international condemnation.

The New Year's Eve sanctions come the day before Rwanda joins the Security Council for a two-year term. The UN and DR Congo government accuse Rwanda and Uganda of backing the rebels, an allegation they strongly deny. Rwanda is widely seen as having backed armed groups in the east of DR Congo as a way to fight Hutu rebels, such as the FDLR, who fled there after the 1994 genocide.

It has been accused of using militias as proxies in an on-going battle for the region, which is rich in minerals. The Rwandan government strenuously denies the accusations. The M23 rebellion started when a militia that had been absorbed into the Congolese army mutinied and went on the rampage in the eastern part of the country. Since then some 700,000 people have been displaced by fighting between the M23 and the army."<sup>227</sup>

On 19 June 2012 the UN High Commissioner for Refugees Navi Pillay stated that Bosco Ntaganda, an army general wanted by the International Criminal Court (ICC) on charges of war crimes for recruiting and using children in combat in the northeastern district of Ituri in 2002-2003 is part of the senior leadership of M23,

"The M23 is composed of army deserters, formerly belonging to the armed groups CNDP and PARECO, who were integrated into the national army following a 2009 peace agreement. The senior leadership of M23 includes Sultani Makenga, a Colonel and former rebel leader alleged to have been involved in civilian killings and recruitment of children for use in combat, and Bosco Ntaganda, an army general wanted by the International Criminal Court (ICC) on charges of war crimes for recruiting and using children in combat in the northeastern district of Ituri in 2002-2003."<sup>228</sup>

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<sup>226</sup> Radio Okapi, RDC : la rébellion du M23 se dote d'un cabinet politique, 20 August 2012,

<http://radiookapi.net/actualite/2012/08/20/rdc-la-rebellion-du-m23-se-dote-dun-cabinet-politique/#more-129649>, accessed 20 April 2013

<sup>227</sup> BBC News Africa, DR Congo M23 rebels placed under UN sanctions, 1 January 2013 <http://www.bbc.co.uk/news/world-africa-20880242>, accessed 14 April 2013

<sup>228</sup> MONUSCO United Nations Organization Stabilization Mission in the DR Congo, Local authorities in Equateur province are fully engaged in inter-communal reconciliation, 5 February 2013

<http://monusco.unmissions.org/Default.aspx?ctl=Details&tabid=10662&mid=14594&ItemID=19598> accessed 16 April 2013

On 20 November 2012 UK daily newspaper *The Guardian* stated that M23 had captured Goma, the biggest city in eastern DRC earlier that week. In April hundreds of former CNDP fighters had defected from the army and joined Bosco Ntaganda's new movement, estimated at around 1,500 – 2,500 men,

"Just after midnight on 7 July, M23 fighters allegedly went on the rampage in the Congolese village of Chengerero. A 32-year-old woman said they broke down their door, beat her 15-year-old son to death and abducted her husband. Before leaving, the members gang-raped her, poured fuel between her legs and set the fuel on fire. This [ ] is just one atrocity perpetrated by M23 in its short seven months of existence. The rebel militia's capture of Goma on Tuesday, the biggest city in eastern Democratic Republic of the Congo, raises the prospect of more abuses under the nose of the UN's biggest peacekeeping mission. It is also a crushing humiliation for Congo's central government and begs fresh questions about Rwanda and Uganda's ultimate goal in allegedly supporting the insurgency.[ ] Last December, Kabila won re-election and from the capital, Kinshasa, began plotting to reassert his authority on the east, some 1,000 miles way. He had long been under pressure from the global community to go after the CNDP's Bosco "the Terminator" Ntaganda, wanted by the international criminal court for war crimes and crimes against humanity. But Ntaganda did not come quietly. In April, hundreds of former CNDP fighters defected from the army and joined his new M23 movement – named after the date of the peace deal they claim has been violated by the government. The group is now estimated at around 1,500 – 2,500 men.

[ ] M23 may push on to another provincial capital, Bukavu, and seek an improved version of the 2009 peace deal. But its decision to go the extra mile by occupying Goma has caused surprise. "One of the difficulties is finding out who's controlling the agenda," said Stephanie Wolters, a political analyst specialising in the Great Lakes region. "There is the M23 agenda and the Rwandan agenda - maybe they're the same. M23 says it wants recognition for the Tutsi community but it only represents a small part of that community. It doesn't have a big following. I think it's negotiating for its political and military future." The fall of Goma is a symbolic blow to the government, she added. "What this highlights more than ever is that Kinshasa has no control over what's going on in the east. Joseph Kabila's government has made deals with Rwanda that were highly compromising and these chickens are coming home to roost."<sup>229</sup>

On 28 March 2013 the online news resource *News24* stated that rebel fighters in the M23 group had tried to kill warlord Bosco Ntaganda, who fled Congo and turned himself in to a US Embassy a week before being transferred to the International Criminal Court,

"A spokesperson for a Congolese rebel group said on Thursday that rebel fighters in the M23 group were trying to kill warlord Bosco Ntaganda, who fled Congo and turned himself in to a US Embassy last week before being transferred to the International Criminal Court. Rene Abandi said Ntaganda tried to "influence the chain of command" but went too far when he challenged M23 military chief Sultani Makenga. Fierce clashes between rival factions of M23 earlier this month left Makenga with the upper hand and triggered the chain of events that forced Ntaganda to give up his freedom after nearly seven years as a fugitive warlord wanted by the International Criminal Court for war crimes. On 18 March, days after losing a fight with an M23 faction loyal to Makenga, Ntaganda showed up the US Embassy in Rwanda and asked to be transferred to the ICC. This week he made his first court appearance at The Hague.

"What shocked General Makenga was this fight which was the stupidity of Ntaganda," Abandi said from the rebel stronghold of Bunagana in eastern Congo. "After that our goal

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<sup>229</sup> The Guardian, M23 may be DRC's new militia, but it offers same old horrors, 20 November 2012, <http://www.guardian.co.uk/world/2012/nov/20/m23-drc-militia-horrors>, accessed 10 April 2013

was just to neutralize him because he was causing problems. He tried to influence the movement from outside." It remains unclear how Ntaganda ended up in Kigali, the Rwandan capital, or what motivated him to surrender. Abandi said they believe he sneaked into Rwanda through a jungle crossing that is not heavily policed by Rwandan border officials. "He passed through an area where there is no official border, near the Virunga National Park," Abandi said. Ntaganda, the boss of a rebel group that was M23's precursor, had lived a relatively free life in the eastern Congolese town of Goma, allegedly occupying a villa there and even playing tennis. An ethnic Tutsi born in Rwanda, he was first indicted in 2006 by the ICC for allegedly recruiting child soldiers during a 2002-03 conflict in Congo's eastern Ituri province. A second arrest warrant issued last July accused him of crimes including murder, rape, sexual slavery and pillaging."<sup>230</sup>

In February 2013 French daily newspaper *20 minutes* reported internal clashes within the M23 armed forces in Rutshuru (in North Kivu) resulting in the death of 8 people killed by a rocket fired into a bar. Rutshuru has been controlled by M23 since July 2012. However, the M23 denied having internal clashes and denounced clashes with the Forces démocratiques pour la libération du Rwanda (FDLR).<sup>231</sup>

On 28 March 2013 online news resource *News24* also stated that the M23 split into two factions in February, led by Makenga and Jean-Marie Runiga. *News24* reported that Ntaganda's exit from the Congo made M23 stronger as it reduced hopes for a peace process that had been under way in the Ugandan capital, Kampala, since December,

"For M23, according to Abandi, Ntaganda's exit from the Congo left the group stronger even as it dimmed hopes for a peace process that had been under way in the Ugandan capital, Kampala, since December. Those talks are now on hold, with both the Congolese and M23 delegations saying they are holding consultations. M23 had split at the end of February following a dispute among the leaders of the movement when Makenga dismissed the political head of the movement, Jean-Marie Runiga. Both men then formed their own factions, which have been fighting since. The fight between M23 factions divided the group's peace delegation and led to the ouster of its leader, Francois Rucogoza, who is now afraid to return home, according to Chrispus Kiyonga, the talks' Ugandan mediator. M23 is made up of hundreds of soldiers who deserted the Congolese army last April.

The rebels accuse Congo's government of failing to honour the terms of a 2009 peace deal that incorporated them into the national army. In turn, the government accuses M23 of violating that agreement by taking up arms instead of talking. Even as human-rights groups charge M23 with numerous human-rights violations in eastern Congo, regional leaders have urged the Congolese government to listen to the "legitimate grievances" of M23. According to Abandi, Ntaganda's side spread rumors that Makenga was secretly doing business with the government in Kinshasa even as a delegation from M23 negotiated peace with the Congolese government in neighboring Uganda. When those claims failed to sow discord among the fighters, he said, Ntaganda then tried to challenge Makenga militarily. "General Makenga won the fight," he said. "The morale of the troops is now high. They are very proud of their general." There is no international arrest warrant out for Makenga, but he is under U.N. sanctions and rights groups say he has committed crimes similar to those attributed to Ntaganda."<sup>232</sup>

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<sup>230</sup> News 24, DRC warlord wanted control of M23, 28 March 2013, <http://www.news24.com/Africa/News/DRC-warlord-wanted-control-of-M23-20130328>, accessed 19 April 2013

<sup>231</sup> 20 minutes, RDC: Huit morts dans des combats entre factions rebelles, 26 February 2013,

<http://www.20minutes.fr/ledirect/1108269/rdc-huit-morts-combats-entre-factions-rebelles>, accessed 16 April 2013

<sup>232</sup> News 24, DRC warlord wanted control of M23, 28 March 2013, <http://www.news24.com/Africa/News/DRC-warlord-wanted-control-of-M23-20130328>, accessed 19 April 2013

In February 2013 Belgian daily newspaper *Le Soir* reported allegations that M23 armed fighters ambushed trucks on the road between Goma and Kibirizi (in Rutshuru territory) in an incident in which 3 people died, 3 people were kidnapped and goods were stolen.<sup>233</sup>

### 1.3.12 Raia Mutomboki

In 2013 the *Rift Valley Institute* reported that the Raisi Mutomboki (Outraged Citizens) is largely a Rwandan Hutu group, formed in response to insecurity and abuses by the FDLR and that it consists of a "series of groups deployed across an area the size of Belgium." The *Rift Valley Institute* further reported that,

"Today, the name applies to a series of different armed groups, bound by the same name and broad ideology of self-defence. It is more a franchise than a unitary force, with each of its branches rooted in a particular set of dynamics driven by local politics, its leadership, and the interests of its allies."<sup>234</sup>

In August 2012, French daily newspaper *Le Monde* reported that the Raia Mutomboki were created in the Shabunda region. Their aim was to fight the Forces démocratiques de libération du Rwanda (FDLR). According to *Le Monde* the group then grew up quickly and managed to seize control of Walikale in July 2012. *Le Monde* stated that "They now attack Congolese Hutu peasant villages, on a mere ethnic basis."<sup>235</sup>

On 12 June 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that more than a hundred people had been killed and thousands displaced in ethnically motivated massacres in northeastern DRC, carried out by a coalition of the Raia Mutomboki, who until this year had been operational only in South Kivu, and the Mai Mai Kifufua,

"More than 100 people have been killed and thousands displaced in ethnically motivated massacres in northeastern Democratic Republic of Congo (DRC) since mid-May, according to government officials. Bigembe Turikonkinko, the sector chief of Katoyi in North Kivu's Masisi territory, has recorded the details of 120 people, primarily women and children, who were killed in 12 village massacres carried out between 17 and 22 May in Katoyi and its environs. The police commissioner in Katoyi, Capt Lofimbo Raheli, says the attacks were carried out by a coalition of two Mai-Mai groups: the Raia Mutomboki, until this year only operational in South Kivu, and the Mai-Mai Kifufua. According to Raheli, this Mai-Mai alliance is believed to be operating as a collective of smaller groups targeting speakers of Kinyarwanda, the language of Rwanda. [ ] in alliance with Mai-Mai Kifufua, Raia Mutomboki moved into Masisi and Walikale - also in North Kivu Province - where they carried out the first reported attacks in May this year. Since then some 1,500 families have fled to Katoyi

Experts are concerned that these latest attacks suggest the Raia Mutomboki has moved from targeting the families of FDLR fighters to directing attacks against any Rwandophone communities in eastern DRC. Patrick Borama, 26, describes without emotion the attacks that killed his mother, pregnant sister and two nephews, along with 20 other fellow residents in Marembo village on 14 and 15 May. "Before the attacks we heard rumours of

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<sup>233</sup> Le Soir, RDC : trois morts dans une embuscade attribuée au M23, 2 February 2013, <http://www.lesoir.be/177052/article/actualite/fil-info/2013-02-02/rdc-trois-morts-dans-une-embuscade-attribu%C3%A9e-au-m23>, accessed 16 April 2013

<sup>234</sup> Raia Mutomboki: The flawed peace process in the DRC and the birth of an armed franchise, January 2013, <http://www.refworld.org/docid/51c8273f4.html>, 21 July 2013

<sup>235</sup> Le Monde, Reportage : L'est de la RDC en proie à une guerre ignorée, 15 August 2012, [http://www.lemonde.fr/international/article/2012/08/14/l-est-de-la-rdc-en-proie-a-une-guerre-ignoree\\_1745960\\_3210.html](http://www.lemonde.fr/international/article/2012/08/14/l-est-de-la-rdc-en-proie-a-une-guerre-ignoree_1745960_3210.html), accessed 12 April 2013

the Raia Mutomboki. On the [first] day of the attack, we saw it was people speaking Swahili wearing clothes made from raffia, nearly naked," he said. Borama could not say how many men there were, but other witnesses report groups of 10-40. Borama said they attacked with machetes, spears and axes, as well as some Kalashnikovs; he said they shouted out their intention to kill anyone who speaks Kinyarwanda. [ ] "The situation is the worst it's been for several years. Progress made is being lost as previously stable areas are becoming increasingly insecure," said Samuel Dixon, policy adviser for the NGO Oxfam."<sup>236</sup>

On 12 June 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that on 2 June Raia Mutomboki had attacked the village of Kahunda, leaving nine people dead,

"On the afternoon of 2 June, police commissioner Raheli arrived at the peacekeeper's base with news of another massacre. He said Raia Mutomboki had attacked at the village of Kahunda - a few kilometres from Katoyi - at 1pm that afternoon. The next day, sector chief Turikonkinko confirmed that Raia Mutomboki were now closer to the village than ever before. "Our security has been breached," he said. According to Raheli, nine people were left dead in Kahunda. Turikonkinko says he has received a communiqué from Raia Mutomboki that details their intention to kill all remaining Kinyarwanda speakers in the area.

On the morning of 3 June, many of the temporary bamboo houses inhabited by displaced people stood empty. Camp officials said it was because people had heard of the 2 June attacks and fled once more, fearing the Raia Mutomboki would move on Katoyi; by 4 June those who fled had returned, but the atmosphere remains tense. [ ] MONUSCO has operational procedures in place should the village of Katoyi come under attack. Four heavy machine guns will take hilltop positions surrounding the wire-fenced base; the troops will be outside, with civilians held in the enclosed area little bigger than a football pitch."<sup>237</sup>

On 21 July 2012 a post on *Congo Siasa* stated that hundred of civilians had been killed in a series of massacres along the border between North and South Kivu in revenge attacks between FDLR and Raia Mutomboki militia, who took control of Walikale town, 150 km to the west of Goma, that week before being forced out several days later by the Congolese army,

"While international media, including myself, have been poring over reports about the M23 rebellion, a far deadlier insurgency has been stewing in the lowland jungles a hundred kilometers to the west. There, along the border between North and South Kivu, a series of massacres has killed hundred of civilians since the end of last year in revenge attacks between FDLR and Raia Mutomboki militia.[ ] on Tuesday this week, the Raia took control of Walikale town, 150 km to the west of Goma, only to be kicked out several days later by the Congolese army.[ ] In the first several days of 2012, over 50 people were reportedly killed by the FDLR around Luyuyu

[ ] In early 2012, the Raia jumped the dense Kahuzi-Biega national park and began appearing in the Bunyakiri area. Again, it is not clear how this movement occurred or who its instigators were, although there were reports of Rega militiamen appearing in the largely Tembo-populated areas of Bunyakiri. Several new massacres took place; between March 1-4, Raia killed 32 civilians (mostly FDLR dependents) in Bunyakiri. Between May 7-15, the FDLR retaliated, killing 51 in Kamananga and Lumenje. In May 2012, the Raia apparently entered a new phase, spreading into North Kivu. This movement may have been linked with the redeployment of Congolese army troops toward the Rutshuru frontline

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<sup>236</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN) , DRC: Scores killed as Mai-Mai target Kinyarwanda speakers, 12 June 2012, <http://www.irinnews.org/report/95626/DRC-Scores-killed-as-Mai-Mai-target-Kinyarwanda-speakers>, accessed 10 April 2013

<sup>237</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN) , DRC: Scores killed as Mai-Mai target Kinyarwanda speakers, 12 June 2012, <http://www.irinnews.org/report/95626/DRC-Scores-killed-as-Mai-Mai-target-Kinyarwanda-speakers>, accessed 10 April 2013



with M23, leaving another vacuum for the FDLR and Raia to fill. Groups linked to the Raia Mutomboki appeared in southern Masisi (largely Tembo) and southern Walikale (largely Kano/Rega). According to local NGOs and humanitarian groups, over a hundred people could have been killed in North Kivu since then in similar massacres. This time, in addition to FDLR dependents, the Raia have also been targeting Congolese Hutu populations, making local leaders worry about a return to the 1993 ethnic violence that consumed Masisi and Walikale."<sup>238</sup>

On 21 July 2012 a post on *Congo Siasa* also stated that the Raia Mutomboki militia appears to be made up of former Mai Mai who have renamed themselves, under the command of Col. Delphin Mbaenda – a former Mai Mai Kifuafua member. The *Congo Siasa* post reports that Col. Delphin Mbaenda may have linked up with M23 and be receiving arms from them or from Rwanda, according to leaders of the Hutu community, although these suspicions have not been confirmed. The *Congo Siasa* post reports that many members of the local political elite are sympathetic toward their cause,

"The southern Masisi militia is also different than the other Raia groups. It appears to be made up of former Mai-Mai under the command of Col. Delphin Mbaenda – former Mai-Mai Kifuafua – who just renamed themselves. Meanwhile, very little is known about the group that took Walikale, other than that they are led by people from the Rega/Kano community, are armed with crude weapons, and say that they will go all the way to Bunagana to liberate the Congo from the M23.[ ] That last bit contradicts some of the allegations making the rounds in Goma recently. Leaders of the Hutu community, in particular, have been saying that the Raia have linked up with M23 and may even be receiving arms and ammunition from them or from Rwanda. The connection had allegedly been made by members of another militia, the Front de défense du Congo (FDC), which has close connections with the M23 and Gen. Bosco Ntaganda, but is also has ties to the Nyanga and Tembo communities of southern Masisi. These suspicions have not been confirmed, but it indicates what a nest of swirling rumors the region has become of late.

So who are the Raia Mutomboki? There are more questions than answers at the moment. In particular, whether the Raia's sudden rise in power is due to outside support, and whether they are, as some say, beginning to create more centralized, hierarchical structures. While the M23 link has been suggested by some, and fiercely denied by others, many members of local political elites are sympathetic toward their cause. At a recent workshop we organized in Bukavu, several local politicians were loudly enthusiastic about the Raia, saying that they had achieved what the Congolese army had not (unfortunately with a lot of collateral damage)."<sup>239</sup>

In August 2012, French daily newspaper *Le Monde* reported that the Raia Mutomboki (literally "The angry citizens") were perpetrating attacks against villagers in the mountainous region of the South of Masisi. According to *Le Monde*, The Raia Mutomboki were mainly active between the Walikale mine region and the Masisi. They are allied to the M23. According to *Le Monde*,

"A witness who recently attended a meeting with some of their chiefs reported how surprised he was to find 3,000 combatants wearing long soccer socks tucked on top of their military boots, a different color for each unit".<sup>240</sup>

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<sup>238</sup> Congo Siasa, Who are the Raia Mutomboki?, 21 July 2012 <http://congosiasa.blogspot.co.uk/2012/07/who-are-raia-mutomboki.html>, accessed 21 April 2013

<sup>239</sup> Congo Siasa, Who are the Raia Mutomboki?, 21 July 2012 <http://congosiasa.blogspot.co.uk/2012/07/who-are-raia-mutomboki.html>, accessed 21 April 2013

<sup>240</sup> Le Monde, Reportage : L'est de la RDC en proie à une guerre ignorée, 15 August 2012, [http://www.lemonde.fr/international/article/2012/08/14/l-est-de-la-rdc-en-proie-a-une-guerre-ignoree\\_1745960\\_3210.html](http://www.lemonde.fr/international/article/2012/08/14/l-est-de-la-rdc-en-proie-a-une-guerre-ignoree_1745960_3210.html), accessed 12 April 2013

On 14 November 2012 the *United Nations Joint Human Rights Office*, comprised of the Human Rights Division of the UN Stabilization Mission in the DRC and the Office of the High Commissioner for Human Rights in the DRC, stated that the Raia Mutomboki armed group, with allied Mai Mai groups, was responsible for most of the deaths of at least 264 civilians, including 83 children, arbitrarily executed by armed groups that year. Most of the civilians killed by the Raia Mutomboki group were ethnic Hutu,

"A UN investigation into the human rights situation in southern Masisi in the North Kivu province of the Democratic Republic of the Congo has revealed that at least 264 civilians, including 83 children, were arbitrarily executed by armed groups in more than 75 attacks on villages between April and September this year. [ ] Investigators found that the victims were often those least able to flee the attacks, largely children and the elderly. Due to security constraints, the investigators were not in a position to confirm many more human rights violations that were reported to them, meaning the actual number of victims could be considerably higher. [ ] Investigators found that the Raia Mutomboki armed group, with allied Mayi Mayi groups, was responsible for most of the killings, which were often perpetrated with extreme violence. Many victims were hacked to death with machetes while others were burnt alive in their homes. [ ] The civilians killed by the Raia Mutomboki group were mostly ethnic Hutu [ ] Both Raia Mutomboki and Nyatura have launched targeted and systematic attacks against civilians, often based on the real or presumed ethnicity of the victims, for supposed political or economic gain."<sup>241</sup>

On 14 November 2012 the *United Nations Joint Human Rights Office*, comprised of the Human Rights Division of the UN Stabilization Mission in the DRC and the Office of the High Commissioner for Human Rights in the DRC, stated that the Raia Mutomboki are amongst the perpetrators of the most serious human rights violations in provinces of North Kivu and South Kivu, of which the UN Stabilization Mission in Congo observed a significant increase in 2012,

"The UN Stabilization Mission in Congo has observed a significant increase in human rights violations across the provinces of North Kivu and South Kivu in 2012 due in large part to the activities of armed groups, including the FDLR who remain amongst the perpetrators of the most serious human rights violations in the region, in addition to the M23, Nyatura and Raia Mutomboki," said Special Representative of the Secretary-General (SRSG), Roger Meece. "The risk of intensification of this ethnically charged conflict is real, and gives rise to serious concerns for peace and for the security of civilians in the region."<sup>242</sup>

In February 2013 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that the Office for the Coordination of Humanitarian Affairs (OCHA) reported that between 24 January and 1 February more than 26,000 people were forced to flee to the town of Punia in eastern DRC as Raia Mutomboki insurgents approached,

"OCHA reports that between 24 January and 1 February more than 26,000 people were forced to flee to the town as insurgents known as Raia Mutomboki, ("angry citizens") approached. The army then launched an offensive against the Raia Mutomboki, driving them back 70km from Punia, towards Kasese, a mining town. According to the OCHA report, the flare-up of violence in the area is due to several factors including discontent over harassment by security services, "alleged extortion, forced work and other violence". Violence is also attributed to the refusal by mining operators to comply with official requirements that minerals to transit through Kindu, the provincial capital, where taxes are

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<sup>241</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR), Mass arbitrary execution of civilians, including dozens of children, in Southern Masisi, Eastern DRC – UN report, 14 November 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12788&LangID=E>, accessed 21 April 2013

<sup>242</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR), Mass arbitrary execution of civilians, including dozens of children, in Southern Masisi, Eastern DRC – UN report, 14 November 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12788&LangID=E>, accessed 21 April 2013

collected. The report says armed groups were used, likely by those with mineral interest, to take control of the airport at Kasese and fly out stocks of minerals.

The authorities in South Kivu and Katanga provinces are also encountering armed group resistance to their attempts to impose stricter controls on the minerals trade. IRIN attempted to contact the army authorities for comment about the allegations of harassment. The chief of staff of the seventh military region, Col Kodja, based in Kindu, said that only the commanding officer in the region could comment. The officer in charge of military justice in Kindu, Col Kaninga, said he could neither confirm nor deny the allegations. A police officer in Kindu, who preferred to remain anonymous, said an official delegation had been sent to Kindu to investigate."<sup>243</sup>

On 15 April 2013 a post on *Congo Siasa* stated that the the 2009 integration of the CNDP, was the main precursor to the "explosion" of the Raia Mutomboki,

" [ ] the group never would have reached out of its jungle backwater if it hadn't been for another, more notorious peace process: the 2009 integration of the CNDP, [ ] This was the main precursor to the explosion of the RM. Ironically, it was an initiative that was intended as a corrective to the CNDP integration, which had given the former rebels disproportionate control of operations in the Kivus, that rekindled the RM. The regimentation exercise, which was supposed to streamline army units and counter CNDP networks, drew soldiers out of large areas of the Kivus to army camps, leaving the population at the mercy of FDLR, especially in remote Shabunda. It was particularly in mining areas in Shabunda where violence erupted, as the FDLR tried to violently impose their authority.

In response, the RM formed, first in Shabunda, and then spreading like wildfire into Kalehe and Masisi as their fame and success became known.[ ] The situation has already changed, however, as the former Kifuafua now deny ever having been RM, the Bunyakiri group has increasingly split away from the Shabunda faction, and the northeastern Shabunda group is a big mess."<sup>244</sup>

On 15 April 2013 a post on *Congo Siasa* stated that the Raia Mutomboki are possibly the largest armed group in eastern Congo, in terms of territory, and are comprised of four main factions,

"The Raia Mutomboki are perhaps the largest armed group in the eastern Congo, in terms of territory they control. Over the past two years they have managed to flush the Rwandan FDLR rebels out of vast areas, even forcing them to abandon their headquarters of many years in southern Masisi. And yet, the Raia Mutomboki are also one of the most ramshackle, fragmented, and ill-disciplined armed groups.

So what is so special about the Raia Mutomboki ("Outraged Citizens")? The group is a franchise built around an idea—defending the local population against predation, especially by the FDLR—not a single organization. [ ] While there are four main RM factions—and now even more, as the Sisawa-Ngandu-Meshe group has succumbed to internecine fighting in recent days—all of them use a variety of dawa (a magical potion), were born out of popular anger against the FDLR, and are known for their ruthless attacks against FDLR and their dependents (often more the latter than the former)."<sup>245</sup>

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<sup>243</sup> Integrated Regional Information Networks (IRIN), Thousands flee army harassment in eastern DRC, February 2013 <http://www.irinnews.org/report/97489/thousands-flee-army-harassment-in-eastern-drc> accessed 17 June 2013, (quoting a February 2013 report from the Office for the Coordination of Humanitarian Affairs (OCHA) unable to source the original.)

<sup>244</sup> Congo Siasa, Who are the Raia Mutomboki?, 15 April 2013, <http://congosiassa.blogspot.co.uk/2013/04/who-are-raia-mutomboki.html>, accessed 15 June 2013

<sup>245</sup> Congo Siasa, Who are the Raia Mutomboki?, 15 April 2013, <http://congosiassa.blogspot.co.uk/2013/04/who-are-raia-mutomboki.html>, accessed 15 June 2013

## 1.4 Role of natural resources and mining as sources of conflict

In 2012 French global news agency *Agence France Presse (AFP)* stated that Kivu is coveted for its huge natural and mine resources,

“This area is at the heart of most conflicts in the country and of the tensions affecting the great lakes region. [...] The region which is composed of the North and the South provinces of Kivu has plenty of natural resources, mainly mine resources such as gold, coltan or cassiterite (tin mineral) which are particularly used in the telecommunications industry, as well as agricultural resources.”<sup>246</sup>

In May 2012 the *United Nations Environment Programme* stated that army units are profiting from mining revenues in North and South Kivu,

" [ ] one of the major unintended consequences of restoring control to the national army was that specific army units began militarizing the mining zones in order to begin directly profiting from mining revenues in defiance of national law.

As an alternative strategy, the peacekeeping missions focused on improving the traceability of mineral products and supporting “centres de négoce” - the government trading centres for the Ministry of Mines throughout North and South Kivu. The centres are the first point of sale for minerals from mines that were not controlled by armed groups and which meet minimum labour and human rights standards. The centres also serve as commercial and taxation points for any minerals sold to trading houses for export. The certification process for ‘clean’ mining sites is the responsibility of the Ministry of Mines with assistance from the UN and international partners. The centres are staffed by the DRC Mine Administration, mine police, civil servants and the State service charged with regulating informal mining activities. Given the linkages between natural resources and conflict in the DRC, the UN peacekeeping mission in the DRC (MONUSCO) has not only adopted an environmental policy but also organized and conducted a series of training events on environmental and natural resource management across all mission components during 2009-2011. Detailed training is planned for 2012, together with further implementation of the policy.”<sup>247</sup>

In November 2012 human rights institution the *Open Society Initiative for Southern Africa (OSISA)* stated that the current conflict is not a fight for control over natural resources and that the international community and the government of President Kabila have consistently neglected serious security sector reform in eastern Congo, partly due to the prevailing 'conflict minerals' narrative,

"The capture of Goma by M23 rebel forces is the latest demonstration of the ineffectiveness of the government of the Democratic Republic of Congo (DRC) and its army (the FARDC). Whatever the political machinations behind the military's most recent capitulation may be, the overarching themes are the longstanding institutional and governance weaknesses of Congo's central authorities. [ ] And yet almost nothing has been done to actively tackle the real governance issues. In particular, the international community and the government of President Kabila have consistently neglected serious security sector reform in eastern Congo, partly due to the prevailing 'conflict minerals' narrative. But the reality on the ground could not be more different from the concept that every conflict in eastern Congo is - at its heart - a fight for control over the country's vast natural resources. This certainly does not appear to be the case with the current conflict. Not only have UN reports pointed fingers

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<sup>246</sup> Agence France Presse, R. D. Congo : la carte de la violence avec maplecroft, 2012,

<http://blogs.afp.com/geopolitique/?post/2012/11/20/R.D.-Congo-%3A-la-carte-de-la-violence>, accessed 12 April 2013

<sup>247</sup> United Nations Environment Programme, Executive Summary Greening the Blue Helmets Environment, Natural Resources and UN Peacekeeping Operations, May 2012, [http://www.un.org/en/events/environmentconflictday/pdf/UNEP\\_greening\\_blue\\_helmets\\_ES.pdf](http://www.un.org/en/events/environmentconflictday/pdf/UNEP_greening_blue_helmets_ES.pdf), 20 April 2013

squarely at Rwanda and Uganda for providing support to the M23 but the rebels have never gained a foothold in any areas where formal or artisanal gold mining takes place or where other major mineral extraction occurs.

Theoretically, by occupying the Bunagana border crossing, the rebels seized control of the key point on the most lucrative export route for Congo's cassiterite, coltan and wolframite. In addition, occupying the Lueshe mine in Rutshuru territory should have granted them access to its strategically important Pyrochlor deposits. However, since the M23 advanced into Rutshuru, mineral exporters have chosen to avoid Bunagana and use alternative routes to ship their valuable ore out of the country, while the Lueshe mine has been inoperative for more than a decade and provides no source of income for the rebels. And the vast majority of eastern Congo is not under the control of the M23 - or indeed of other illegal armed groups.<sup>"248</sup>

In November 2012 human rights institution the *Open Society Initiative for Southern Africa (OSISA)* also stated that gold is not responsible for the success of M23 and that the responsibility lies with Congo's leaders, who show no interest in building effective institutions or following democratic principles, and Congo's eastern neighbours,

"The reality is that gold is not responsible for the success of M23 - that responsibility lies with Congo's leaders, who show no interest in building effective institutions or following democratic principles, and Congo's eastern neighbours. Membership of regional and sub-regional organisations comes with a duty to uphold regional peace and security. The 11 members of the International Conference of the Great Lakes Region (ICGLR) have stepped up to their responsibility by condemning the M23 rebellion and by compelling Rwanda's President Paul Kagame to publicly support this position. But the ICGLR must go further. The member states are obliged to assist each other and to prevent non-state actors from instigating revolts - obligations that include the careful screening of any financial and mineral transactions that could support illegal armed activities, and the prompt reporting to the ICGLR Secretariat of any pertinent findings.

In addition, under the statutes of the African Union, sanctions must be imposed against any party that seeks to overthrow the government of a member state through unconstitutional means. AU sanctions must also be applied to any state that supports such unconstitutional changes of government. While some countries are directly implicated in the M23 rebellion, nations that provide financial and military support to these countries must accept responsibility for indirectly supporting this latest attempt to overthrow the DRC's government by unconstitutional means - and must take action urgently. It is true that Britain and America have withdrawn from their support-Rwanda-at-all-costs position but this must be more than just a rhetorical change - it must also lead to a change of policy and practice. In particular, it is time for them to impose sanctions on Congo's meddling eastern neighbours and vigorously monitor those sanctions to prevent them from further destabilising the DRC. The current conflict is not about minerals. It is about Congo's dreadful governance - and the bloody role of neighbouring governments."<sup>249</sup>

On 15 November 2012 a letter from the Chair of the *United Nations Security Council Committee* established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council stated that the requirement for mineral exporters to exercise due diligence in accordance with United Nations and Organization for Economic Cooperation and Development guidelines has nearly halted all tin, tantalum and

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<sup>248</sup> Open Society Initiative for Southern Africa , Congo-Kinshasa: Conflict Minerals Not Fueling M23 Rebellion by Enrico Carisch and Dr Claude Kabemba, 27 November 2012 <http://allafrica.com/stories/201211280418.html>, accessed 21 April 2013

<sup>249</sup> Open Society Initiative for Southern Africa , Congo-Kinshasa: Conflict Minerals Not Fueling M23 Rebellion by Enrico Carisch and Dr Claude Kabemba, 27 November 2012 <http://allafrica.com/stories/201211280418.html>, accessed 21 April 2013

tungsten exports from eastern DRC, except for north Katanga and several traders have contributed to financing M23 rebels using profits from the smuggling of Congolese minerals into Rwanda,

"[ ] The requirement of the Government of the Democratic Republic of the Congo for mineral exporters to exercise due diligence in accordance with United Nations and Organization for Economic Cooperation and Development guidelines has nearly halted all tin, tantalum and tungsten exports from the eastern Democratic Republic of the Congo, apart from north Katanga where mineral tagging was introduced in 2011. [ ] Several traders have contributed to financing M23 rebels using profits resulting from the smuggling of Congolese minerals into Rwanda.[ ] Overall price and production decreases have had negative socioeconomic consequences in some mining zones. New commercial opportunities have, however, been created as mining communities have adapted to other economic sectors. Security has improved in most of the major tin and tantalum mining areas, which has led to less conflict financing and increased oversight and monitoring by civil authorities and non-governmental organizations.

Armed groups, criminal networks within the Congolese armed forces and miners easily shift to gold mines where due diligence requirements have not affected trade. Nearly all gold from the eastern Democratic Republic of the Congo is smuggled out of the country and channelled through a few major traders in Kampala and Bujumbura who ship out several tons per year, worth hundreds of millions of United States dollars. In the United Arab Emirates, most Congolese gold is smelted and sold to jewellers. The assets freeze imposed by the Security Council has not limited the operations of the previous owner of the sanctioned entity Machanga Ltd., who exports through other front companies and transfers large sums of money to suppliers in the Democratic Republic of the Congo.<sup>250</sup>

In 12 December 2012 the UK *Foreign & Commonwealth Office* stated that revenue generated by the illegal exploitation of natural resources in eastern DRC remains a major financial source for armed groups and is a significant contributing factor to conflict. The UK *Foreign & Commonwealth Office* reported that various non-state armed groups, including FDLR and "rogue brigades" within the FARDC are reportedly involved in the production and trade of conflict minerals,

"Revenue generated by the illegal exploitation of natural resources in the eastern Democratic Republic of Congo (DRC) remains a major financial source for armed groups and is a significant contributing factor to conflict. The government, alongside international partners, are working to ensure that the DRC's mineral wealth is brought under legitimate control, as a source of revenue for the state and the local population, and to restrict financial support to armed groups. DRC's mineral wealth is enormous. [ ] Conflict minerals are mined in conditions of armed conflict where human rights abuses take place. [ ] In DRC various non-state armed groups, such as the Democratic Forces for the Liberation of Rwanda (FDLR), but also rogue brigades within the Armed Forces of the Democratic Republic of Congo (FARDC) – the Congolese national army – are reportedly involved in the production and trade of conflict minerals. While several industrial gold mining companies are exploring for gold in northern and eastern DRC, and several mining companies are producing gold in the DRC's adjoining countries, artisanal (small-scale, independent) mining is currently the only active mode of production in the conflict-affected parts of eastern DRC. An artisanal miner is a subsistence miner, not officially employed by a mining company, but working independently, mining or panning for gold using their own resources. 80-90% of mineral production in the DRC is being undertaken by between 1 and 2 million artisanal miners in the DRC who, in turn, support a larger community of 4 -12 million people.

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<sup>250</sup>United Nations Security Council, Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic, 15 November 2012, [http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2012\\_843.pdf](http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_843.pdf), accessed 21 April 2013

[ ] The DRC remains a difficult business environment and in the conflict-affected parts in the east of the country, some mines are exclusively accessed by artisanal miners, state services, state security forces and/or armed groups. Production from these sites passes through various intermediaries prior to export and is open to exploitation by armed groups. Recent legislative and regulatory initiatives seek to keep contaminated minerals out of the industry supply chain by requiring companies to prove that minerals are either not from conflict-affected areas (proof of origin) or that their production and trade have not contributed to conflict financing and human rights abuses (due diligence and certification). These initiatives follow moves in other industries towards improved due diligence and 'know-your-customer' requirements which companies based in Western countries, or selling to Western consumers, increasingly have to comply with."<sup>251</sup>

In January 2013 a paper presented to the *6th International Business and Social Sciences Research Conference* stated that the killings and human right abuses currently taking place in eastern Congo are mainly related to the extraction and trade of natural minerals such as tin, tantalum, and tungsten and their mineral ores (the 3Ts), diamonds, and gold,

"The deaths and human right abuses currently taking place in eastern Congo are mainly related to the extraction and trade of natural minerals such as tin, tantalum, and tungsten and their mineral ores (the 3Ts), diamonds, and gold [ ], the supply chain in the mining and trade of these minerals and their mineral ores is the heart of the matter with regard to the human right abuses and killing in eastern Congo. Both upstream (minerals supply chain from the mine to smelters/refiners) and downstream (minerals supply chain from smelters/refiners to retailers) companies have a role to play in mitigating the suffering of the people of Congo.

[ ] The international supply chain in minerals from their excavation point to their use in the final product is complex and difficult to control. [ ] The post-war era violence in eastern Congo remains the result of mineral extraction and trade but, has shifted from mainly the mining of diamonds to the mining of minerals such the 3Ts and their mineral ores (cassiterite, tantalite and wolframite) and gold. These latter minerals are currently in higher demand in the international market especially after the global recession of 2008 that caused a fall in the global demand for diamonds.[ ] The supply chain in Congo's diamond trade in the post-war era still continues to support violence and human rights abuses in eastern Congo. [ ] There have been serious human rights abuses associated with the mining and trade in the aforementioned minerals and some against women and children. Thus, any company engaged in the mining and trade of these minerals incurs the "risks" of supporting conflict and human right abuses."<sup>252</sup>

In November 2012 the NGO *Southern Africa Resource Watch (SARW)* stated that the hundreds of thousands of artisanal gold miners in four provinces (North Kivu, South Kivu, Oriental and Maniema) are no longer afraid of warlords or militias but they fear the hordes of corrupt civil servants, bureaucrats and members of the government's security forces, who are more interested in exploiting the miners rather than supporting and protecting them."<sup>253</sup>

In November 2012 the NGO *Southern Africa Resource Watch (SARW)* stated that efforts to regulate the informal gold sector have been ineffective,

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<sup>251</sup> Foreign & Commonwealth Office, Conflict minerals, 12 December 2012, <https://www.gov.uk/conflict-minerals>, accessed 21 December 2012

<sup>252</sup> Proceedings of 6th International Business and Social Sciences Research Conference, Dubai, UAE, ISBN: 978-1-922069-18-4  
1 SUPPLY CHAIN MANAGEMENT OF CONFLICT MINERALS: CASE OF THE DEMOCRATIC REPUBLIC OF CONGO, 3 – 4 January, 2013, <http://www.wbiconpro.com/406-Rita.pdf>, accessed 20 April 2013

<sup>253</sup> The Southern Africa Resource Watch (SARW), Conflict Gold to Criminal Gold Executive Summary, <http://www.gold.sarwatch.org/sites/gold.sarwatch.org/files/reports/docs/Executive%20Summary.pdf>, accessed 12 April 2013

"While gold is undeniably the economic lifeblood of the eastern DRC, the government of the Congo lacks any credible and reliable institutional presence, any statistical data, or any genuine plan to collect data. Inevitably, all policy implementation efforts for the informal gold sector are ineffective."<sup>254</sup>

In 2012 *Freedom House* stated that a presidential ban on artisanal mining was lifted in March 2011 when it became clear that it was not helping to curb violence in the east,

"The fight against corruption continues to be a challenge for the DRC. A presidential ban on artisanal mining that had been declared in September 2010 to stem the flow of mining revenues to armed groups was lifted in March 2011 when it became clear that it was not helping to curb violence in the east and was in fact making life harder for miners. In an effort to increase transparency, the government announced in May that it would make all contracts involving mineral, oil, timber, and gas concessions public within 60 days of signing them. In September, the International Monetary Fund (IMF) demanded that two state-owned mining companies explain unannounced asset sales at prices below their market value, as required under the country's IMF loan terms."<sup>255</sup>

In January 2013 the *Social Science Research Council* stated that stress on local resources caused by displacement and the expansion of artisanal and small-scale mining have been cited as sustaining factors of conflict in eastern DRC,

"Since the start of the M23 rebellion, there has been renewed attention for what are considered the 'root causes' of the crisis in eastern DRC. An often cited 'root cause' is the problematic access to land, which is increasingly recognised as a key driver and sustaining factor of conflict in eastern DRC. Scholars and practitioners have identified a number of critical land-related factors contributing to violence and conflict, including many different types of land governance mechanisms; the existence of overlapping legal frameworks and the weakness of the statutory land law; competition between indigenous and migrant communities; limited access to arable land in demographically dense areas; the weak performance of the administration and justice system in the reconciliation and arbitration of land disputes; growing stress on local resources caused by massive displacement; the expansion of artisanal and small-scale mining; and increased competition between elites for the control over land and consequent land concentration."<sup>256</sup>

In January 2013 the Canadian independent research and media organization the *Centre for Research on Globalization (CRG)* stated that President Paul Kagame of Rwanda controls a mineral-rich area of eastern Congo with complicity from the United States,

"It must be recognized that Kagame controls a vastly wealthy and mineral-rich area of eastern Congo – an area that has long been integrated into Rwanda's economy – with total complicity from the United States. As Washington prepares to escalate its military presence throughout the African continent with AFRICOM, the United States Africa Command, what long-term objectives does Uncle Sam have in the Congo, considered the world's most resource-rich nation?

[ ] the sole piece of legislation authored by President Obama during his time as a Senator was SB 2125, the "Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006". In the legislation, Obama acknowledges Congo as a long-term

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<sup>254</sup> The Southern Africa Resource Watch (SARW), Conflict Gold to Criminal Gold Executive Summary, <http://www.gold.sarwatch.org/sites/gold.sarwatch.org/files/reports/docs/Executive%20Summary.pdf>, accessed 12 April 2013

<sup>255</sup> Freedom House, Freedom in the World 2012 Congo, Democratic Republic of (Kinshasa), <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 9 April 2013

<sup>256</sup> Social Science Research Centre, Land Issues and Conflict in Eastern DRC, Prepared for the DRC Affinity Group by Koen Vlassenroot 1 January 2013, [http://www.ssrc.org/workspace/images/crm/new\\_publication\\_3%7B563a5594-2560-e211-8eac-001cc477ec84%7D.pdf](http://www.ssrc.org/workspace/images/crm/new_publication_3%7B563a5594-2560-e211-8eac-001cc477ec84%7D.pdf), accessed 18 April 2013



interest to the United States and further alludes to the threat of Hutu militias as an apparent pretext for continued interference in the region; Section 201(6) of the bill specifically calls for the protection of natural resources in the eastern DRC. The United States does not like the fact that President Kabila in Kinshasa has become very comfortable with Beijing, and worries that Congo will drift into Chinese economic orbit. Under the current regime in Congo, Chinese commercial activities have significantly increased not only in the mining sector, but also considerably in the telecommunications field."<sup>257</sup>

In November 2012 the NGO *Southern Africa Resource Watch (SARW)* stated that the hundreds of thousands of artisanal gold miners in four provinces (North Kivu, South Kivu, Oriental and Maniema) are no longer afraid of warlords or militias but they fear the hordes of corrupt civil servants, bureaucrats and members of the government's security forces, who are far more interested in exploiting the miners rather than supporting and protecting them,

"Gold miners in the eastern DRC have not benefited from notable improvements in the broader economic and security context, [ ] While most of the artisanal and small-scale miners who were interviewed no longer fear homicidal militias, they are now confronted with daily hordes of corrupt government officials, functionaries, and law-enforcement or security personnel, who all wrest illegal taxes and fees from the miners – in addition to straight bribes and extortions – without delivering any meaningful services in return. The situation is exacerbated by widespread ignorance of the laws in force.

Artisanal gold mining continues its 100-year-long history as one of the most important sources of income and the most powerful monetising instrument for the populations of the provinces of North and South Kivu, Maniema and Orientale.

[ ] The artisanal gold-mining communities of the Kivus, Maniema and Orientale are in the grip of a historic gold rush, complete with all the classic symptoms – chaotic migrations, poor sanitary and health conditions, dangerous mine excavation techniques resulting in frequent fatalities, increasing criminal exploitation of the entire process, and incalculable environmental costs. And while the exploitation of artisanal and small-scale miners continues, the identity of those responsible has now changed. They are no longer warlords and militia leaders but government administrators, members of the government's military and security organisations, and many regional traders."<sup>258</sup>

In April 2012 *Radio Okapi*, a station co-funded by the MONUSCO, reported that the Extractive Industries Transparency Initiative (Initiative pour la transparence des industries extractives - ITIE) suspended the DRC for one year. This initiative seeks to reinforce governance in the mining industries by increasing transparency and responsibility.<sup>259</sup>

In May 2012 the *United Nations Environment Programme* stated that Enyelel and Munzaya communities fought for two years in Equator province over access to natural resources, displacing 160,000 people. The UN Security Council recommended that importers and processing industries adopt policies and practices, as well as codes of conduct, to prevent indirect support to armed groups in the DRC through the exploitation and trafficking of natural resources,

"Taking up a suggestion of the UN Group of Experts on the DRC, the UN Security Council encouraged Member States to take measures to ensure that 'importers, processing industries and consumers of Congolese mineral products under their jurisdiction exercise due diligence on their suppliers and on the origin of the minerals they purchase'. In other words, States should make sure that companies based in their jurisdictions are not violating

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<sup>257</sup> Centre for Research on Globalisation, Congo's M23 Conflict: Rebellion or Resource War?, January 16, 2013, <http://www.globalresearch.ca/congos-m23-conflict-rebellion-or-resource-war/5319178>, 21 April 2013

<sup>258</sup> The Southern Africa Resource Watch (SARW), Conflict Gold to Criminal Gold Executive Summary, <http://www.gold.sarwatch.org/sites/gold.sarwatch.org/files/reports/docs/Executive%20Summary.pdf>, accessed 12 April 2013

<sup>259</sup> Radio Okapi, La RDC suspendue pour un an de l'Initiative pour la transparence des industries extractives, 19 April 2013, <http://radiookapi.net/economie/2013/04/19/la-rdc-suspendue-pour-un-an-de-linitiative-pour-la-transparence-des-industries-extractives>, accessed 20 April 2013

the sanctions through their transactions or business relationships. It also recommended that importers and processing industries adopt policies and practices, as well as codes of conduct, to prevent indirect support to armed groups in the DRC through the exploitation and trafficking of natural resources'. The Security Council's linking of sanctions implementation and 'due diligence' by international companies recognises that private sector operators are one of the principal entry points for conflict resources to the global economy.

Two years of prolonged conflict between the Enyele and Munzaya communities in Equator province of the DRC centred around access to natural resources and fishing rights. The conflict resulted in over 100 deaths, displaced over 160,000 people and led to the destruction of hundreds of houses, shops and personal belongings. In response to this local level conflict, the Civil Affairs section of the peacekeeping mission undertook a series of dialogue and conflict resolution activities in collaboration with the international NGO, Search for Common Ground (SFCG) and UN partners. Over the course of a year, Civil Affairs organized five capacity building workshops coupled with intercommunity cultural and sport activities throughout the area affected by the conflict. A Common Action Plan (CAP), providing a road map for further activities to support peace consolidation was developed, following a series of conflict mediation workshops. The local peace building process supported by Civil Affairs, the provincial government and SFCG, resulted in the renewal of a pact of non-aggression between the two communities and a large festival of reconciliation.<sup>260</sup>

In January 2013 the Canadian independent research and media organization the *Centre for Research on Globalization (CRG)* stated that MONUSCO had been documented frequent cases of peacekeeping troops caught smuggling minerals such as cassiterite and dealing weapons to militia groups,

"The DRC has suffered immensely during its history of foreign plunder and colonial occupation; it maintains the second-lowest GDP per capita despite possessing an estimated \$24 trillion in untapped raw minerals deposits. [ ] MONUSCO has been plagued with frequent cases of peacekeeping troops caught smuggling minerals such as cassiterite and dealing weapons to militia groups. Kabila is seen by many to be self-serving in his weak oversight of the central government in Kinshasa. M23 rebels have demanded the liberation of all political prisoners, including opposition leader Étienne Tshisikedi, and the dissolution of the current electoral commission that was in charge 2011's elections, widely perceived to be fraudulent.

Susan Rice, US Ambassador to the United Nations, finds herself mired in scandal yet again; Rice has come under fire for suppressing information on Rwanda's role in the ongoing resource looting and rebellion in eastern Congo.<sup>261</sup>

## **1.5 Numbers and trends of people who have fled the country or been internally displaced in recent years, including where they fled from and to**

In June 2012 the *United Nations High Commissioner for Refugees (UNHCR)* Global Report 2011 stated that out of the 152,600 IDPs who were assisted by UNHCR and its partners in 2011, some 78,700 live in 31 IDP settlements in North Kivu province,

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<sup>260</sup> United Nations Environment Programme, Executive Summary Greening the Blue Helmets Environment, Natural Resources and UN Peacekeeping Operations, May 2012, [http://www.un.org/en/events/environmentconflictday/pdf/UNEP\\_greening\\_blue\\_helmets\\_ES.pdf](http://www.un.org/en/events/environmentconflictday/pdf/UNEP_greening_blue_helmets_ES.pdf), 20 April 2013

<sup>261</sup> Centre for Research on Globalisation, Congo's M23 Conflict: Rebellion or Resource War?, January 16, 2013, <http://www.globalresearch.ca/congos-m23-conflict-rebellion-or-resource-war/5319178>, 21 April 2013

"Out of the 152,600 internally displaced persons (IDPs) who were assisted by UNHCR and its partners in 2011, some 78,700 live in 31 IDP settlements in North Kivu province. UNHCR managed camps and provided security, protection monitoring, profiling and documentation services, as well as emergency shelter. Close to 22,100 IDP families and more than 1,100 returning families received shelter assistance."<sup>262</sup>

On 25 September 2012 the humanitarian news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs *Integrated Regional Information Networks (IRIN)* stated that in South Kivu alone, more than 374,000 people were displaced between January and August 2012, creating a growing need for food assistance, non-food items, water and sanitation,

"In the Hauts Plateaux area in Kalehe, in northern South Kivu, conflict between armed groups who are burning and pillaging houses is common, adds OCHA. In late August, at least 500 households fled the area of Kitopo following fighting between the FDLR and the Râiya Mutomboki militia.

"Civilians are facing an unprecedented, high level of armed violence due to the renewed activism of armed groups in the province," said Florent Mehaule, the acting head of the OCHA office in South Kivu Province. "This volatile security situation leads to shrinking humanitarian space, preventing humanitarian workers [from] assisting more than 150,000 people in need." In South Kivu alone, more than 374,000 people were displaced between January and August, creating growing needs for food assistance, non-food items, water and sanitation, said Mehaule.

Commenting on the situation in eastern DRC, MSF's Stellema said, "Despite the conflict, life goes on in the region and the regular health needs remain - there are still pregnant women who require antenatal care, or assistance with a complicated delivery, children who are susceptible to measles and need vaccinating... But many of the most vulnerable in the region are now unable to access the assistance they need."<sup>263</sup>

In September 2012 French weekly magazine *Le Nouvel Observateur* reported that conflicts involving the M23, since May 2012, caused the displacement of nearly 300,000 people in North Kivu including 57,000 who fled to Rwanda or Uganda.<sup>264</sup>

In October 2012 French daily newspaper *Le Monde* reported that 15,000 families (60,000 people), mainly women and children, amounting to 85% Hutu population were sheltering in the Kanyaruchinya refugee camp (near Goma).. They had been seeking refuge in this spontaneous camp since June 2012. Located underneath the Nyiragongo volcano, the camp was described as being "miserable". It was impossible to grow plants or drill wells for water in the very hard soil. Humanitarian organisations were unable to control sanitary conditions and security of the population since the frontline was only 7 km away. *Le Monde* reported that according to a UNHCR representative, a military camp (FARDC armed forces) located nearby constituted another major threat to the security issue. FARDC soldiers were reported to have committed thefts and intrusions in refugee camps. *Le Monde* also stated that thousands of people would likely be displaced in the Masisi region (West of Goma) in the near future.<sup>265</sup>

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<sup>262</sup> United Nations High Commissioner for Refugees (UNHCR) Global Report 2011, 2012, <http://www.unhcr.org/gr11/index.xml>, accessed 12 March 2013

<sup>263</sup> Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN), 25 September 2012, <http://www.irinnews.org/Report/96390/DRC-Children-bear-brunt-of-conflict-in-the-east>, accessed 25 February 2013

<sup>264</sup> *Le Nouvel Observateur*, RDC: les rebelles du M23 accusés de "crimes de guerre" par HRW, 11 September 2012, <http://tempsreel.nouvelobs.com/monde/20120911.AFP8467/rdc-les-rebelles-du-m23-accuses-de-crimes-de-guerre-par-hrw.html>, accessed 17 April 2013

<sup>265</sup> *Le Monde*, En RDC, dans le camp de Kanyaruchinya, la faim et la peur, 17 October 2012, [http://www.lemonde.fr/afrique/article/2012/10/17/en-rdc-dans-le-camp-de-kanyaruchinya-la-faim-et-la-peur\\_1776681\\_3212.html](http://www.lemonde.fr/afrique/article/2012/10/17/en-rdc-dans-le-camp-de-kanyaruchinya-la-faim-et-la-peur_1776681_3212.html), accessed 20 April 2013

On 26 November 2012 the *Internal Displacement Monitoring Centre (IDMC)* stated that fighting between M23 and the Congolese army near Goma had displaced approximately 140,000 people,

"Current fighting between M23 rebel group and the Congolese army near Goma has already displaced about 140,000 people over the last week. As the rebels took control of Goma, the capital of North Kivu province, and nearby town Sake, several tens of thousands of people caught up in the conflict were forced to flee. On Sunday, 18 November, the internally displaced persons (IDP) Kanyaruchinya camp of over 50,000 people emptied in just a few hours as the fighting came closer and people fled to Goma and Mugunga IDP camps, in search of safety and assistance.

The situation in the IDP sites in and around Goma is worrying. With humanitarian access to the camps being difficult and the arrival of a significant number of new IDPs to these camps, camp residents are in dire need of access to drinking water, food and health assistance.

Various international and regional bodies, including the African Union, have highlighted the urgent need for talks between the rebels and the government if further conflict and displacement is to be avoided. After a truce of three months, fighting between M23 rebel group and the Congolese army resumed on 17 November in Kibumba, at about 30km from Goma. Since April, clashes between M23 and the national army have displaced more than 300,000 people.<sup>266</sup>

In November 2012 US NGO *Refugees International* stated that parts of Orientale province are experiencing violence perpetrated by armed groups, causing displacement. *Refugees International* reported that Equateur is preparing for the return of thousands of refugees,

"While the number of people affected is not as great as in the Kivus, parts of Orientale province are the scene of violence perpetrated by other groups, notably the Lord's Resistance Army. Ongoing attacks cause new displacement and instability prevents people from restarting their lives. Meanwhile Equateur, in the west of the country, is preparing for the return of thousands of refugees displaced during localized fighting in 2009. A well-implemented and coordinated reintegration effort will be crucial in ensuring peace and stability in the area."<sup>267</sup>

On 21 March 2013 the *Integrated Regional Information Networks (IRIN)* stated that fighting in North Kivu in 2012 displaced approximately 590,000 people, bringing the total number of IDPs in the province to 914,000, 802,000 of which are living outside formal camp settings,

"Humanitarian agencies in the Democratic Republic of Congo's (DRC) North Kivu Province are working to increase their support for hundreds of thousands of displaced people living outside formal camps with little humanitarian support, often relying on the kindness of sometimes equally vulnerable host communities. Fighting in North Kivu in 2012 displaced some 590,000 people,[ ] In total, some 914,000 people are displaced in the province. According to the NGO Refugees International (RI), some 802,000 of these are living outside formal camp settings.

"Only 112,000 North Kivu IDPs live in UNHCR-operated camps, while 230,000 are in spontaneous settlements, and the rest are living with host communities," RI advocate Caelin Briggs told IRIN following a mission to the province. "Across the board, we found extremely harsh conditions, particularly in the non-official camps - spontaneous settlements

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<sup>266</sup> Internal Displacement Monitoring Centre (IDMC), DRC: Ongoing fighting between M23 rebels and Congolese army displaces the displaced, 26 November 2012, [http://www.internal-displacement.org/8025708F004CE90B/\(httpCountries\)/554559DA500C8588802570A7004A96C7?OpenDocument](http://www.internal-displacement.org/8025708F004CE90B/(httpCountries)/554559DA500C8588802570A7004A96C7?OpenDocument), accessed 17 June 2013

<sup>267</sup> Refugees International, Where We Work, November 2012, <http://refugeesinternational.org/where-we-work/africa/dr-congo>, accessed 23 February 2013

and people living with host families," she added. "Food is the number one need mentioned. For instance, between July and December 2012, there was no food distribution in Masisi [territory]. They try to get day labour on nearby farms, but there is just not enough work to go around." Briggs noted that protection was another issue of concern. "In Goma, there is a big threat to women fetching firewood, especially as they now have to go deeper into the forest for it," she said. "They are advised to go in groups, but this is not really helpful against a group of armed men."<sup>268</sup>

In March 2013 *Radio Okapi* reported the arrival of 35,000 new refugees from the Central African Republic in the DRC. Over 30,000 people from the Central African Republic fled to North Ubangi (in Equateur) and 5,000 in the Low-Uele (Oriental Province). A food crisis involving the local population was feared in these regions.<sup>269</sup>

In April 2013 *Radio Okapi* reported that 500 households who had been displaced had returned to their villages in Epulu and Salate in Mambasa (Oriental Province) at the end of March 2013. They had left after an attack by the Morgan militia. Their living conditions back in Mambasa were very precarious. Most had lost their houses and were sleeping in the open or in dilapidated houses. 200 children were no longer attending school. Other displaced people from Banana and Bandisende were starting to return to their villages.<sup>270</sup>

In 2013 the *Office of the United Nations High Commissioner for Refugees (UNHCR)* stated that more than 2.2 million people have been displaced inside the country,

"Since the beginning of 2012, ethnic tensions and inequitable access to land have led to renewed violence in the east and north-east of the Democratic Republic of the Congo (DRC), resulting in the displacement of more than 2.2 million people inside the country."<sup>271</sup>

## **1.6 Presence of UN peacekeeping forces, including when they entered, areas of activity, types of activity, and effectiveness in promoting stability**

As reported by *MONUSCO*, the Mission de l'Organisation des Nations Unies pour la stabilisation en RD Congo (United Nations Organization Stabilization Mission in the DR Congo) was established in July 2010, replacing the former Mission de l'Organisation des Nations Unies en République démocratique du Congo (Monuc- United Nations Organization Mission in the Democratic Republic of the Congo) which was created in November 1999.<sup>272</sup>

According to the *U.N. Security Council Resolution 2098* adopted on 28 March 2013, the MONUSCO will comprise up to 19,815 personnel.<sup>273</sup> In 2013 the *Rift Valley Institute* reported that

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<sup>268</sup> Integrated Regional Information Networks (IRIN), Boosting support for IDPs outside Democratic Republic of Congo's formal camps, 21 March 2013, available at: <http://www.refworld.org/docid/514c5efb2.html>, accessed 17 June 2013

<sup>269</sup> Radio Okapi, Plus de 35 000 nouveaux réfugiés centrafricains identifiés en RDC, 27 March 2013, <http://radiookapi.net/actualite/2013/03/27/plus-de-35-000-nouveaux-refugies-centrafricains-identifies-en-rdc>, accessed 20 April 2013

<sup>270</sup> Radio Okapi, Mambasa : 500 ménages de déplacés retournés vivent dans des conditions précaire, 12 April 2013, <http://radiookapi.net/actualite/2013/04/12/mambasa-500-menages-de-deplaces-retournes-vivent-dans-des-conditions-precaires>, accessed 20 April 2013

<sup>271</sup> The Office of the United Nations High Commissioner for Refugees UNHCR, 2013 Country Operations Profile - Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 6 March 2013

<sup>272</sup> Monusco, Historique, <http://www.un.org/fr/peacekeeping/missions/monusco/background.shtml>, accessed 27 April 2013

<sup>273</sup> UN Security Council Resolution 2098, 28 March 2013, [http://www.un.org/french/documents/view\\_doc.asp?symbol=S/RES/2098%282013%29](http://www.un.org/french/documents/view_doc.asp?symbol=S/RES/2098%282013%29), accessed 27 April 2013  
In English, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2098%282013%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2098%282013%29)

Resolution 2098 provided for the creation of an 'intervention brigade' to 'neutralize and disarm' armed groups in eastern DRC.<sup>274</sup>

In November 2012 US NGO *Refugees International* stated that the UN peacekeeping/stabilization mission, MONUSCO, is hampered by resource constraints and maintains an uneasy relationship with the poorly trained and ill-equipped national army,

"M23, the Democratic Front for the Liberation of Rwanda (FDLR), and other rebel groups in North and South Kivu continue to control swaths of countryside, especially remote areas, causing new displacement and making it impossible for those already displaced to return to their land. Armed groups, including the national army (FARDC), have repeatedly engaged in acts of sexual violence, especially against young women and girls. More efforts are necessary to better protect the displaced and the most vulnerable amongst them. Access for humanitarian organizations to assist displaced populations remains extremely challenging due to ongoing insecurity and poor roads. In certain areas people have been able to return to their land, sometimes leading to ethnic tensions and land disputes which require community-level conflict resolution initiatives. Meanwhile, for those people displaced for long periods and the host communities helping them, assistance must go beyond basic services to include a focus on livelihoods and education.

[ ] The UN peacekeeping/stabilization mission MONUSCO [ ] has made significant efforts to develop ways to better protect civilians, especially in North Kivu. It is, however, hampered by resource constraints and maintains an uneasy relationship with the poorly trained and ill-equipped national army. MONUSCO needs to be enabled to build on its best practices and extend them to other areas."<sup>275</sup>

In November 2012 the *Integrated Regional Information Networks of the UN Office for the Coordination of Humanitarian Affairs (IRIN)* also stated that the crisis remains "chronically underfunded", with just 56 percent of the UN's \$791 million 2012 humanitarian appeal for DRC funded so far,

"The UN World Food Programme (WFP), which was temporarily forced to suspend operations when fighting broke out in Goma, has since resumed food distributions, providing some 81,000 people with rations in recent days. But WFP says it faces a funding shortfall of US\$23 million for the next six months of its emergency operations in the DRC. [ ] the crisis remains chronically underfunded, with just 56 percent of the UN's \$791 million 2012 humanitarian appeal for DRC funded so far. Merlin, a UK-headquartered international NGO, established its first rapid response health clinic in Nzulo a little over 24 hours after they heard about the impromptu camp. "There are so many needs right now," Arthur Sarazin, Merlin's country director, told IRIN. The primary conditions they are treating include diarrhoea and fever, and they have had two suspected cholera cases.

[ ] "The movements of people have not stabilized," said a UN source in Goma who preferred anonymity. "The problem is that everything can change very rapidly... Things are happening in all places - not just Goma but also Masisi, which is difficult to access, and [it is difficult] also to have an idea of how many people are fleeing."<sup>276</sup>

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<sup>274</sup> Rift Valley Institute, The perils of peacekeeping without politics MONUC and MONUSCO in the DRC, 18 April 2013, <http://www.refworld.org/docid/51c8234a4.html>, accessed 21 July 2013

<sup>275</sup> Refugees International, Where We Work, November 2012, <http://refugeesinternational.org/where-we-work/africa/dr-congo>, accessed 23 February 2013

<sup>276</sup> United Nations Office for the Coordination of Humanitarian Affairs Integrated Regional Information Networks (IRIN), DRC: Growing humanitarian needs in Goma, 28 November 2012, <http://www.irinnews.org/fr/Report/96913/DRC-Growing-humanitarian-needs-in-Goma>, accessed 23 February 2013

In December 2012 Rwandan daily newspaper *The New Times* stated that MONUSCO had failed, not because of a weak mandate or insufficient equipment, but as a result of lack of interest in a resolution of the conflict,

"In this atmosphere of lack of enthusiasm for, or hostility to, an enduring solution to the conflict in eastern Congo, other complications have come in. Different interests seem not to be prepared to give ongoing efforts a chance to succeed. They are pushing other, parallel efforts that are bound to distract from the primary objective and make the situation even more confusing. For instance, even as the ICGLR mediation efforts continue, the French Ambassador to the United Nations, Mr Gerard Araud, has been canvassing support from his colleagues for a more robust mandate for MONUSCO, the UN force in Congo.

There are several problems with this proposal. One, MONUSCO has not failed because of a weak mandate or insufficient equipment. Their failure is a result of lack of interest in a resolution of the conflict. None of the troops - nearly all of them from faraway places - are keen to understand the issues, let alone lay down their lives to resolve them. In any case, as has amply been reported, they stand to gain materially from maintaining the status quo. Two, the French have a record in this region of hiding behind the UN mandate to advance narrow national interests that are often counter to the stated aims of the mandate. Their proposal cannot inspire confidence that it will be otherwise this time around. [ ] In the current circumstances, the most sensible thing to do is to support efforts that are already underway. New proposals can only distract from these, or even take the region back a few months. That is not in anyone's interest."<sup>277</sup>

In 2013 the *Office of the United Nations High Commissioner for Refugees (UNHCR)* stated that it would "continue to protect refugees in both urban and rural areas" but that insecurity and poor infrastructure were likely to impede these efforts,

"UNHCR will provide technical assistance to the Government to help it develop a local integration framework for Angolans who decide to remain in the DRC. It will also support the voluntary repatriation of Rwandan refugees and seek alternative solutions for those remaining in the DRC. [ ] The Commission nationale pour les réfugiés (CNR) will receive UNHCR assistance to implement national and international refugee laws and conduct refugee status determination (RSD) and thereby create a more favourable protection environment for people of concern. In Equateur Province, the reintegration of returnees will be supported through community-based projects in return areas and the provision of individual and family assistance packages, including cash grants. UNHCR will also offer technical support to the central and provincial governments to help them integrate IDPs locally and give them access to national social structures.

UNHCR will combat SGBV through prevention and response programmes that will ensure coordinated responses for all survivors. The multi-sectoral responses will combine health care, legal and psychosocial support and safety interventions. They will also address gender inequality and other root causes of SGBV through longer-term approaches aimed at changing behaviour. [ ] Insecurity and poor infrastructure will continue to hamper access to a significant number of vulnerable people. Many territories in the DRC have weak administrative and legal structures, preventing humanitarian actors from performing their responsibilities effectively. Tensions in hosting areas may hamper peaceful coexistence."<sup>278</sup>

In 2013 the *Office of the United Nations High Commissioner for Refugees (UNHCR)* also stated that UNHCR had collaborated with the Commission nationale pour les réfugiés (CNR), the Ministry

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<sup>277</sup> The New Times, Congo-Kinshasa: Who Wants Peace in DRC? Not the Media, Rights Groups or Even Some Countries, 11 December 2012, <http://allafrica.com/stories/201212110147.html>, accessed 24 February 2013

<sup>278</sup> Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013

of Social Affairs and other UN agencies including the UN Stabilization Mission in the DRC (MONUSCO) and the UNAIDS joint team,

"[ ] UNHCR's main governmental counterpart is the CNR [ ] CNR's presence in the Field will be reinforced in 2013.[ ] UNHCR has developed close links with the UN Stabilization Mission in the DRC (MONUSCO), whose mandate has been extended until June 2013. UNHCR is also an active member of the Non-Food Items (NFIs) Cluster, assuming the lead role for the shelter component. With regard to reintegration activities, UNHCR is seeking the involvement of local authorities and development actors in the early stages of repatriation to ensure people of concern a sustainable return. Since 2010, UNHCR and the Ministry of Social Affairs have jointly led the protection and prevention pillar of the Comprehensive Strategy on Combating Sexual Violence in the DRC. UNHCR participates actively in the UNAIDS joint team, and is a partner in the International Security and Stabilization Support Strategy (ISSSS) framework, which builds on the Government's Stabilization and Reconstruction Programme (STAREC). UNHCR also continues to participate in the UNDAF."<sup>279</sup>

## 1.7 Responses of international community

In 2012 *International Federation for Human Rights Federation (FIDH)* and *Open Society Institute (OSI)* stated that the international community had failed in reforming the security sector and denounced the lack of financial investment despite the importance of addressing insecurity in DRC,

"The DRC's international partners have been politically incoherent and poorly coordinated. Little has been spent on security sector reform, despite its paramount strategic importance - official development aid disbursed for conflict, peace and security totaled just \$530 million between 2006 and 2010, roughly 6% of total aid excluding debt relief. Spending directly on security system management and reform is even lower, \$84.79 million over the same period, just over 1%. [...] Poor coordination resulted in piecemeal interventions driven by competing short-term imperatives. The resulting failures have led many to give up on systemic reform altogether."<sup>280</sup>

On 24 February 2013 US peacebuilding foundation *Humanity United* stated that efforts for institutional reform in eastern Congo had so far failed due to a lack of Congolese ownership and donor coordination,

"The Congolese state has struggled to reform and strengthen state institutions, especially the security sector. [ ] While there has been modest progress in discrete areas, such as the security and justice sectors, comprehensive reforms have faltered due to a lack of Congolese ownership and donor coordination. The current crisis presents an opportunity for donors and the United Nations to adopt new terms of engagement with the Congolese government.

The UN Envoy, with strong backing from the AU, U.S., and EU Envoys and other donors, needs to insist upon a stronger level of involvement for international partners to achieve large-scale state reform without undermining the state's sovereignty. A well-defined national oversight mechanism led by the Congolese president and the UN Envoy should be created to serve as the main coordinating body for reform and foreign assistance. As it now stands, the oversight mechanism only consists of members of the Congolese government.

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<sup>279</sup>Office of the United Nations High Commissioner for Refugees UNHCR, 2013 UNHCR Country Operations Profile, Democratic Republic of the Congo, <http://www.unhcr.org/pages/49e45c366.html>, accessed 23 February 2013

<sup>280</sup> Fédération internationale des ligues des droits de l'Homme (FIDH)/ Open Society Institute (OSI), RDC : Prendre position sur la réforme du secteur de la sécurité, 16 April 2012, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-french-20120416.pdf>, accessed 19 April 2013

In English, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-20120416-1.pdf>



It is essential for the council to be enlarged to include civil society representatives as well as donors.

The challenge will be to design a package that can respond to the needs of the DRC government and support the proper implementation of an ambitious reform program. A key part of this would be a substantial aid package, agreed to in a major donor conference for the reconstruction and reform of the DRC, aimed at rebuilding infrastructure, training officials, and demobilizing soldiers. [ ] Currently, donors are channeling their efforts for institutional reform in the eastern Congo through the International Security and Stabilization Support Strategy (ISSSS) and its Congolese partner STAREC (Programme de Stabilisation et de Reconstruction de l'Est du Congo). These approaches are currently being revised and include welcome provisions for engaging with local communities and civil society, which should be seen as complementary to the outlined top-down agenda for institutional reform."<sup>281</sup>

On 30 March 2013 the website of UK political magazine *The Economist* stated that since the M23 withdrew from Goma in December 2012 negotiations between M23 and the Congolese government and between African governments, the UN, the AU and regional organisations have taken place. The second set of negotiations resulted in a peace plan in which Congo promised to reform its army and police, to decentralise power and to re-engage in national reconciliation; its neighbours, in particular Rwanda, promised not to support armed rebellions,

"[ ] Since December, when the M23 withdrew from the strategic trading hub of Goma in North Kivu, two sets of negotiations have simultaneously taken place. One has featured the M23 and representatives of the Congolese government at a hotel in Uganda. But the real talks were behind closed doors in Western capitals, in Rwanda's capital, Kigali, at the UN and at the headquarters of the African Union (AU) in Ethiopia's capital, Addis Ababa. Soon other African governments got involved, alarmed at the prospect of eastern Congo's instability spreading all over again but also excited by the prospect of benefiting from all those natural resources. Last month, 11 of them, alongside the UN, the AU and regional organisations, signed a peace plan. Congo promised to reform its army and police, to decentralise power and to re-engage in national reconciliation. Congo's neighbours, in particular Rwanda, promised not to support armed rebellions. The UN asked a former president of Ireland, Mary Robinson, to oversee the deal. Mr Kabila travelled around Africa, looking for friends to back him."<sup>282</sup>

On 30 March 2013 UK political magazine *The Economist* stated that DRC's neighboring countries wish to benefit from its natural resources and that international bodies and African governments and bodies, have come together to provide a "better deal" for armed groups in the region which the Congolese government had been unable to provide,

"Most of Congo's neighbours eye the place with a mixture of lust and contempt. If Mr Kabila's government were less inept and corrupt, so they imply, the whole continent could benefit from Congo's bounteous water, land and minerals. That is what Mr Kabila has to offer them as the price of their helping to keep the peace. South Africa's government is keen to use Congo's hydroelectric power, while increasingly oil-rich Angola wants a share of Congo's offshore resources. Both countries signed an agreement this month with Mr Kabila to help oversee the peace. Jacob Zuma, South Africa's president, wants his army to play a part. "A weak hand reasonably well played," was one description of Mr Kabila's diplomacy in Africa.

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<sup>281</sup> Humanity United, A COMPREHENSIVE RESPONSE TO THE CRISIS IN THE DEMOCRATIC REPUBLIC OF THE CONGO, 24 February 2013, [http://humanityunited.org/drcf/A\\_Comprehensive\\_Approach\\_FINAL\\_v5.pdf](http://humanityunited.org/drcf/A_Comprehensive_Approach_FINAL_v5.pdf), accessed 15 June 2013

<sup>282</sup> The Economist, A hint of peace, 30 March 2013 <http://www.economist.com/news/middle-east-and-africa/21574536-arrest-warlord-may-help-bit-calm-down-turbulent-region-hint>, accessed 15 June 2013

But the game is far from over. Local politics, conflicts over land and minerals, and ethnic disputes have all stymied previous efforts to bring peace to eastern Congo. Mr Ntaganda's arrest has removed a disruptive force but his M23 rebels must still be integrated again into Congo's army. Their grievances over land and politics need attention. Other groups in the region, many of which have been battered by the M23, want a better deal, too. Mr Kabila has been unable to provide it. What is new is that international and African bodies, along with a wider variety of African governments, have come together to have another go.<sup>"283</sup>

On 30 March 2013 UK political magazine *The Economist* stated that Bosco Ntaganda had given himself up at the American embassy in neighbouring Rwanda on 18 March and stood trial at the ICC on 26 March after defying an arrest warrant from the ICC for nearly five years,

"The sight of a Congolese warlord, Bosco Ntaganda, at the International Criminal Court (ICC) in The Hague on March 26th is a sign of progress. But a lot more diplomacy and international coercion will be required to bring a durable peace to the Democratic Republic of Congo. Mr Ntaganda gave himself up at the American embassy in neighbouring Rwanda on March 18th. He apparently feared being killed, probably as a result of ructions in his own movement. For almost five years he brazenly defied a warrant for his arrest issued by the ICC, embarrassing UN peacekeepers in Congo and mocking claims of Congo's President Joseph Kabila to control his own country."<sup>284</sup>

On 16 April 2012 the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns stated in his addendum follow-up to country recommendations report to the *United Nations General Assembly* that the French authorities had arrested Callixte Mbarushimana, an FDLR leader based abroad, and transferred him to the International Criminal Court on 25 January 2011 but his release was ordered on the grounds that there was insufficient evidence to establish substantial grounds to believe that he could be held criminally responsible for crimes brought against him,

"The previous mandate holder formulated additional recommendations for international actors to contribute to the fight against impunity in the Democratic Republic of the Congo. [ ] Another was addressed to the Prosecutor of the International Criminal Court, suggesting he emphasize crimes of sexual violence in his investigations in the Democratic Republic of the Congo. With respect to the FDLR leaders based abroad, the Special Rapporteur was informed that on 11 October 2010, the French authorities arrested Callixte Mbarushimana and transferred him to the International Criminal Court on 25 January 2011. On 16 December 2011, the Court's Pre-Trial Chamber I declined to confirm the charges against Mr. Mbarushimana and ordered his release on the grounds that there was insufficient evidence to establish substantial grounds to believe that he could be held criminally responsible for the eight counts of war crimes and five counts of crimes against humanity brought against him by the Prosecutor. Mr. Mbarushimana was released on 23 December 2011, although he is currently being investigated in France for his alleged role in the genocide in Rwanda in 1994.

In parallel, on 4 May 2011, the trial of Ignace Murwanashyaka and Straton Muson started before the Oberlandesgericht in Stuttgart, Germany, for their alleged role in war crimes and crimes against humanity reportedly committed by the FDLR. The trial is ongoing at the moment of drafting this report. With regard to the recommendation made to the Prosecutor of the International Criminal Court, in two out of four cases before the Court concerning the situation in the Democratic Republic of the Congo, the Prosecutor has charged the accused with rape and sexual slavery both as war crimes and as crimes against humanity. The trial

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<sup>283</sup> The Economist, A hint of peace, 30 March 2013 <http://www.economist.com/news/middle-east-and-africa/21574536-arrest-warlord-may-help-bit-calm-down-turbulent-region-hint>, accessed 15 June 2013

<sup>284</sup> The Economist, A hint of peace, 30 March 2013 <http://www.economist.com/news/middle-east-and-africa/21574536-arrest-warlord-may-help-bit-calm-down-turbulent-region-hint>, accessed 15 June 2013

for the first case, against Germain Katanga and Mathieu Ngudjolo Chui, began on 24 November 2009. The second case concerned Mr. Mbarushimana."<sup>285</sup>

In 2013 *Human Rights Watch* stated that the ICC sentenced Congolese armed group leader Thomas Lubanga to 14 years in prison for recruiting and using child soldiers in July 2012,

"The ICC issued its first-ever conviction and sentenced, in July, Congolese armed group leader Thomas Lubanga to 14 years in prison for recruiting and using child soldiers in Ituri district in eastern Congo in 2002 and 2003. The evidence phase of the trial of Mathieu Ngudjolo and Germain Katanga, leaders of an armed group that opposed Lubanga's group in Ituri, was completed in May. Ntaganda, Lubanga's co-accused at the ICC, remained at large at this writing. Ntaganda has been wanted by the ICC since 2006 for recruiting and using child soldiers, crimes which he continued to commit in 2012. In July, the court issued a second warrant against him for war crimes and crimes against humanity, also in connection with his activities in Ituri. In July, the ICC indicted Sylvestre Mudacumura, the FDLR's military commander, for war crimes; he remained at large at this writing. Two FDLR political leaders, Ignace Murwanashyaka and Straton Musoni, were on trial in Germany on charges of war crimes and crimes against humanity."<sup>286</sup>

On 28 March 2013 the *U.N. Security Council* adopted the Resolution 2098 which created an intervention force authorised to conduct operations to neutralise and disarm armed groups in the DRC – in particular the M23 as well as other Congolese rebels and foreign armed groups.<sup>287</sup>

## 2. Other Human Rights Considerations

### 2.1 Judicial and Penal Systems

#### 2.1.1 Court system, including types, organization, and hierarchy (including military courts)

In February 2006, the DRC adopted a new constitution by referendum,<sup>288</sup> which was modified in January 2011 by law n° 11/002.<sup>289</sup>

Under article 149 of the Constitution, the judicial system is divided into the "Cour constitutionnelle" (Constitutional Court), the "Cour de cassation" (Supreme Court), the "Conseil d'État" (Supreme Court for administrative matters), and the "Haute Cour militaire" (High Military Court), as well as civil and military Courts and Tribunals. Under article 153 of the Constitution, civil and military Courts and Tribunals are placed under the control of the "Cour de cassation" (Supreme Court). Under article 156 of the Constitution, the jurisdiction of military courts is limited to members of the armed forces [FARDC] and the national police [PNC]; it is extended in the case of war, siege or in a state of emergency. Article 207 of the Constitution provides for the recognition of customary authority ("l'autorité coutumière"). Article 223 of the Constitution states that until the "Cour

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<sup>285</sup> United Nations General Assembly Human Rights Council, Twentieth session Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 19 February 2013

<sup>286</sup> Human Rights Watch World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo?page=3>, accessed 21 April 2013

<sup>287</sup> UN Security Council Resolution 2098, 28 March 2013, [http://www.un.org/french/documents/view\\_doc.asp?symbol=S/RES/2098%282013%29](http://www.un.org/french/documents/view_doc.asp?symbol=S/RES/2098%282013%29), accessed 27 April 2013

In English, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2098%282013%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2098%282013%29)

<sup>288</sup> Constitution de la République démocratique du Congo, Kinshasa, Journal officiel de la République démocratique du Congo, 52<sup>ème</sup> année, numéro spécial, 5 February 2011, [http://www.senat.cd/images/Constitution\\_de\\_la\\_RDC.pdf](http://www.senat.cd/images/Constitution_de_la_RDC.pdf), accessed 27 April 2013

<sup>289</sup> Constitution de la République démocratique du Congo, Kinshasa, Journal officiel de la République démocratique du Congo, 52<sup>ème</sup> année, numéro spécial, Appendice : exposé des motifs de la Loi n° 11/002 du 20 janvier 2011 portant révision de certains articles de la Constitution de la République démocratique du Congo du 18 février 2006, 5 February 2011, [http://www.senat.cd/images/Constitution\\_de\\_la\\_RDC.pdf](http://www.senat.cd/images/Constitution_de_la_RDC.pdf), accessed 27 April 2013

constitutionnelle”, the “Conseil d’Etat” and the “Cour de cassation” are implemented, the “Cour suprême de justice” (Supreme Court of Justice) will deal with relevant cases.<sup>290</sup>

In August 2011 *Amnesty International* stated that the criminal justice system is divided into civilian and military jurisdictions and has four tiers: the Supreme Court; Courts of Appeal; Civil Courts; and Tribunaux de Paix,. The military justice system is also divided into four tiers: the High Military Court; Military Courts; Military Garrison Tribunals Police Military Tribunals. The weakness of the Congolese justice system and the lack of a comprehensive strategy to rebuild and reform it was reported to be a major obstacle to accountability and reparation,

"The DRC justice system is divided into the civilian jurisdiction, covering civil and criminal matters, and the military jurisdiction. The military justice system has broad jurisdiction, including over civilians accused of crimes with “weapons of war”. It has exclusive jurisdiction over crimes of genocide, crimes against humanity and war crimes. As part of the civilian justice structure, the criminal justice system has four tiers: the Supreme Court; Courts of Appeal; Civil Courts; and Tribunaux de Paix, which hear crimes punishable by less than five years’ imprisonment. The military justice system is also divided into four tiers: the High Military Court; Military Courts; Military Garrison Tribunals (courts of first instance in the military justice system);and Police Military Tribunals. [ ] Mobile courts, both civilian and military, have been organized to conduct trials in more remote areas. These are permanent courts that move temporarily to these areas. Most of the trials for crimes under international law in the DRC have taken place before mobile military courts. A major obstacle to ensuring accountability and reparation for past and current violations is the weakness of the Congolese justice system and the lack of a comprehensive strategy to rebuild and reform it."<sup>291</sup>

In 2012 *Freedom House* stated that the government had expressed its willingness to create specialized chambers within the Congolese court system to investigate crimes against humanity, although the minister of justice’s attempts to push through legislation in this regard have failed thus far,

"Many of the reforms mandated in the constitution were not implemented, including [ ] the creation of three new national courts. Long periods of pre-trial detention in prisons are the norm, despite legal provisions requiring prisoners to be tried within 15 days of arrest, with a maximum of three month-long extensions. As many as 75 percent of detainees are awaiting trial, and many courts do not respect Congolese law regarding pre-trial detention.

[ ] Despite the ongoing challenges in the justice sector, some progress was made in legislation regarding the administration of justice in recent years. [ ] the government has expressed its willingness to create specialized chambers within the Congolese court system to investigate crimes against humanity committed since the democratic process began in 1990, although the minister of justice’s attempts to push through legislation in this regard have failed thus far. [ ] The constitution calls for the creation of three new courts to replace the Supreme Court: a Constitutional Court, a State Council, and a Court of Appeals, but five years after the constitution was adopted these reforms are still outstanding. In the meantime, there have been several instances of interference with the independence of the judiciary."<sup>292</sup>

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<sup>290</sup> Constitution de la République démocratique du Congo, Kinshasa, Journal officiel de la République démocratique du Congo, 52<sup>ème</sup> année, numéro spécial, 5 February 2011, [http://www.senat.cd/images/Constitution\\_de\\_la\\_RDC.pdf](http://www.senat.cd/images/Constitution_de_la_RDC.pdf), accessed 27 April 2013

<sup>291</sup> Amnesty International, The Time for Justice Is Now; NEW STRATEGY NEEDED IN THE DEMOCRATIC REPUBLIC OF THE CONGO: SUMMARY, August 2011, <http://www.amnesty.org/en/library/asset/AFR62/007/2011/en/f4f8fc53-de34-42bc-a0fa-9e098f50a8a8/af620072011en.pdf>, accessed 12 April 2013

<sup>292</sup> Freedom House, Countries at Crossroads 2012, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 12 April 2013

In August 2009 the *International Bar Association's Human Rights Institute (IBAHRI)* and the *International Legal Assistance Consortium (ILAC* - which comprises 40 NGOs with experience in rebuilding justice systems) reported that the DRC had adopted a new constitution in 2006, which divided the court system into three separate jurisdictions: the judicial (civil and criminal) jurisdiction, the administrative jurisdiction and the military jurisdiction. *IBAHRI/ILAC* stated that an increase in the number of provinces has had an impact on the judicial system,

“Article 2 of the 2006 Constitution created new provinces [...] increasing the number to 26, which in turn has an important impact on the judicial system and the number of courts.”<sup>293</sup>

In 2009 *IBAHRI/ILAC* stated that new labour courts and juvenile Tribunals are to be introduced,

“In addition to the new administrative courts that will need to be implemented at the provincial and local level, a labour court has been set up within each ‘Tribunal de Grande Instance’. Further, a law brought in January 2009 stipulates the establishment of a juvenile tribunal in each town and each territory. This will require the establishment of approximately 180 such new institutions (on the same level as the ‘Tribunaux de Paix’). There are also discussions surrounding the establishment of a juvenile court at the ‘Tribunal de Grande Instance’ level. The upcoming changes will require the creation of numerous new institutions, with new specialised magistrates.”<sup>294</sup>

However, in 2009 *IBAHRI/ILAC* stated that the country was “still struggling to implement structures that were introduced decades ago” and that,

“The changes provided for by the 2006 Constitution are costly and complex and, given the lack of financial and human resources, it does not seem realistic to expect their implementation in the short or medium term. Until then, the judicial structure remains unchanged.

For the time being, until the structure established in the new Constitution is fully implemented, the Supreme Court plays the role that will ultimately belong to the ‘Cour Constitutionnelle’, the ‘Cour de Cassation’ and the ‘Conseil d’État’.

[...] It is obvious that the judicial system suffers from a crippling overall lack of resources.”<sup>295</sup>

### 2.1.1.1 Military Courts

In 2009 *International Bar Association's Human Rights Institute* and the *International Legal Assistance Consortium (IBAHRI/ILAC)* reported that the Congolese military justice system is divided into three levels, “Tribunal Militaire de Garnison”, “Cour Militaire” and the “Haute Cour Militaire”. These courts and tribunals are supported by the “Auditorat Militaire de Garnison”, “Auditorat Militaire Supérieur” and “Auditorat Général” respectively, which *IBAHRI/ILA* further reported as being “[...] deployed in 49 locations nationwide. Some areas of the DRC are only served by military justice, due to a lack of any operational civilian justice component.”<sup>296</sup>

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<sup>293</sup> International Bar Association/ International Legal Assistance Consortium, Reconstruire les tribunaux et rétablir la confiance: une évaluation des besoins du système judiciaire en République démocratique du Congo [available in French and English], August 2009, <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=6C2BE523-F512-48C1-B09C-FC9A8B1D0AAB>, accessed 25 April 2013

<sup>294</sup> International Bar Association/ International Legal Assistance Consortium, Reconstruire les tribunaux et rétablir la confiance: une évaluation des besoins du système judiciaire en République démocratique du Congo [available in French and English], August 2009, <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=6C2BE523-F512-48C1-B09C-FC9A8B1D0AAB>, accessed 25 April 2013

<sup>295</sup> International Bar Association/ International Legal Assistance Consortium, Reconstruire les tribunaux et rétablir la confiance: une évaluation des besoins du système judiciaire en République démocratique du Congo [available in French and English], August 2009, <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=6C2BE523-F512-48C1-B09C-FC9A8B1D0AAB>, accessed 25 April 2013

<sup>296</sup> International Bar Association/ International Legal Assistance Consortium, Reconstruire les tribunaux et rétablir la confiance: une évaluation des besoins du système judiciaire en République démocratique du Congo [available in French and English], August 2009, <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=6C2BE523-F512-48C1-B09C-FC9A8B1D0AAB>, accessed 25 April 2013

In August 2011 *Amnesty International* stated that the military justice system has jurisdiction over the police and civilians charged with crimes committed with "weapons of war,"

[...] The military justice system has broad jurisdiction, including over not only members of the armed forces and the police but also civilians accused of crimes committed with "weapons of war". It has exclusive jurisdiction over crimes of genocide, crimes against humanity and war crimes. The civilian criminal justice system would acquire jurisdiction over such crimes committed after 2002 if the Draft Bill implementing the ICC Rome Statute was implemented.<sup>297</sup>

In 2012 *Freedom House* stated that military courts are used extensively, even to try civilian cases, and that military judges can be influenced by their military hierarchies,

"The extensive use of military courts, even to try civilian cases, also forms an obstacle to the independence of the judiciary. Military judges can be influenced by their military hierarchies, especially when the accused are high-ranking military officers, as Congolese law stipulates that officers can only be judged by their superiors.

[ ] Congolese courts regularly disrespect rules of due process, including the right to counsel, presumption of innocence and the right to a speedy, free trial, either due to direct meddling by officials in the judicial system or a lack of resources. [ ] serious imbalances remain in the distribution of judicial personnel, with most deployed in urban areas, in particular the capital. This lack of resources means that for the majority of the population, abuses and disputes are adjudicated by customary courts or not at all.

[ ] According to Article 99 of the Congolese constitution, the president and members of government have to declare their assets to the constitutional court upon entering and leaving office. However, there has been no implementing legislation to this effect, and neither civil servants nor parliamentarians are subject to these rules. Congolese law does not have any particular provisions to protect whistleblowers or to give redress to victims of corruption. There is also no special anti-corruption court or "czar."<sup>298</sup>

In August 2011 *Amnesty International* stated that Military Operational Courts, which are non-permanent jurisdictions which offer no possibility of appeal, may be established in war zones and one was reported to be currently operating in North Kivu,

"Military Operational Courts, with the same status as Military Courts, may be established in war zones. These are non-permanent jurisdictions and offer no possibility of appeal. The magistrates in the DRC civilian criminal justice system and in the military justice system include prosecutors (civilian and military) and judges. Military prosecutors are known as auditeurs and civilian prosecutors are known as procureurs. [ ] A Military Operational Court, established in 2008, is currently operating in the province of North Kivu."<sup>299</sup>

In 2013 *Amnesty International* stated that efforts by judicial authorities to increase the capacity of the courts had only limited success and that the "fundamentally flawed" Congolese military justice system maintained exclusive jurisdiction over the crimes of genocide, crimes against humanity and war crimes,

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<sup>297</sup> Amnesty International, Il est temps que justice soit rendue. La République démocratique du Congo a besoin d'une nouvelle stratégie en matière de justice [available in French and English], 10 August 2011, <http://www.amnesty.org/fr/library/info/AFR62/006/2011>, accessed 27 April 2013

<sup>298</sup> Freedom House, Countries at Crossroads 2012, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 12 April 2013

<sup>299</sup> Amnesty International, The Time for Justice Is Now; NEW STRATEGY NEEDED IN THE DEMOCRATIC REPUBLIC OF THE CONGO: SUMMARY, August 2011, <http://www.amnesty.org/en/library/asset/AFR62/007/2011/en/f4f8fc53-de34-42bc-a0fa-9e098f50a8a8/af620072011en.pdf>, accessed 12 April 2013

"Military courts continued to sentence individuals, including civilians, to death. No executions were reported. On 30 May, a military court in Uvira sentenced two soldiers to death in their absence, and several other officers to life in prison, for participating in the call to mutiny by General Bosco Ntaganda in April.

[ ] Efforts by judicial authorities to increase the capacity of the courts to deal with cases, including cases involving human rights abuses, had only limited success; many older cases did not progress. The Ministry of Justice's initiatives in 2011 to address impunity for past and current crimes under international law were stalled and victims continued to be denied access to truth, justice and reparations. Court rulings were not implemented and key cases, such as the Walikale and the Bushani and Kalambahiro mass rapes of 2010 and 2011, progressed no further.

Although the Ministry of Justice and Human Rights asked the civil and military judicial authorities in February to open investigations into allegations of electoral violence, there was little evidence of any progress in the investigations during the year. Lack of independence of courts, violations of the rights of defendants, unavailability of legal aid, and corruption were some of the factors hindering fair trials. The fundamentally flawed Congolese military justice system maintained exclusive jurisdiction over the crimes of genocide, crimes against humanity and war crimes – including in cases with civilian defendants<sup>300</sup>

In 2013 *Human Rights Watch* stated that there had been little progress on the government's proposal to establish a specialized mixed court with jurisdiction over war crimes and crimes against humanity,

"There was little progress on the government's proposal to establish a specialized mixed court with jurisdiction over war crimes and crimes against humanity committed since 1990 and on the adoption of legislation implementing the ICC statute. In September, the justice minister pledged to adopt the ICC implementing legislation promptly. In October, she took initial steps to revive draft legislation on the specialized mixed court.<sup>301</sup>

## **2.2 Administration of Justice –independence of judiciary, shortage of judges, issues of corruption/ impunity, rule of law, due process, access to courts in rural areas and traditional justice mechanisms/ traditional conflict resolution mechanisms (as well as tribal laws and interplay with courts)**

In June 2011 *Radio Okapi* reported that Minister for Justice and Human Rights Luzolo Bambi Lesa introduced two bills into the National Assembly: one on the establishment of "Chambres spécialisées" within Congolese jurisdictions that would deal with the most serious human rights violations, and the second on the protection of human rights activists.<sup>302</sup>

In August 2011 *Amnesty International* also stated that few people have access to justice mechanisms, confidence in the system is low and corruption is endemic, affecting every level of the judicial chain. According to *Amnesty International* the army is one of the main perpetrators of

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<sup>300</sup> Amnesty International, Annual Report 2013, <http://www.amnesty.org/en/region/democratic-republic-congo/report-2013#page>, accessed 17 June 2013

<sup>301</sup> Human Rights Watch World Report 2013, <http://www.hrw.org/world-report/2013/country-chapters/democratic-republic-congo?page=3>, accessed 20 April 2013

<sup>302</sup> Radio Okapi, RDC: un projet de loi pour sanctionner les plus graves violations des droits de l'homme, 14 June 2011, <http://radiookapi.net/actualite/2011/06/14/rdc-un-projet-de-loi-pour-sanctionner-les-plus-graves-violations-des-droits-de-l%E2%80%99homme/#more-94776>, accessed 28 April 2013

crimes under international law but soldiers and senior military figures remain protected within the military justice system,

" [ ] Few people have access to existing justice mechanisms and confidence in the justice system is low. Victims and witnesses are reluctant to come forward, as there is no national programme to protect them. Judicial staff – including judges and prosecutors – also face threats and intimidation. Legal aid services, though guaranteed by law, are scarce. This prevents many victims and their families from pursuing justice and limits defendants' access to lawyers. Most Congolese people know very little about their legal rights and the justice system, and outreach efforts to address this gap are inadequate. The judiciary is far from independent and interference is common in both military and civilian courts. In the military justice system, officers protect soldiers under their command and the political and military hierarchy protects senior military figures. This is of particular concern in a country where the army is one of the main perpetrators of crimes under international law. Corruption is endemic and affects every level of the judicial chain. There are very few women employed within the judicial system. Enforcement of court judgments is rare. Amnesty International was unable to identify a single case in which reparation for crimes under international law, in the form of compensation, has been paid by the state when held accountable."<sup>303</sup>

On 16 April 2012 the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns stated in his addendum follow-up to country recommendations report to the *United Nations General Assembly* that the Congolese authorities had taken some steps to address the systemic problems in the justice system but that it continues to be severely affected by problems including very limited access to justice for the majority of the Congolese population,

"During the period under review, the Congolese authorities, with international support, have taken some steps to address the systemic problems in the justice system. For instance, in an attempt to strengthen the capacity of the system, 2,000 additional magistrates were to be trained and deployed between January 2010 and January 2012. The establishment of prosecution support cells and efforts to equip judiciary institutions with modern technologies were reported. While these steps are welcomed, the Congolese justice system still has poor capacity to ensure a proper administration of justice. It continues to be severely affected by inadequate resources, endemic corruption, political interference, poor enforcement of judgments and very limited access to justice for the majority of the Congolese population. Interference is of particular concern in both the military and civilian justice systems. In the military justice system, officers have been reported to protect the soldiers under their command from accountability and to avoid cooperation with the judiciary, thus undermining efforts to fight impunity within the military.

Witness protection raises serious concerns. The former mandate holder drew attention to the lack of a national witness protection programme as a major obstacle to fighting impunity [ ] This perpetuates a situation in which victims fear to seek justice, and reinforces the climate of impunity in the country. There are currently only two such protection programmes in place in the country: one under the International Criminal Court and one implemented by UNJHRO. The former programme is limited to supporting only victims and witnesses —who appear before the Court, and others who are at risk on account of testimony given by such witnesses. [ ] The UNJHRO protection programme is aimed at protecting victims, witnesses of human rights violations, human rights defenders and journalists. While the former mandate holder commended the programme, he also acknowledged its limited reach and resources, and recommended that it be expanded."<sup>304</sup>

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<sup>303</sup> Amnesty International, *The Time for Justice Is Now; NEW STRATEGY NEEDED IN THE DEMOCRATIC REPUBLIC OF THE CONGO: SUMMARY*, August 2011, <http://www.amnesty.org/en/library/asset/AFR62/007/2011/en/f4f8fc53-de34-42bc-a0fa-9e098f50a8a8/af620072011en.pdf>, accessed 12 April 2013

<sup>304</sup> United Nations General Assembly, Twentieth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or



In 2012 the *USDOS* stated that despite constitutional provisions for a presumption of innocence, most defendants were assumed guilty and had to prove their innocence. *USDOS* reported that Judges rarely required cases to be proved by the prosecution,

"By law arrests for offenses punishable by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and they may not arrest a family member instead of the individual being sought. [ ] Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice security officials routinely violated all of these requirements. Many detainees were not granted court hearings within the required 48 hours. While the law provides for a bail system, it generally did not function, and detainees who were unable to pay were rarely able to access legal counsel.

The constitution provides for a presumption of innocence. However, in practice most defendants were assumed guilty and had to prove their innocence. Rarely did a presiding judge require the prosecution to prove its case. Authorities are required to inform the defendant of the charges, including in writing and interpreted as needed. Counsel is not required to be provided in most cases, with the exception of murder trials. While the government regularly provided legal counsel in capital cases, lawyers often did not have adequate access to their clients. During trials defendants have the right to be present and to be represented by a defense attorney. These rights were occasionally disregarded in practice."<sup>305</sup>

In 2012 *Freedom House* reported a lack of judges and other officials across the country, in Maniema province there were only six judges for a population of almost two million,

"The lack of resources is a particularly striking challenge. [ ] The High Council of Judges has lamented the lack of judges and other judicial officials across the country—in all of Maniema province, for example, there were only six judges to serve a population of almost two million."<sup>306</sup>

In 2012 the *USDOS* stated that the rights of defendants, including the right to a trial within 15 days of being charged and to have access to government-held evidence, were only occasionally upheld,

"Adequate time was generally provided to the defendant to prepare a defense. The country does not use a jury system. The public could attend trials at the discretion of the presiding judge. Defendants have the right to a trial within 15 days of being charged. This time period can be extended to a maximum of 45 days. Authorities only occasionally abided by this requirement. The law requires that defendants have access to government-held evidence, but this right was irregularly observed. Defendants did not regularly exercise their right to confront witnesses against them and to present evidence and witnesses in their own defense because witnesses were often reluctant to testify for fear of retaliation. Defendants are not compelled to testify or confess guilt. Defendants have the right to appeal, except in cases involving national security, armed robbery, and smuggling, which the Court of State Security usually adjudicates.

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arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 10 April 2013

<sup>305</sup> US Department of State, 2012 Human Rights Report, <http://www.state.gov//drl/rls/hrrpt/humanrightsreport/#wrapper>, accessed 2 April 2013

<sup>306</sup> Freedom House, *Countries at Crossroads 2012*, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 12 April 2013

Individuals can seek civil remedies for human rights violations within the civil court system. However, individuals preferred to seek redress in the criminal courts and rarely utilized civil courts to address human rights violations [ ] In rural areas where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis, often by local village authorities with little oversight, creating opportunities for corruption and abuse of power."<sup>307</sup>

In 2013 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that Prosecution Support Cells (PSCs) would support the conduct of investigations of war crimes and crimes against humanity, with a particular emphasis on homicide, pillage of natural resources and sexual violence perpetrated in the eastern provinces of DRC,

"Each PSC is composed of experienced military and civilian prosecutors and police investigators (government provided personnel) will provide technical advice and logistical support to FARDC military prosecutors and investigators in the conduct of investigations of war crimes and crimes against humanity, with a particular emphasis on sex crimes, as well as in the conduct of investigation of other violent crimes, such as homicide, pillage of natural resources and sexual violence perpetrated in the Eastern Provinces of the DRC."<sup>308</sup>

On 16 April 2012 the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns also stated in his addendum follow-up to country recommendations report to the *United Nations General Assembly* that the implementation of the zero-tolerance policy addressing a lack of discipline among and criminal activity by FARDC members had gained momentum since 2010 but has yet to be fully implemented and many officers still evade justice,

"An essential recommendation from the mission report requested the Government of the Democratic Republic of the Congo to fully implement its —zero tolerance policy, announced on 5 July 2009, with the aim of addressing a lack of discipline among and criminal activity by FARDC members. The former mandate holder recommended that FARDC members responsible for abuses be investigated, arrested and prosecuted. He listed five senior commanders suspected of involvement in war crimes, to whom the —zero tolerance policy should apply primarily. The Special Rapporteur was informed that the implementation of the zero-tolerance policy had gained momentum since 2010. A considerable number of mobile hearings were held by various military courts and tribunals. [ ] Such positive measures should also be taken to bring to justice perpetrators of extrajudicial executions. However, many officers still evade justice and are rarely, if ever, prosecuted for their command responsibility. The situation is complicated by the political discourse of the Congolese authorities of prioritizing stability over justice, which is aimed at not undermining the integration process of former rebel groups into the FARDC and implies a certain level of tolerance towards their record of serious human rights abuses. Consequently, well-known perpetrators of crimes under international law are not held accountable and even remain in positions of command.

[ ] Furthermore, the Special Rapporteur welcomes the conviction by the International Criminal Court of Thomas Lubanga Dyilo on 14 March 2012 as a major step in the fight against impunity. [ ] The Congolese authorities have made additional efforts in fighting impunity, in an attempt to follow up on one of the main recommendations of the United Nations report on the mapping exercise (see para. 31 above). The Minister of Justice and Human Rights devised in 2011 a draft law concerning the creation and organization of a specialized court, composed of national and international judges, to deal with the crimes committed during the period from 1993 to 2003. On 22 August 2011, the Senate decided to return the draft law to the Government for review. The Senate considered, inter alia, that

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<sup>307</sup> US Department of State, 2012 Human Rights Report, <http://www.state.gov//drl/rls/hrrpt/humanrightsreport/#wrapper>, accessed 2 April 2013

<sup>308</sup> MONUSCO United Nations Organization Stabilization Mission in the DR Congo Military justice, The rule of law and military justice, <http://monusco.unmissions.org/Default.aspx?tabid=10806&language=en-US>, accessed 20 April 2013

the draft would be unconstitutional as it would contradict the constitutional provisions regarding immunities and privileges of jurisdiction."<sup>309</sup>

In April 2012 a report produced by thirteen international and local Congolese groups, including the *Open Society Initiative for Southern Africa*, stated that many in senior positions in the government and military continue to profit from corruption, either in raking off salaries, taking kickbacks, or involvement in illegal mining, trade or protection rackets. The report stated that there had been some progress since the implementation of MONUSCO's conditionality policy with improved rates of arrest and trial for sexual and gender-based violence (SGBV) in the Kivu provinces,

"Support to justice, investigation and anti-corruption efforts are minimal and inadequate.[ ] Many in senior positions in the government and military continue to profit from corruption, either in raking off salaries, taking kickbacks, or involvement in illegal mining, trade or protection rackets. [ ] The implementation of MONUSCO's conditionality policy - whereby peacekeepers do not work with Congolese personnel guilty of human rights abuses - shows that perpetrators can be identified and held to account if made a priority. Improved rates of arrest and trial for sexual and gender-based violence (SGBV) in the Kivu provinces [ ] show that justice is possible with the right combination of training, material support and political attention. That this landmark judgment was delivered by a 'mobile gender court' – a longstanding Congolese solution to delivering justice in remote areas – demonstrates the importance of working flexibly within Congolese realities.

[ ] committees bringing together donors, agencies and the Congolese government have been established on police and justice. They are functional, albeit with uncertain effectiveness. [ ] But while ad hoc communication may have avoided the most egregious duplication of effort, it was insufficient to generate real coherence, or political momentum for reform. Many resist sharing the detail, or even the fact, of their programs. [ ] Given the weakness of Congolese administrative capacity, it is likely that not even the Congolese government had a coherent picture of SSR activities at any one time. The result has been a range of disconnected bilateral initiatives on training, sensitization, infrastructure rehabilitation or capacity building. There have been some successes, notably in relation to justice and police."<sup>310</sup>

In 2012 *Freedom House* stated that the High Council of Judges, a regulatory body in charge of naming, sanctioning, and promoting judges is still under resourced and with more than 100 members, difficult to coordinate and mobilize effectively,

"The Congo was also one of the first countries to ask the International Criminal Court (ICC) to investigate crimes committed on its territory. Five Congolese nationals have been arrested and are being tried in The Hague for war crimes and crimes against humanity, including Thomas Lubanga, a formal rebel leader and the first ICC indictee, and Jean-Pierre Bemba, the former leader of the opposition.

The Congolese constitution guarantees the independence of the judiciary, and in 2008 parliament passed a law creating the High Council of Judges, a regulatory body in charge of naming, sanctioning, and promoting judges that the constitution of 2006 brought back into existence. However, the body is still underresourced and, with more than 100 members, difficult to coordinate and mobilize effectively. There have also been many instances of executive interference in recent years. The judiciary has also shown few signs

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<sup>309</sup>United Nations General Assembly, Twentieth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 10 April 2013

<sup>310</sup>Enough Project, The Democratic Republic of Congo: Taking a Stand on Security Sector Reform, 16 April 2012, [http://www.enoughproject.org/files/DRC\\_SSR-Report\\_2012\\_0.pdf](http://www.enoughproject.org/files/DRC_SSR-Report_2012_0.pdf), accessed 18 April 2013

of having the resources or political will necessary to be an effective counterweight to the executive.

[ ] The independence of the judiciary suffered another blow through the constitutional revision of January 2011. One of the changes gave the ministry of justice direct control over the office of the public prosecutor. While similar provisions exist in many countries, Article 220 of the 2006 constitution explicitly forbids any constitutional revision that impinges on the independence of the judiciary."<sup>311</sup>

In December 2012 international NGO *Transparency International* ranked the DRC 160<sup>th</sup> out of 176 countries listed on the Corruption Perceptions Index.<sup>312</sup>

On 27 February 2013 the Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the *United Nations Security Council* stated that interference in justice processes by government officials at various levels is common, as is corruption, leading to the prevalence of a state of impunity throughout the country.

"Operating on less than 1 per cent of the national budget, the justice sector lacks functioning administrative systems, including in the areas of finance, personnel, case-tracking, the budget, procurement and asset management. Interference in justice processes by government officials at various levels is common, as is corruption, leading to the prevalence of a state of impunity throughout the country. There are fewer than 1,400 judges and prosecutors, compared with an assessed need of at least 5,000, and only a limited number of jurists, including defence counsel. Military justice institutions continue to face challenges similar to those on the civilian side, including a severe shortage of military judges and prosecutors. The military justice system is also subject to political and command interference, and security arrangements for magistrates in conflict-affected areas are woefully inadequate."<sup>313</sup>

In April 2013 *Radio Okapi* reported that many judges in North Kivu were protesting that they were not appointed to any court position although they were being paid, some of them reported that they had been waiting for over a year to receive their nomination. They demanded the government and the High Council of the Judiciary ("Conseil supérieur de la magistrature") assign them to courts, which are acknowledged to be lacking judges. One judge was not clear who had authority over them, the President of the Supreme Court of Justice ("président de la Cour suprême de justice") or the Attorney General ("procureur général de la République"). According to the High Council of the Judiciary, the issue regarding the appointment of judges will be addressed in April 2013. *Radio Okapi* reported that the High Council of the Judiciary had nevertheless already adopted a mechanism to identify the regional courts in need of judges in 2011 because it had been acknowledged that judges were concentrated in the biggest cities – in particular Kinshasa – at the expense of rural areas. The principle that judges rotate had been adopted in order to ensure an appropriate balance in the administration of justice throughout the country.<sup>314</sup>

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<sup>311</sup> Freedom House, Countries at Crossroads 2010, <http://www.freedomhouse.org/report/countries-crossroads/2010/congo-democratic-republic-kinshasa>, accessed 12 April 2013

<sup>312</sup> Transparency international, Transparency International publie son Indice de Perception de la Corruption 2012, 5 December 2012, [http://www.transparency-france.org/e\\_upload/pdf/cpi2012\\_mapandcountryresults.pdf](http://www.transparency-france.org/e_upload/pdf/cpi2012_mapandcountryresults.pdf), accessed 25 April 2013

<sup>313</sup> Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the United Nations Security Council, 27 February 2013, <http://www.securitycouncilreport.org/un-documents/democratic-republic-of-the-congo/>, accessed 12 April 2013

<sup>314</sup> Radio Okapi, Nord-Kivu : des magistrats rémunérés mais sans fonction réclament leur affectation, 11 April 2013, <http://radiookapi.net/actualite/2013/04/11/nord-kivu-des-magistrats-remuneres-mais-sans-fonction-reclament-leur-affectation>, accessed 20 April 2013

In April 2013 *Radio Okapi* reported Minister for Justice Wivine Mumba Matipa's as stating that that corruption and bribery affected courts, tribunals, prosecution offices and their administrative services and stated that it needed to be tackled with global measures.<sup>315</sup>

In April 2012 *International Federation for Human Rights Federation (FIDH)* and *Open Society Institute (OSI)* stated that despite the numerous cases of impunity, corruption and lack of government responses, there were some slight signs of improvement in the justice system,

"There are signs that, with the right will and appropriate support, change is possible. Increased numbers of prosecutions for sexual violence (including of a senior officer) and the reintegration of child soldiers show that justice can be done. FARDC formations trained by the US, South Africa and Belgium have performed well in intervening in delicate domestic environments. A census of military personnel is nearly complete."<sup>316</sup>

In August 2009 *IBAHRI/ILA* stated that military command violates the independence of military judges,

"The Congolese military justice system exercises an unusually broad jurisdiction. Although Article 156 of the 2006 Constitution expressly limits the jurisdiction of military courts to members of the FARDC and the PNC, the Military Judicial Code and the Military Penal Code from 2002 have not yet been harmonised with the Constitution.

Thus military courts continue to exercise jurisdiction – in accordance with the 2002 military justice legislation – over civilians who commit crimes with 'weapons of war' ("armes de guerre") or offences related to military personnel.

Although one of the aims of the 2002 reform was to strengthen the independence of the military justice system, the executive branch and the military command still continue to violate the independence of military judges."<sup>317</sup>

In 2013 the *United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO)* stated that, as part of its mandate, one of the main projects of the rule of law component in the military justice field is the creation and operation of "Prosecution Support Cells (PSCs)" to assist the FARDC military justice authorities in prosecuting persons arrested by the FARDC,

"There are two main reasons why ROL Section is involved in strengthening the capacity of the DRC military justice system, as called for in United Nations Security Council Resolution 1925. First, the military justice system is a vehicle for promoting the rule of law and respect for human rights. It is the main legal tool and accountability mechanism within the FARDC and armed groups for ending the culture of impunity amongst its members. Second, reforming and strengthening the capacity of the military justice system is also an essential tool for post-conflict security sector reform in the DRC.

[ ] The Rule of Law Section works closely with Congolese military justice authorities, including the Auditeur-Général and the President of the High Military Court, in furtherance of these goals. The Section also works closely with international donors and other UN

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<sup>315</sup> Radio Okapi, RDC : la corruption gangrène tout le corps social, selon la ministre de la Justice, 11 April 2013, <http://radiookapi.net/actualite/2013/04/11/rdc-la-corruption-gangrene-tout-le-corps-social-selon-la-ministre-de-la-justice/#more-147903>, accessed 25 April 2013

<sup>316</sup> Fédération internationale des ligues des droits de l'Homme (FIDH)/ Open Society Institute (OSI), RDC : Prendre position sur la réforme du secteur de la sécurité, 16 April 2012, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-french-20120416.pdf>, accessed 19 April 2013

In English, <http://www.opensocietyfoundations.org/sites/default/files/drc-ssr-report-20120416-1.pdf>

<sup>317</sup> International Bar Association/ International Legal Assistance Consortium, Reconstruire les tribunaux et rétablir la confiance: une évaluation des besoins du système judiciaire en République démocratique du Congo [available in French and English], August 2009, <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=6C2BE523-F512-48C1-B09C-FC9A8B1D0AAB>, accessed 25 April 2013

agencies to secure the necessary resource support to enable this to happen. One of the main projects of the Rule of Law component in the military justice field is the creation and operation of Prosecution Support Cells (PSCs). Under paragraph 12 d) of its resolution 1925 (2010), the Security Council has mandated MONUSCO to "Support national and international efforts to bring perpetrators to justice, including by establishing Prosecution Support Cells to assist the FARDC military justice authorities in prosecuting persons arrested by the FARDC"<sup>318</sup>

### **2.3 Detention conditions – access to food, access to healthcare, overcrowding, training of guards, detainee ill treatment, deaths, separation of men and women, and separation of juveniles from adults**

On 16 April 2012 the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns stated in his addendum follow-up to country recommendations report to the *United Nations General Assembly* that the current prison situation continues to raise grave concerns, with endemic overcrowding, very poor conditions and a high level of insecurity leading to a considerable number of deaths, including from preventable illness,

"The previous mandate holder concluded that a high number of prisoners died in Congolese prisons due to a severe lack of the most basic standards of organization, monitoring and health. The current prison situation continues to raise grave concerns, with endemic overcrowding, very poor conditions and a high level of insecurity leading to a considerable number of deaths, including from preventable illness. [ ] Chronic malnutrition, severe ill-treatment and a lack of access to basic health care constitute the main reasons for deaths in custody. [ ] the Special Rapporteur was informed that within the period under review the Congolese authorities, with support from the MONUSCO Corrections Unit, conducted a census in those correction facilities that are located near a MONUSCO presence. A two-year project is currently being developed with funding from the Government of France to conduct a comprehensive census of the entire prison population."<sup>319</sup>

In 2012 US NGO *Freedom House* stated that prison conditions were "abysmal and life-threatening" and long periods of pretrial detention were common,

"Despite constitutional guarantees of independence, the judiciary remains subject to corruption and manipulation, and the court system lacks both trained personnel and resources. Prison conditions are abysmal and life-threatening, and long periods of pretrial detention are common. While there are notable exceptions, most government and government-allied forces still enjoy apparent impunity for even the most heinous crimes, and there is little justice for civilian victims of violence and sexual violence."<sup>320</sup>

On 27 February 2013 the Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the *United Nations Security Council* stated that the prison

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<sup>318</sup> MONUSCO United Nations Organization Stabilization Mission in the DR Congo Military justice, The rule of law and military justice, <http://monusco.unmissions.org/Default.aspx?tabid=10806&language=en-US>, accessed 20 April 2013

<sup>319</sup> United Nations General Assembly, Twentieth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 10 April 2013

<sup>320</sup> Freedom House, Freedom in the World 2012 Congo, Democratic Republic of (Kinshasa), <http://www.freedomhouse.org/report/freedom-world/2012/congo-democratic-republic-kinshasa>, accessed 9 April 2013

system is characterized by inhuman conditions of detention, including lack of medical facilities and severe overcrowding,

"The prison system is characterized by inhuman conditions of detention, including lack of medical facilities and severe overcrowding. Very few prisons have an allocated budget for operational costs, and detainees regularly face malnutrition and lack of health services. Security installations are rudimentary, contributing to high rates of escape. Some 95 per cent of personnel working in correctional facilities are self-appointed and there is no training institution for prison personnel. No formal or practical coordination exists among the Ministries of Justice and Human Rights, Defence and the Interior, which are together responsible for the corrections sector. Of approximately 18,000 inmates in correctional facilities in the Democratic Republic of the Congo, at least 70 per cent are held in pretrial detention. Only one military prison is currently operational.

MONUSCO and the United Nations Development Programme (UNDP) will continue to work closely with the Government to finalize a joint initiative aimed at addressing the penitentiary situation and establish a minimum level of sustainable State authority and control in the conflict affected areas in eastern Democratic Republic of the Congo through the deployment of trained and equipped police and judicial and corrections officials. The United Nations will also continue to ensure compliance with prison system standards and practices and assist the national authorities with the development of mechanisms designed to combat illegal and prolonged detention and improve prison conditions."<sup>321</sup>

In May 2012 a post on *Oxfam's* East Africa blog described conditions in Bunia central prison in Orientale Province stating that the prison is severely over-crowded, currently housing over a thousand inmates; mostly men, with separate compounds for minors and women. Sanitation facilities were "poor" and there was not enough water for drinking, washing or cooking,

"[ ] Recently, reports surfaced of a possible cholera outbreak in Bunia's Central Prison[ ] The prison is severely over-crowded. Built for 200 inmates, it currently houses over a thousand; mostly men, although there are also separate compounds for minors and women. Before our intervention, the prison received just 1,000 litres of piped water a day, barely a litre per person for drinking, cooking and washing. There are no beds and only a few dark, unlit and unfurnished bare-floor rooms that are crammed with people. Most inmates normally have to sleep outside in the prison courtyard because of lack of space. But heavy rain the night before my visit forced prisoners to get shelter where they could – some even slept in the toilets to stay dry.

It's easy to see how disease could spread like wildfire here. People tightly packed together with poor sanitation facilities, including maggots in the toilets, while the number of toilets is woefully insufficient for the large number of people, and there was not enough water for drinking, washing or cooking. The scarcity of water meant most prisoners were only able to wash once a week. [ ] Many raised problems that they were still facing due to overcrowding and sanitation. Later, several told me disease was rampant. There had been cases of typhoid; and many inmates had serious respiratory illnesses and skin diseases. I was told matter-of-factly that several prisoners had died and that cholera was not the cause."<sup>322</sup>

In May 2012 international broadcaster *Radio Netherlands Worldwide* stated that visiting a detainee at Munzenze central prison is contingent to payment, although this practice is illegal, which prison guards justify by non-payment of their own salaries,

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<sup>321</sup> Special Report of the Secretary-General on the Democratic Republic of the Congo and the Great Lakes region to the United Nations Security Council, 27 February 2013, <http://www.securitycouncilreport.org/un-documents/democratic-republic-of-the-congo/>, accessed 20 April 2013

<sup>322</sup> Oxfam East Africa Blog, Behind prison walls in DRC, 22 May 2012, <http://www.oxfamblogs.org/eastafrica/?p=4322>, accessed 21 April 2013

"Prisoners who come from other regions or villages are worst penalized. They only get access to food when the provincial government supplies beans or sugar – which happens very rarely. "Sometimes we go for two or three nights without eating. It is painful and difficult to live here," says Amisi, an inmate who was transferred to Munzenze central prison two years ago. And yet visiting a detainee at Munzenze central prison is contingent to payment. A sum varying between 44 and 88 euro cents must be handed to the wards. Though illegal, the requisite fee complicates the efforts of those who must bring food to their incarcerated relatives. Zabibu Anna appears outside the prison after a visit. "My husband has been detained for a year," she explains. "I do not work, it is very difficult, but I still manage to find something to feed my four children and also bring to the prison." She adds: "I have to pay 500 francs [about 44 euro cents] to the policemen who are assigned to the prison. Otherwise, they send me away with the food and my husband stays hungry."

The prison guards justify the bribery by non-payment of their own salaries. "We receive a salary ranging generally between 40,000 and 50,000 Congolese francs [35 and 44 euros] a month," says a guard requesting anonymity. "It is very difficult to make ends meet this month. We have to make do by charging visitors." According to the first deputy prosecutor in Goma, Tshibanda Tondoyi, "Only the recruitment of new magistrates and a review of their salaries can help decongest prisons and solve the problem of overpopulation." Despite repeated attempts to contact him, the director of Munzenze central prison did not wish to explain what – if anything – he intends to do to improve the living conditions behind bars.<sup>323</sup>

In March 2013 a report on deaths in detention centres from January 2010 to December 2012 by the *United Nations Joint Human Rights Office (MONUSCO-OHCHR)* stated that in several prisons, the State has stopped paying for food for detainees for long periods and that besides malnutrition, lack of medical care is the major cause of deaths in detention,

"The causes of malnutrition in detention centres are many and different in nature. First of all, budgets allocated to prisons, while not void, are totally inadequate to ensure their appropriate functioning. In several prisons, the State has stopped paying for food for detainees for long periods. For example, in Orientale province, no prison of Ituri district receives a State grant for food. In the prisons of Aru and Mahagi, detainees' families provide them with meals, because Aru prison has received only one food contribution from the State since the beginning of 2012, namely on 12 September 2012.

[ ] on 7 March 2012, a prisoner in pre-trial detention died during his transfer from the prison of Uvira to a medical facility. [ ] In Goma on 1 August 2012, Sadoke Kikunda Mayele, who was the only defendant in the case of the mass rapes in Walikale, died as a result of medical complications and delays in being transferred to a hospital, which had been requested by the prison doctor. Following the defendant's death, the prison's inmates sent a memorandum to the provincial authorities denouncing the negligence and corruption in the prison system and calling for action to be taken against those responsible, for improvements in transfer procedures for sick detainees and for the implementation of appropriate measures to deal with overcrowding in the prison."<sup>324</sup>

On 16 April 2012 the *Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns stated in his addendum follow-up to country recommendations report to the United Nations General Assembly that only the central prisons receive a small, but still insufficient, budget for feeding detainees. As a consequence, detainees remain dependent upon their families, friends and

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<sup>323</sup> Radio Netherlands Worldwide Africa, Deplorable conditions and corruption at Goma prison, 30 May 2012, <http://www.rnw.nl/africa/article/deplorable-conditions-and-corruption-goma-prison>, accessed 21 April 2013

<sup>324</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPq%3D&tabid=10662&language=en-US>, accessed 12 April 2013



charitable organizations for their nutrition and survival. The *Special Rapporteur* reported that living conditions remained dire due to the lack of basic health care,

"Regarding the recording and reporting of deaths in custody, the Special Rapporteur received information that prison authorities currently send incident reports on deaths in detention to the Director of Prisons at the Ministry of Justice and Human Rights on a case-by-case basis. During the period under review, the drafting of those reports has become significantly more frequent. [ ] The allocation by the Government of reasonable budgets for every prison remains a challenge. [ ] As a result, penitentiary employees are significantly underpaid, lack dedication, and are susceptible to corruption. Only the central prisons, including the Ndolo military prison in Kinshasa, receive a small, but still insufficient, budget for feeding detainees. By consequence, detainees remain dependent upon their families, friends and charitable organizations for their nutrition and survival. Living conditions remain dire due to, inter alia, the lack of basic health care.

Despite the persisting difficult conditions and the severe overcrowding in prisons, the recommendation relating to the release of all arbitrarily detained prisoners was not followed up. [ ] Numerous detainees have never appeared before a court, or been allowed to challenge the legality of their detention. Furthermore, it is reported that convicted prisoners are often not freed at the end of their sentence, a situation that is exacerbated by the lack of prison records. Meanwhile, arbitrary arrests continue to be frequent, thus further increasing the pressure on the prisons."<sup>325</sup>

On 20 February 2013 non-profit press freedom organisation the *Doha Centre for Media Freedom* stated that the executive director of a local human rights organisation had expressed concern about the detention of journalists, politicians, soldiers, civilians, lawyers, university lecturers and students in ANR jails without access to medical care,

"Dolly Ibefo, executive director of a local human rights organisation Voix des sans Voix (VSV, Voice of the Voiceless), recently expressed serious concern about a wave of illegal arrests and detentions of journalists, politicians, soldiers, civilians, lawyers, university lecturers and students, many of whom he said are languishing in ANR jails without access to medical care. According to Ibefo, two of those unnecessarily jailed are septuagenarians, who are suffering serious psychological issues. Omer Tshituka Tshenda is 70-years-old, while Clement Ntabala Kalenga is 73."<sup>326</sup>

In March 2013 the *United Nations Joint Human Rights Office (MONUSCO-OHCHR)* stated that the number of deaths in detention almost doubled in 2012 compared with the data gathered for the previous two years which could be due to the irregularity of state subsidies for feeding prisoners in the the first half of 2012. The report stated that out of 211 deaths, 84 detainees reportedly died from malnutrition, 103 due to lack of appropriate care by the authorities and 24 as a result of ill-treatment,

"Between January 2010 and December 2012, UNJHRO human rights officers documented a total of 211 deaths in detention during visits to holding cells and prisons in the DRC, of which 54 deaths occurred in 2010, 56 in 2011 and 101 in 2012. These figures show that the number of deaths in detention almost doubled in 2012 compared with the data gathered for the previous two years. This increase in deaths in detention in 2012 could be linked to the payment of state subsidies for feeding prisoners which reportedly became increasingly

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<sup>325</sup> United Nations General Assembly, Twentieth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 10 April 2013

<sup>326</sup> The Doha Centre for Media Freedom, the ANR: a threat to DR Congo's media freedom, Journalists in the Democratic Republic of Congo can face strict reprisals from the national intelligence agency for carrying out their work, 20 February 2013, <http://www.dc4mf.org/en/content/anr-threat-dr-congos-media-freedom>, accessed 12 April 2013

irregular during the first half of 2012. Out of this total number of 211 deaths, 84 detainees reportedly died from malnutrition, 103 due to lack of appropriate care by the authorities and 24 as a result of ill-treatment. The actual figures might be higher, but these numbers only take into account deaths in detention which could be confirmed as having resulted from human rights violations.

[ ] The overcrowding which is prevalent in detention centres in the DRC contributes to the high number of deaths in detention. [ ] The occupancy rate in Makala Central Prison in Kinshasa is more than 400% [ ] there is also a problem when it comes to the distribution of the prison population. [ ] In Equateur, Mbandaka central prison, built in 1930 and originally designed to house 1,500 detainees, only held around one hundred on 1 September 2012 because of the advanced state of dilapidation of the prison. [ ] In some detention centres, the availability of fresh air, lighting and ventilation is also insufficient, resulting in the deaths of some detainees. In recent years, the UNJHRO has documented several cases of death in detention as a result of suffocation due to adjacent and overcrowded detention spaces."<sup>327</sup>

In March 2013 the *United Nations Joint Human Rights Office (MONUSCO-OHCHR)* stated that detainees in several prisons rely exclusively on their relatives, NGOs, churches or charities for food and malnutrition among detainees was of particular concern in the province of Kasai Occidental where, between January and September 2012, nine detainees in Kananga central prison and 12 in Tshikapa prison died,

"[ ] Between January 2010 and December 2012, two fifths of deaths were due to malnutrition. The situation is of particular concern in the province of Kasai Occidental where, between January and September 2012, nine detainees in Kananga central prison and 12 in Tshikapa prison died from the effects of malnutrition. In October 2012, Makala central prison experienced food shortages for approximately three weeks, and three detainees died from the effects of malnutrition during this period. [ ] Food rations in Congolese prisons are limited to one meal a day at best. [ ] More than 460% on 3 October 2012. Detainees in several establishments rely exclusively on their relatives, NGOs, churches or charities and the ICRC for food. Civil society is thus trying to make up for the deficiencies of the State, which is not meeting its obligations"<sup>328</sup>

In March 2013 a report on deaths in detention centres from January 2010 to December 2012 by the *United Nations Joint Human Rights Office (MONUSCO-OHCHR)* stated that in several prisons, the State has stopped paying for food for detainees for long periods and that besides malnutrition, lack of medical care is the major cause of deaths in detention. Doctors only visit in emergency cases and are therefore unable to ensure that the condition of sick detainees is followed up on properly,

"The causes of malnutrition in detention centres are many and different in nature. First of all, budgets allocated to prisons, while not void, are totally inadequate to ensure their appropriate functioning. [ ] in several prisons in the DRC, varying proportions of stocks of food or other products allocated to detainees, for example tools and seeds supplied to cultivate plots of land, are misappropriated by prison staff.[ ] in practice, detainees do not have access to the health services they need. Furthermore, the deplorable conditions in detention centres in the DRC favour the spread of diseases. Besides malnutrition, lack of medical care is the major cause of deaths in detention documented by the UNJHRO between January 2010 and December 2012, with a total of 103 deaths due to violations of

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<sup>327</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPg%3D&tabid=10662&language=en-US>, accessed 12 April 2013

<sup>328</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPg%3D&tabid=10662&language=en-US>, accessed 12 April 2013

detainees' right to life [ ] Doctors do not make daily visits to prisons and only visit in emergency cases. Therefore, they are continually unable to ensure that the condition of sick detainees is followed up on properly. Prison infirmaries are also generally lacking in medicines, and there are insufficient numbers of medical staff to look after sick detainees. Consequently, detainees who become ill with common ailments frequently end up in a critical condition."<sup>329</sup>

In March 2013 a report on deaths in detention centres from January 2010 to December 2012 by the *United Nations Joint Human Rights Office (MONUSCO-OHCHR)* also stated that a lack of transparency and absence of accountability mechanisms prevent the effective operation of the prison system, which is already hindered by extremely limited resources,

"[ ] Transferring detainees who require medical care which cannot be provided in detention centres also poses a problem, despite the fact that the transfer procedure laid down by Article 60 of Ordinance 344 is simple and just requires the authorisation of a doctor. In the case of a prisoner who has not yet been convicted, a person in pre-trial detention or a suspect, the judicial authority and the inspector with territorial jurisdiction in charge of the direction of the section dealing with the inspection of prisons must be informed about it. Yet, in practice, transfers often happen at a late stage, when the patient is already in a critical condition, or else they are refused by prison staff due to fear of escapes. Even though some transfers do lead to escapes, this is not a valid reason for refusing detainees the right to receive treatment. It is the responsibility of the State to ensure that appropriate security measures are put in place to avoid such incidents. [ ] The allocation of the budget to prisons and its current management pose a number of problems in the DRC. The lack of transparency and the absence of accountability mechanisms, either at the central or the provincial level, are extremely worrying and prevent the effective operation of the prison system, already hampered by extremely limited resources."<sup>330</sup>

In March 2013 the *United Nations Joint Human Rights Office (MONUSCO-OHCHR)* stated that a Rwandan boy died in August 2012 following acts of torture while he was being held in detention by FARDC soldiers in Goma,

"A Rwandan boy suspected of being part of the March 23 Movement (M23) also died in August 2012 following acts of torture while he was being held in detention by FARDC soldiers in Goma. It is the responsibility of the authorities not to endanger the life or physical integrity of detainees, as stated in the international texts.

[ ] The overcrowding which is prevalent in detention centres in the DRC contributes to the high number of deaths in detention. In fact, the main detention centres host a number of detainees significantly higher than their capacity. Most detention centres, mainly prisons, were built decades ago, and their capacities have remained the same whilst the number of detainees has continued to rise. The occupancy rate [ ] in Goma Central Prison is close to 800%. [ ] there is also a problem when it comes to the distribution of the prison population. [ ] in the entire province of Maniema, for example, which is the size of Tunisia, there are approximately 250 detainees and a sparse network of courts (five operational courts).<sup>331</sup>

In March 2013 African news website the *Moon of the South* stated that the UN lacks the strong monitoring mechanisms in place to continue checking if the authorities are doing something to

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<sup>329</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPg%3D&tabid=10662&language=en-US>, accessed 12 April 2013

<sup>330</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPg%3D&tabid=10662&language=en-US>, accessed 12 April 2013

<sup>331</sup> United Nations Joint Human Rights Office (UNJHRO), REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE (MONUSCO-OHCHR) ON DEATHS IN DETENTION CENTRES IN THE DEMOCRATIC REPUBLIC OF CONGO, March 2013, <http://monusco.unmissions.org/LinkClick.aspx?fileticket=yCX3VNesgPg%3D&tabid=10662&language=en-US>, accessed 12 April 2013

improve the situation of those currently detained in DRC jails, without access to visits and medical care,

"UN human rights chief Navi Pillay urged the government of Joseph Kabila to assume its responsibility by keeping prisoners alive and in good health in accordance with international standards. "The very serious and persistent problems surrounding detention conditions in the DRC need to be addressed without further delay," she said. But Pillay's urgent call is likely to fall in deaf ears as similar findings and calls did nothing to alleviate the problem. [ ] "This problem is not new, it dates from the Mobutu era," former prisoner Laurent Nkoy Losese told Moon of the South. Losese, now living in exile, spent one year-and-half in the notorious Makala detention centre in the capital Kinshasa, and nearly died of TB. "The UN talks too much but they lack strong monitoring mechanisms in place to continue checking if the authorities are doing something to improve the situation," Losese charged.

[ ] Torture and other acts of intimidation, and detention without trial in undisclosed locations are widespread in DRC, where the infamous Agence Nationale des Renseignements (ANR, National Intelligence Agency) and the Republican Guard terrorise populations and lock up anyone suspected of 'plotting to overthrow the government'. Thousands of innocent people, including university lecturers, journalists, student activists, human rights defenders, ordinary citizens are currently languishing in DRC jails, without access to visits and medical care, according to penitentiary sources and local human rights organisations.<sup>332</sup>

In 2013 the *International Committee of the Red Cross* stated that prison authorities and delegates had begun work on securing the penitentiary food-supply chain and that the Justice Ministry obtained an increase in the food budget and regulated the allocation of funds to individual prisons. Several international stakeholders joined in efforts to improve detainees' conditions and the Justice Ministry established a working group to coordinate streams of activity,

"ICRC delegates visited detainees to monitor their treatment and living conditions. [ ] Constructive dialogue with the Justice Ministry resulted in an increase in the prison food budget. [ ] Inmates enjoy improved nutrition, health care and hygiene. Through a nutritional programme, 6,674 detainees (monthly average: 3,360 inmates) in seven facilities had their regular meals supplemented with ICRC-supplied food rations, while distributions of firewood bolstered cooking capacities. Among them, 422 severely malnourished inmates received high-energy biscuits. These inputs, alongside regular health monitoring, helped stabilize malnutrition and associated mortality rates. Some 271 detainees enjoyed fresh vegetables farmed in prison gardens using ICRC seed, fertilizer and tools.

Meanwhile, prison authorities and delegates worked on securing the penitentiary food-supply chain. Drawing on ICRC recommendations, the Justice Ministry obtained an increase in the food budget and regulated the allocation of funds to individual prisons. Detainees also saw improvements in health care thanks to donations of drugs/medical supplies to 12 medical facilities serving prisons, backed by training in medical stock management for selected health workers. Efforts continued to encourage the authorities to extend national HIV/AIDS, TB and malaria prevention programmes to inmates countrywide. Reducing their exposure to hygiene-related health hazards, 9,052 detainees benefited from critical renovations to water, sanitation and kitchen infrastructure and, where necessary, received soap/cleaning materials. With ICRC encouragement, several international stakeholders joined in efforts to improve detainees' conditions. The Justice Ministry established a working group to coordinate streams of activity."<sup>333</sup>

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<sup>332</sup> Moon of the South, 101 people died in DR Congo jails in 2012, UN says, 15 March 2013 <http://moonofthesouth.com/101-people-died-dr-congo-jails/>, accessed 20 April 2013

<sup>333</sup> International Committee of the Red Cross Annual Report 2011, Country Profile DRC, <http://www.icrc.org/eng/assets/files/annual-report/current/icrc-annual-report-drc.pdf>, accessed 21 April 2013

In 2012 *Amnesty International* stated that decaying facilities prevented women from being effectively separated from men, and pre-trial detainees from convicted prisoners,

"Prisons continued to lack the resources to ensure people were detained in conditions that met international minimum standards. Several prisoners died as a result of these poor conditions. Decaying facilities prevented women from being effectively separated from men, and pre-trial detainees from convicted prisoners. Prison escapes occurred throughout the country due to limited resources and poor infrastructure.

On 7 September, 963 prisoners escaped from Kasapa prison, Lubumbashi, Katanga province, following an armed attack. The escapees included the former Mayi-Mayi chief Gédéon Kyungu Mutanga, who was convicted of war crimes, crimes against humanity and terrorism in March 2009."<sup>334</sup>

On 16 April 2012 the *Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns stated in his addendum follow-up to country recommendations report to the United Nations General Assembly that a prison break attempt on 1 January 2012 at the Bukavu Central Prison, in South Kivu, resulted in the death of 8 prisoners and the injury of 47 prisoners,

"Prison unrest, including mass escapes, prisoners' riots and strikes by the staff, is also of serious concern. For instance, a prison break attempt on 1 January 2012 at the Bukavu Central Prison, in South Kivu, resulted in the death of 8 prisoners and the injury of 47 prisoners."<sup>335</sup>

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<sup>334</sup> Amnesty International Annual Report 2012, <http://www.amnestyorg/en/region/democratic-republic-congo/report-2012#section-36-11>, accessed 20 April 2013

<sup>335</sup> United Nations General Assembly, Twentieth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns Addendum Follow-up to country recommendations: Democratic Republic of the Congo, 16 April 2012, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-22-Add1_en.pdf), accessed 10 April 2013