

CONGO: FIVE PRIORITIES FOR A PEACEBUILDING STRATEGY

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CONGO: FIVE PRIORITIES FOR A PEACEBUILDING STRATEGY

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The deal struck by the Democratic Republic of Congo (DRC) and Rwanda for renewed military and political cooperation is an important step forward, but is not sufficient to bring peace to the Kivus. Their five-week joint military operation did not produce significant results against the Rwandan Hutu rebels. Integration of the former insurgency that came over to the government's side after Laurent Nkunda was dropped as its leader is precarious, despite the 23 March 2009 agreement it signed with Kinshasa. An international monitoring group chaired by UN Special Envoy Olusegun Obasanjo and Great Lakes Envoy Benjamin Mkapa should work with the Congolese and Rwandan governments to support and implement a genuine and comprehensive peacebuilding strategy, while donors should condition their support on adoption and implementation by Kinshasa of a comprehensive package of judicial measures to fight impunity.

Normalisation of relations between Rwanda and Congo is essential if the eastern Congo and the Great Lakes region as a whole are to be stabilised. The agreement under which Rwanda accepted to withdraw its support from the renegade General Nkunda's Congrès National pour la Défense du Peuple (CNDP) insurgency and simultaneously press it to accept integration into the national army, while Kinshasa agreed to a joint military strike on its territory with the Rwandan army against the successors of the 1994 *genocidaires*, is an attempt to address a problem that has poisoned bilateral relations for fifteen years. There has already been one immediate and welcome result: Nkunda's replacement and subsequent arrest.

But the Forces Démocratiques pour la Libération du Rwanda (FDLR) still have up to 6,000 fighters, a strong chain of command and a political branch disseminating propaganda abroad. Rwandan and Congolese troops destroyed empty camps and merely dispersed the FDLR's North Kivu units further west. While widespread civilian casualties were avoided in the operation and most Rwandan troops appear to have left the DRC, the FDLR is already returning to former positions, attacking the FARDC and taking revenge on communities it

believes supported the joint operation. Only 578 Rwandan Hutu rebels, including child soldiers, and 286 former Rwandan army soldiers who were for a time part of the CNDP had been repatriated by 30 April. New operations against the FDLR have to be prepared more carefully. An effective anti-FDLR strategy cannot be implemented without Rwandan support. It requires adequate planning and coordination with MONUC that focuses on filling the vacuum created by the military operations, protecting civilians from becoming "collateral damage" and from FDLR revenge and ensuring that rank-and-file FDLR freed from their chain of command actually proceed to disarmament.

Moreover, it is questionable how successful integration of the CNDP's Tutsi fighters into the Congolese army (FARDC) has been. The CNDP's military wing has been broken into platoon-level units and mixed with similar ones composed of Hutu militias, Mayi-Mayi and FARDC. CNDP commanders have also been brought into the hierarchy of the 8th Military Region. These integrated units may quickly disintegrate, however. Their command and control, cohesion, and will to fight are extremely weak, and the underlying causes of the insurgency have not been resolved. A security environment conducive to the safe return and reintegration of up to 60,000 refugees and 850,000 internally displaced persons (IDPs) has not yet been created.

Former CNDP leaders and FARDC commanders have a horrendous record of causing severe suffering to civilians during their operations and of active involvement in the illegal exploitation of natural resources in North Kivu. Sexual violence has taken a catastrophic toll on the Kivu population and must be addressed decisively, most importantly by holding civilian and military abusers accountable for their actions. Illustrating the dramatic breakdown of Congolese society, rape, practised by men and teenagers, on women and girls of all ages, but also on men, has become not just a weapon of war but also a widely-practised procedure for determining power relations. Genuine peacebuilding and restoration of state authority in the Kivus also cannot ignore the culture of impunity, restoration of basic security and demilitarisa-

tion of the economy. Moreover, stabilisation will not succeed in the East without the continuation of successful institutional reforms supported by strong political engagement at the centre, where the Congo's governance is largely determined. At the same time, if peacebuilding does succeed in the Kivus, the entire country will hugely benefit.

A peacebuilding strategy for the eastern Congo should have five priorities: 1) a credible and comprehensive disarmament strategy for dealing with Rwandan Hutu rebels in both North and South Kivu; 2) resuming security system reform with a new focus on building capacity and accountability in the Kivus as well as Orientale province; 3) a specific plan for fostering reconciliation and human security that concentrates on judicial accountability and the requirements of refugee and IDP return and reintegration; 4) political engagement dedicated to improving governance through increased economic transparency, equitable taxation, decentralisation and local elections; and 5) continuing efforts to sustain stable regional relations.

The problem with Congo is less to identify peacebuilding objectives than to sustain political will and results-oriented partnerships. With the international financial crisis reducing available resources, it is even more important to rationalise and coordinate international engagement, including establishing a clear division of labour between the various arms of the UN, donors and regional states and organisations. During the October-November 2008 crisis in North Kivu, when a humanitarian catastrophe threatened in and around Goma, robust political engagement with national and regional actors did more than troops on the ground to protect civilians. That kind of political engagement needs to be sustained at the highest levels in Kinshasa and the region for peacebuilding in the Kivus to succeed. Putting all efforts into the Kivus without keeping up pressure in Kinshasa for the reforms needed to improve political and economic governance throughout the country would be counter-productive.

International engagement and support for peacebuilding in the Congo at least through the 2011 elections needs to be maintained and coordinated by the UN and Great Lakes envoys – both distinguished former African presidents – with a view to implementing a roadmap that defines precisely the role and responsibility of each partner and the benchmarks to be met so that the process becomes irreversible. Only then should the UN Mission in the Congo (MONUC) begin its drawdown.

RECOMMENDATIONS

To the UN Special Envoy for the Great Lakes, Olusegun Obasanjo, and the Great Lakes Special Envoy, Benjamin Mkapa:

1. Produce, in coordination with MONUC, donors and regional partners, a roadmap for implementing a comprehensive peacebuilding strategy focusing on the following five priorities and division of labour:

Priority 1: Implementing an effective anti-FDLR strategy

To MONUC, the Government of the Congo and the Government of Rwanda:

2. Suspend Operation Kimya II and plan new joint military operations against the FDLR in which Rwandan special forces pressure the hardcore armed leadership that refuses voluntary disarmament, while MONUC and the Congolese army (FARDC) fill the vacuum created by those measures, prioritising an immediate increase in protection of civilians and proceeding with disarming the rank and file.
3. Increase outreach to the FDLR rank and file, most of whom had nothing to do with the Rwandan genocide, and offer incentives and relocation outside the Kivus to those who accept voluntary disarmament.

To EU Member States, the U.S., Canada, and African states where FDLR leaders reside, including Cameroon, the Central African Republic, Zambia and Kenya:

4. Coordinate legal action in these states against fundraising and propaganda dissemination by FDLR political leaders and prevent their access, as far as possible within national law, to public broadcasting outlets.

Priority 2: Refocusing Security System Reform (SSR) on results in the East

To MONUC and the Government of the Congo:

5. Strengthen FARDC in formerly FDLR-dominated areas by embedding MONUC personnel as mentors and monitors for up to one year and plan for their replacement by police units and other representatives of a civilian administration once the security environment has improved.
6. Pay extra allowances to soldiers involved in joint operations; improve officer training; and establish strong accountability by strengthening military jus-

tice and military police mechanisms so that they can punish misappropriation of funds and human rights abuses and better protect civilians.

To Donors and other regional partners of the Congo involved in security system reform:

7. Prioritise physical rehabilitation of the 8th, 9th and 10th military region infrastructure; complete reform of their management systems (emphasising communications, control of weapons and ammunition and personnel management); and expand the European security system reform element (EUSEC) already operating in the Congo so it can support such a policy, in cooperation with willing regional partners.
8. Provide technical expertise to establish a vetting commission within the FARDC to progressively eliminate human rights abusers from both the command structure and the rank and file and condition financial and technical support accordingly.

Priority 3: Fostering reconciliation and human security

To the Government of the Congo and Donors:

9. Invest significant resources in reintegration of ex-combatants through labour-intensive reconstruction programs and professional training.
10. Strengthen arrest, detention and prosecution capabilities in the Kivus and Orientale with respect particularly to sexual violence; and set up special police and investigation units, while making recruitment and training of female officers a priority, so as to encourage the reporting of sexual offences and facilitate their prosecution.
11. Intensify efforts to sensitise civilian and military officials about sexual misconduct by launching a national campaign against sexual violence; and increase and impose criminal penalties for rape and sexual abuse for both civilian and military offenders.

To Members of the Congolese Parliament and Congolese Civil Society Organisations:

12. Start a national debate on the issue of justice and reconciliation, with the objective of forming a national consensus for establishment of a Truth, Justice and Reconciliation Commission to look into the atrocity crimes committed in the country since 1991 and contribute to healing the wounds of ten years of war in the East.

To the North and South Kivu Provincial Administrations:

13. Establish a land commission to facilitate the peaceful resettlement of all refugees and IDPs and prevent new grievances from giving rise to ethnic tensions.

Priority 4: Improving governance

To the Government of the Congo, International Financial Institutions and Donors:

14. Intensify the training and deployment of national customs and excise department personnel in the Kivus; assign foreign technical advisers to government services there; support prosecution of tax evaders regardless of ethnic or political affiliation; strengthen the auditing and control capabilities of the administration with respect to tax revenues; and strictly condition direct foreign assistance on the implementation of such policies.

To MONUC, Donors and the Government of the Congo:

15. Relaunch active cooperation on producing a legal and administrative framework designed to build effective and accountable provincial authorities as per the constitution's decentralisation provisions.
16. Intensify, in cooperation with the Independent National Elections Commission (INEC), preparations for holding local elections after the appropriate legal, electoral and decentralisation frameworks have been implemented.

Priority 5: Sustaining stabilisation of regional relations

To the International Conference for the Great Lakes Secretariat:

17. Establish a commission tasked with examining regional relations in the Great Lakes since 1991, with a view to determining the measures necessary for regional reconciliation and common recognition and understanding of the atrocity crimes committed during that period.
18. Establish a joint commission to identify the economic projects and regulatory requirements necessary to meet priority development goals at the common borders of Rwanda, Uganda, Burundi and the Congo and to ensure that migratory trends between these countries do not lead to new conflicts.

Nairobi/Brussels, 11 May 2009

CONGO: FIVE PRIORITIES FOR A PEACEBUILDING STRATEGY

I. INTRODUCTION

The crisis in the Democratic Republic of Congo (DRC) that has unfolded since the last five months of 2008 is not over. The joint military operation launched on 5 January 2009 by Rwanda and the Congo against the Rwandan Hutu rebels of the FDLR¹ has delivered few results, and the integration of Tutsi insurgents from the CNDP² into the national army is fragile. Over 850,000 IDPs are still unable to return safely to their areas of origin. The 23 March agreement between the Congo government and the CNDP is yet another commitment to peace supported only by vague promises about improved governance and reconciliation and lacking strong guarantees of a fundamental shift in Kinshasa's policies. It was negotiated by Kigali-appointed CNDP representatives, some of whom remain loyal to the disgraced former leader, Laurent Nkunda.

The unfinished chapter of the Congo peace process – peacebuilding in the Kivus – must be addressed decisively before the 2011 general elections through a multi-layered strategy. The ingredients of the East's sixteen-year crisis are known. The complete collapse of Mobutu's state in the early 1990s, at the time of the Rwandan genocide, led to military interventions by Rwanda and Uganda, initially in pursuit of the ex-FAR/Interahamwe, and the subsequent expansion of both governments' spheres of influence in the eastern Congo through different sets of proxy militias. The lack of political will in Kinshasa to address the disarmament of Rwandan Hutu rebels, improve political and economic governance and make genuine peace with its eastern neighbours, contributed to the festering crisis in 2003-2006, during the transition in the Congo that led to presidential elections and an escalation of tensions between communities that ultimately had a catastrophic human cost.

New cooperation between the Congo and Rwanda offers an important opportunity for sustainable regional stabi-

lisation and genuine peacebuilding in the Kivus. The joint operation against the FDLR in North Kivu illustrated their capacity to work together. Yet, peacebuilding requires more than a five-week offensive against foreign armed groups and a hastily arranged military integration process for Congolese militias. It is also necessary to address the political and economic causes of the crisis that were used by Nkunda's insurgents and the Mayi-Mayi to justify a reign of terror that included killings, looting and recruitment of child soldiers and labour. This report, based on an analysis of the current approach's shortcomings, offers policy options for implementing a comprehensive strategy.

¹Forces Démocratiques pour la Libération du Rwanda (Democratic Forces for the Liberation of Rwanda, FDLR).

²Congrès National pour la Défense du Peuple (National Congress for Defence of the People, CNDP).

II. A NEW CONGO CRISIS

The North Kivu crisis of August-November 2008 was the direct result of the collapse of the Nairobi and Goma peace processes.³ The Nairobi communiqué of 9 November 2007 and the Goma conference of January 2008 led to a temporary lapse in the fighting between the Congolese army and Nkunda's insurgency, as well as a new framework for stabilising relations between Congo and Rwanda. Lack of political goodwill and insufficient international pressure resulted in the failure of both processes. By July 2008, military build-ups of both the CNDP and the FARDC were gaining momentum, and the province was preparing for a new confrontation.

A. RESUMPTION OF LARGE-SCALE FIGHTING

Major fighting resumed on 28 August, causing over 100 casualties and producing 100,000 IDPs in just a few days.⁴ Following an FARDC attack against its positions in Masisi and Rutshuru, the CNDP counter-attacked and threw the army into disarray. As in the past, the FARDC called on the FDLR and Mayi-Mayi groups for help and mobilised people against the Tutsis in IDP camps, against residents of Rwandan origin in Goma and against MONUC's peacekeepers, who were accused of being CNDP collaborators because they did not attack

the insurgents.⁵ MONUC called for an immediate cessation of hostilities and obtained a temporary lull in the fighting by 11 September.

Following a meeting of the Nairobi process international facilitation in Goma with President Kabila, government officials and the National Assembly speaker, Vital Kamerhe, a disengagement plan was agreed, and MONUC was tasked to monitor movements and guarantee its implementation. The CNDP conditioned its participation on the opening of direct talks with the government outside the framework of the Amani program,⁶ a condition that Kinshasa categorically rejected.⁷ The suspension of hostilities was thus short-lived. On 15 September, CNDP positions were attacked by the FDLR and the Patriotes Résistants Congolais (PARECO) movement, a coalition of Mayi-Mayi groups and Hutu militias,⁸ in Ngungu, and clashes resumed also in Bweremana. On 23 September the CNDP attacked Sake, putting pressure on Goma,⁹ just 20km away, while the FARDC soon retook positions in Rutshuru that the CNDP had agreed to leave under the terms of the disengagement plan.¹⁰

The escalation of the crisis led quickly to repeated exchanges of accusations between Kinshasa and Kigali, illustrating the collapse of the Nairobi process. Although he again denied giving any support to Nkunda's insurgency, Rwandan President Kagame on 6 September told the Belgian daily *Le Soir* that Nkunda was right to have taken up arms against the Congolese government because Kabila gave priority to military resolution of the crisis.¹¹ On 6 October, DRC authorities accused Rwanda of not only supporting Nkunda's forces in the East but also reinforcing its own military positions at Bunagana and Kibumba, along the border. Kabila had

³The Nairobi Communiqué of 9 November 2007 was at the time the most advanced declaration of intent that Rwanda and the Congo achieved regarding a common approach to FDLR disarmament and normalisation of their relations. Besides reiteration of the necessity to respect each other's sovereignty, abstain from any act that could be perceived as hostile and establish stricter controls at their common border, its main innovations were, at the political level, Kigali's recognition that the CNDP was a security threat for the Congo and a commitment by Rwanda not to support Nkunda's insurrection. Simultaneously, the Congolese government committed to prepare, with MONUC's support, a detailed plan for disarming the ex-FAR/Interahamwe by 1 December 2007. The Goma Conference on Peace, Security and Development for North and South Kivu was designed to find a way out of the simmering crisis and an alternative to the military campaigns launched by the government in 2007 that failed miserably to end the Nkunda insurgency. The 21 January 2008 agreement provided for a general ceasefire, troop disengagement and demilitarised buffer zones. All armed groups committed to participate in the military integration process, and the Congolese government committed to present a draft amnesty law to the parliament covering political crimes committed since June 2003.

⁴"RDC, Nord Kivu: les guerres derrière la guerre", Pole Institute, Goma, 26 September 2008.

⁵Local administrators were alerted by text messages from Goma of a lightning attack by the national army and told to move populations toward government positions. See Onesphore Sematumba, "Les populations du Nord-Kivu: la survie entre les lignes!", Pole Institute, Goma, 26 September 2008.

⁶On 2 February 2008, President Kabila created by presidential decree the "Amani" peace program for North and South Kivu in order to implement the recommendations of the Goma conference.

⁷See "Fourth special report of the Secretary-General on the United Nations Organisation Mission in the Democratic Republic of Congo", 21 November 2008, S/2008/728, p. 2.

⁸See David Barouski, "Who is Pareco", World News Journal, 6 November 2008.

⁹"Fresh fighting in DRC", Agence France-Presse, 24 September 2008.

¹⁰"Security situation for 25 September 2008", MONUC, 26 September 2008, www.monuc.org.

¹¹"Guerre du Kivu: feu vert de Kagame à Nkunda", 9 October 2008, www.digitalcongo.net/article/53534.

previously declared that Kagame was directly responsible for the violence in the Kivus.¹²

By early October, the CNDP started to raise the stakes, calling for “liberation” of the Congo, challenging the legitimacy of national institutions and questioning economic contracts with China.¹³ Hostilities heated up on 8 October in Rutshuru.¹⁴ The CNDP also intensified forced recruitments of civilians, appointed a new territorial administration and dismantled and burned down IDP camps in the territories it controlled.¹⁵ On 9 October, it attacked and occupied for 48 hours the FARDC military base of Rumangabo, where it seized large quantities of heavy weapons and ammunition and transferred them to its sanctuaries in Rutshuru and Masisi.¹⁶

Tensions between Rwanda and the Congo immediately escalated. On 13 October, after re-entering Rumangabo, FARDC troops claimed to have recovered Rwandan francs, ID cards, weapons and other equipment on slain CNDP troops, thus allegedly proving they were Rwandan.¹⁷ The Congolese foreign ministry accused Rwanda of aggression, while Kigali’s parliament escalated the war of words, stating the country would not accept *genocidaire* incursions. Rwandan officials simultaneously maintained that the CNDP insurgency was a Congolese issue, with which Rwanda was not involved.¹⁸

A climax was reached on 26 October, when coordinated CNDP attacks wiped out FARDC positions. The insurgents retook Rumangabo¹⁹ and the city of Rutshuru and advanced on Goma. For the attack on Rumangabo, the CNDP received direct support from the Rwandan army (RDF), in the form of tank fire from the border post at Kabuhanga.²⁰ As CNDP troops approached, MONUC

was Goma’s last defence. FARDC units broke without fighting – looting, pillaging and raping before fleeing towards South Kivu. The military region commanders were the first to flee the town for Bukavu, closely followed by units of the Republican Guard. Diplomatic pressure from the U.S., South Africa, and European partners of Rwanda caused Nkunda to declare a unilateral ceasefire on 29 October and stop his forces short of Goma.²¹ They remained deployed 13km to the north, and sporadic fighting continued in Masisi and Rutshuru during the first two weeks of November.

MONUC’s credibility was greatly damaged by its inability to prevent the CNDP offensive and to stop the repeated assaults by all sides on civilians. Aligned behind Kabila, the head of MONUC, UN Special Representative Alan Doss, called on 3 October for a military surge to support operations against the CNDP and the FDLR.²² Disarray in MONUC’s leadership and confusion over its strategy led to the resignation at the end of October of the new force commander, Spanish Lt. Gen. Vicente Diaz de Villegas y Herrería, who disagreed with the mission’s political direction.²³ On the ground, MONUC faced the wrath of civilians who blamed it for doing too little to protect them, and it became a target of choice for all forces, while deadly skirmishes continued. On 4 November, clashes between the CNDP and the PARECO in Kiwanja left some 74 civilians dead.

B. THE HUMAN COST

The resumption of armed clashes at the end of August 2008 resulted in a new humanitarian crisis, with over 250,000 additional IDPs in North Kivu. Between January and August 2008, the Congo Advocacy Coalition reported 200 separate killings²⁴ of civilians as a result of indiscriminate shooting or summary executions, es-

¹² Kabila accuse directement Kagame face aux élucubrations de Nkundabatware”, 6 October, 2008, www.digitalcongo.net.

¹³ See Laurent Nkunda Mihigo, “Déclaration politique du CNDP”, 1 October 2008; “DR Congo’s Nkunda attacks China to boost political kudos: analysts”, Agence France-Presse, 19 November 2008.

¹⁴ “Rutshuru: combats à l’arme lourde entre FARDC et CNDP depuis ce matin”, Radio Okapi, 8 Octobre 2008.

¹⁵ “Tongo; les affrontements se poursuivent entre FARDC et CNDP”, Radio Okapi, 13 October 2008.

¹⁶ “Rutshuru: les FARDC reprennent Rumangabo”, Radio Okapi, 10 October 2008

¹⁷ <http://fr.allafrica.com/stories/200808250563.html>.

¹⁸ “DR Congo rebels ‘stalling talks’”, BBC News, 11 December 2008.

¹⁹ “Reconquête de Rumangabo: la MONUC appelle le CNDP au respect des zones de désengagement”, Radio Okapi, 26 October 2008; “DR Congo rebels seize army camp”, BBC News, 26 October 2008; Crisis Group interviews, western diplomatic representation, New York, October 2008.

²⁰ “Rapport final du Groupe d’Experts sur la République démocratique du Congo”, S/2008/773, 12 December 2008;

“UN says Rwanda tanks fired at Congo”, Associated Press, 4 November 2008.

²¹ “Congolese rebels declare ceasefire to avoid ‘Goma panic’”, Agence France Presse, 29 October 2008; “US warns DR Congo rebels to stay out of Goma”, Agence France-Presse, 30 October 2008.

²² “Update Report no. 1, Democratic Republic of the Congo”, UN Security Council, 14 October 2008.

²³ “UN force commander in DR Congo resigns”, Reuters Africa, 27 October 2008; Crisis Group interviews, UN officials, Kinshasa, 26 October 2008. The force commander was reportedly concerned that MONUC was not challenging Kinshasa’s policy of random and ineffective attacks against Nkunda’s forces, and even planned to support them.

²⁴ www.oxfamsol.be/fr/IMG/pdf/Congo_Advocacy_Coalition_July_2008_French.pdf.

pecially in Masisi and Rutshuru.²⁵ From the resumption of fighting in August until November 2008, an estimated 100 civilians were killed and more than 200 wounded in clashes between CNDP forces and the FARDC, as a result either of being trapped in combat zones or of deliberate targeting.²⁶ Wide-scale sexual violence was used as a weapon of war and retaliation by armed groups against enemy communities, seriously undermining the chances of local reconciliation.

The impunity enjoyed by the CNDP and the FARDC has been almost absolute and has contributed dangerously to tensions between communities. Massacres were often committed on the basis of ethnicity, pitting Congolese Tutsis against Hutus and the Banyarwanda against the Hunde, Nyanga or Nande. In the early November massacre at Kiwanja, Mayi-Mayi and FDLR combatants first targeted Tutsi residents. When Nkunda's rebels re-established control of the town, they ordered the population (some 30,000) to leave. Those who refused were systematically killed.²⁷

Although the ceasefire in the first eight months of 2008 was broken only by repeated relatively minor clashes between militias and the FARDC, armed group recruitment, both voluntary and forced, increased after April. Only 507 child soldiers were demobilised between January 2008 and August 2008, while kidnapping and forced child recruitment continued.²⁸ In the first week of November, for instance, 37 children were taken into Mayi-Mayi militia in the town of Rutshuru.²⁹ The destruction of school buildings rendered access to education particularly difficult, contributing to the spiralling increase in the recruitment of child soldiers into armed groups and their use for forced labour. The fighting in Rutshuru, in particular, caused most schools to close, leaving 150,000 children vulnerable.³⁰

A direct consequence of the deterioration of security was the forced suspension of international humanitarian operations.³¹ Some transport networks became too dangerous, which made aid delivery impossible. Aid workers in some cases became the targets of armed groups: 36 attacks on humanitarian personnel (mostly ambushes) were registered between January and August 2008,³² further undermining the delivery of assistance, isolating some villages and causing new waves of displacement.

IDP camp residents continued to be harassed, forced into labour, illegally taxed, raped, beaten and sometimes killed for their crops or the food they obtained from humanitarian organisations.³³ Drastic cuts in food aid fuelled malnutrition and forced reliance on illegal trafficking and prostitution for survival.³⁴ Due to the massive influx of newly displaced populations, cholera outbreaks were also reported in IDP camps around Goma and neighbouring areas. Infectious diseases related to the lack of hygiene and poor access to clean drinking water began to spread.³⁵ Host communities in North Kivu, which in the past had assisted almost three quarters of the displaced population,³⁶ lacked the resources and infrastructure to sustain so many IDPs.

Sexual violence, previously used as a weapon of war, became indiscriminate. A census of UNICEF and related medical centres reported treatment of 18,505 persons for sexual violence in the first ten months of 2008, 30 per cent of whom were children.³⁷ In June 2008, 2,200 rape cases were registered in North Kivu. These numbers represent only a fraction of the victims of sexual abuse – those able and willing to report or seek assistance.

²⁵ www.rdc-humanitaire.net/f/article.php3?id_article=1136.

²⁶ www.hrw.org/en/news/2008/11/07/dr-congo-civilians-under-attack-need-urgent-protection.

²⁷ www.hrw.org/en/news/2008/11/06/dr-congo-new-attacks-civilians; and "La guerre du nord-Kivu au-delà des clichés", Pole Institute, Goma, 24 November 2008.

²⁸ "Killings in Kiwanja: The UN's Inability to Protect Civilians", Human Rights Watch, December 2008. Dozens of children were said to have been so recruited since late October; foreign journalists travelling north to Kanyabayonga after the Mayi-Mayi defeat in Kiwanja saw numerous children among them, including some who appeared to be younger than twelve.

²⁹ www.hrw.org/en/news/2008/11/07/dr-congo-civilians-under-attack-need-urgent-protection.

³⁰ Crisis Group interview, humanitarian official, Goma, August 2008.

³¹ For instance, the Norwegian Refugee Council, Concern and Save the Children had to suspend their humanitarian aid in the first week of August between Mema and Kisuma. Crisis Group interview, humanitarian official, Goma, August 2008.

³² www.oxfamsol.be/fr/article.php3?id_article=1233.

³³ "Internal Displacement Monitoring Centre (IDMC), Democratic Republic of the Congo: Escalating displacement in North Kivu despite ceasefire agreement, 30 September 2008", p. 6, www.unhcr.org/refworld/docid/48e31fd52.html.

³⁴ Crisis Group interview, humanitarian official, Goma, August 2008.

³⁵ Cholera cases tripled in some areas to 150 a week. "N. Kivu Situation Report", UN Office for the Coordination of Humanitarian Affairs (OCHA), 13 November 2008, <http://ochaonline.un.org>.

³⁶ Refugees International, 19 May 2008, www.refugeesinternational.org.

³⁷ www.humanrights.se/upload/files/2/Rapporter%20och%20seminariedok/DRC%20SGBV%20Mission%20Report%20FINAL.pdf.

The situation is even worst in South Kivu. Between January and September 2007, Bukavu's Panzi hospital registered 2,773 rapes, 2,447 of which were attributed to the FDLR.³⁸ A group of FDLR deserters, mixed with Congolese militia called Rasta, was identified as primarily responsible for a pattern of rape and genital mutilation against Congolese women that some analysts believe amounted to ethnic cleansing in pursuit of territorial domination.³⁹

Despite unprecedented international condemnation of the sexual violence, impunity remained widespread. Civil society reports⁴⁰ show that the national army and the police were both guilty of sexual violence but, unlike civilians, faced no risk of prosecution. An increase in sexual crimes committed by minors was observed by NGO members of the provincial sub-commission on sexual violence in Goma, who estimated that 90 per cent of minors in prison had been convicted of rape. Médecins Sans Frontières (MSF) reported an increase in domestic sexual violence in late 2007.⁴¹ In sum, there has been a profound degree of normalisation of violence against women that endangers the basic foundations of social relations in the province.

C. INTERNATIONAL FIREFIGHTING

The total collapse of the FARDC in the face of CNDP attacks and MONUC's incapacity to contain the crisis raised the prospect of a foreign intervention. Kabila actively requested external military support from both the EU and his government's main regional military partner, Angola. An Angolan intervention would have carried the risk of a regional escalation of the conflict,

however, as it might have been answered by a direct Rwandan incursion. European troops had deployed to Bunia in 2002, where they played a major role in ending interethnic violence, and to Kinshasa in 2006, where they provided security for the presidential elections.

The escalation of the crisis in September-October 2008 led to an inconclusive diplomatic ballet. No actor was prepared to put enough pressure on Kinshasa and on the CNDP directly or through Kigali to reverse their policies in North Kivu and get them to respect the commitments made one year earlier in the Nairobi declaration. At the end of September, the U.S. tried but failed to persuade Kabila and Kagame to meet at the UN General Assembly in New York. Washington submitted a peace plan to both parties but did not apply adequate pressure.⁴² Jean Ping, the chairman of the African Union Commission, visited the Congo in mid-October and promised appointment of a political representative for Goma but did not deliver a robust message to the parties.

Kabila officially sought deployment of a multinational force from the South African Development Community (SADC) during a meeting in Mbabane on 21 October 2008 of its political, defence and security organ.⁴³ The reported presence of Portuguese-speaking soldiers in the 18th FARDC brigade in early September fed speculation on the presence of Angolan troops in the province.⁴⁴ However, Kigali only started to receive stronger messages from Washington after its troops fired at FARDC positions in Kibumba on 30 October. Assistant Secretary of State for African Affairs Jendayi Frazer was dispatched to the region and stated for the first time that she "had no evidence that Rwanda [was] fighting directly in eastern Congo, but we do believe that

³⁸ "Données sur les cas de violences sexuelles par auteur entre janvier et septembre 2007", Hopital général et régional de Panzi, Buklavu, mimeo 2008.

³⁹ "The main perpetrators of the huge number of rape cases recorded in South Kivu are members of foreign armed groups such as the Rwandan Hutu FDLR/RASTA who carry out systematic attacks on villages located in the Kanyola *Grouppement*, territory of Walungu during which young girls and women are abducted. Between December 2006 and March 2007, there were 89 such attacks. Victims are carried away for months to vast and inaccessible areas, mainly in the north-east of Bukavu (Bunyakiri, Kanyola, Kalonge and Nindja). The victims are either used as sex slaves, gang raped or forcibly taken as 'wives'". "The Human Rights Situation in the Democratic Republic of Congo (DRC) during the period January to June 2007", UN Human Rights Office for the Democratic Republic of Congo (UNHRO), biannual report, point 88.

⁴⁰ "Les Statistiques de la Criminalité sexuelle", Rejusco, Goma, June 2008, <http://rejusco.org>.

⁴¹ www.humanrights.se/upload, op. cit., p.17.

⁴² Crisis Group interviews, members of permanent representations to the UN, New York, September 2008.

⁴³ "Sommet du Swaziland: Kabila implique la SADC face à l'agression", www.digitalcongo.net, 23 October 2008; see "Twenty-Fourth special report of the Secretary-General", op. cit., p. 4.

⁴⁴ The report came from Uruguayan troops of MONUC. Descendants of Angolan-trained Katangan gendarmes were sent back to the Congo during the transition and included in the army integration process in 2006 at Kitona airbase in Bas-Congo. They were up to 40 percent of the 18th FARDC Brigade deployed in North Kivu. Credible reports, however, also pointed to the deployment of Angolan intelligence and reconnaissance elements in the Kivus by September 2008 and the pre-positioning of Angolan troops in Kamina, Kisangani and Lubumbashi by November. Crisis Group interviews, FARDC and regional intelligence service officials, November 2008.

Rwandan territory has been used to provide support to the CNDP”.⁴⁵

EU member states performed no better. In an attempt to facilitate a dialogue, Doss and EU Special Envoy for the Great Lakes Roland van de Geer gave the CNDP guarantees in late October 2008 that Kinshasa would enter into direct talks with it. But a few days later, Congolese Minister of Communications Lambert Mende said his government would not negotiate with Nkunda, leading the CNDP to reject EU mediation.⁴⁶ The British and French foreign ministers visited the region together in early November 2008 to show solidarity with the victims of the crisis and try to keep the situation under control, but they could not agree on how to resolve the crisis, and neither applied significant pressure on Kinshasa or Kigali.⁴⁷

The Belgian and French foreign ministers supported at one point the deployment of a European force to assist MONUC and contain the situation until UN reinforcements could be sent. UN Secretary-General Ban Ki-moon wrote to Javier Solana, the EU's High Representative for the Common Foreign and Security Policy, to request such support. But the UK, Germany and other member states wary of Kigali's reaction and unwilling to risk European lives in the Congo opposed the idea, which had not received the support of the French EU presidency.⁴⁸ European confusion reached its climax when French Defence Minister Morin declared his support for an Angolan deployment to reinforce the FARDC, while the EU's Marseilles summit on 3 November 2008 buried the idea of a European force.⁴⁹

Amid the international confusion, the most useful initiative to contain the crisis and relaunch a political process was the appointment on 3 November of Olusegun Obasanjo, the former Nigerian president, as the UN Secretary-General's Special Envoy for the Great Lakes Region. This was followed four days later by a summit meeting in Nairobi attended by Kabila, Kagame, Ban

Ki-moon and the presidents of the African Union (AU), Burundi, Kenya, South Africa, Tanzania and Uganda. It mandated Obasanjo “to focus on addressing the challenges to peace and security posed by the continued presence and activities of illegal armed groups in the eastern part of the Congo and on building confidence between the Democratic Republic of Congo and its neighbours”.⁵⁰

The summit also announced that Obasanjo and Great Lakes Special Envoy Benjamin Mkapa⁵¹ would take the lead in mediating a political solution based on the 2007 Nairobi communiqué and the 2008 Goma agreement. They were asked to report regularly to the chairman of the Great Lakes Regional Initiative, Kenya's President Kibaki, as well as to the AU and Ban Ki-moon. The summit further called for the UN and all humanitarian agencies to increase and sustain their support until the human tragedy came to an end.⁵²

Soon thereafter, Obasanjo toured the region seeking a permanent cessation of hostilities. He met with Angolan President José Eduardo dos Santos on 14 November 2008, which led Angola to state officially that it would not send troops to the Congo except under a SADC flag, despite an earlier declaration by the deputy foreign minister that troops were on their way. SADC, meeting in Sandton on 9 November, had decided that it would send military experts to assess the situation and that, subject to their report, Angolan and South African peacekeepers could be deployed.⁵³ Until Obasanjo's visit, however, Angola had not ruled out a unilateral intervention.

Obasanjo next met with Kabila in Kinshasa, Kagame in Kigali and Nkunda in his home base of Jomba, 80km from Goma. Nkunda recognised Obasanjo as the official mediator, and they agreed on the implementation of an immediate ceasefire. Obasanjo also announced that the Congo now accepted negotiations with Nkunda. On 18 November, the CNDP began a unilateral withdrawal of up to 40km away from Goma, along the Kanyabanyonga-Nyanzale and Kabasha-Kiwanja axes. The CNDP threatened, however, to redeploy if the government forces and its proxies, the FDLR and Mayi-Mayi, occupied the zones.

⁴⁵ “US warns DR Congo rebels to stay out of Goma”, Agence France-Presse, 30 October 2008.

⁴⁶ “Malu-Malu: Laurent Nkunda lacks the means to overthrow the government”, Congo News Agency, 27 November 2008; “Rebel leader threatens to extend fighting to Congo capital”, 4 November 2008, www.guardian.co.uk/world/2008/nov/04/congo-nkunda.

⁴⁷ “Rwanda slams Western efforts to solve Congo crisis”, Agence France-Presse, 4 November 2008.

⁴⁸ “Kouchner says EU not sending troops to Congo”, Associated Press, 30 October 2008.

⁴⁹ “RD Congo: Les rendez-vous se multiplient pour sortir le pays de la crise”, Radio France Internationale, 3 November 2008; “Les rebelles prennent d'autres villes”, *La Libre Belgique*, 7 November 2008.

⁵⁰ See “Fourth special report of the Secretary-General”, *op. cit.*, p. 5.

⁵¹ Mkapa was president of Tanzania from 1995 to 2005.

⁵² “Ban calls for urgent measures to end DR Congo crisis at Nairobi summit”, UN News Centre, 7 November 2008.

⁵³ “SADC to send military experts”, Agencia de Informacao de Mocambique, 11 November 2008.

Progress was also reported in Kigali-Kinshasa relations. On 5 December 2008, following a first series of secret bilateral talks that had proceeded without much international engagement, the foreign ministers announced a joint plan for military action against the FDLR and the Congo's agreement to open a direct dialogue with the CNDP under Obasanjo's and Mkapa's mediation. Kabila and Kagame expressed satisfaction, both publicly and privately, with their own dialogue, which they called a key to regional stability. The talks that began in Nairobi on 8 December, however, quickly deadlocked, because the CNDP insisted they go beyond the North Kivu crisis and address national governance issues and the Congo's economic contracts with China.⁵⁴

III. THE CONGO-RWANDA INITIATIVE

The Rwandan and Congolese foreign ministers had been conducting shuttle diplomacy since the end of October 2008 with the aim of reducing tensions.⁵⁵ This diplomacy, encouraged by their partners, led to the preparation of a joint military plan to disarm the FDLR that was hammered out on 25-26 November by the Rwandan chief of general staff, General James Kabarebe, and the chief of the Congolese National Police, General John Numbi.⁵⁶ On 5 December the foreign ministers endorsed the plan at a public ceremony in Goma, though the text and details of the plan remained confidential and was never shared with MONUC. Between mid-December and early January 2009, closed door bilateral negotiations continued over its execution, and the goals were extended to include dissolution of the CNDP's military branch and neutralisation of Nkunda.

A. A JOINT MILITARY OPERATION AND NKUNDA'S DEMISE

On 4 January 2009, the deal between Kigali and Kinshasa began to be implemented. The military chief of staff of the CNDP, General Bosco Ntaganda, announced that Nkunda had been removed as the group's chairman and said he intended to help Rwanda and the Congo carry out the joint action against the FDLR.⁵⁷ Rwanda had been uneasy with Nkunda's behaviour, and Kabila had a long history of personal antagonism towards him. Kigali was put under additional pressure, when Beijing lodged a protest with it over Nkunda's allegations regarding the beneficiaries of the economic contracts signed between China and the Congo.⁵⁸

General Numbi, whom Kabila had repeatedly tasked in the past to carry out discreet negotiations with CNDP leaders, organised the technical details of Nkunda's removal, in concert with Bosco Ntaganda. The latter reportedly received important sums of money from Kinshasa, encouragement from Kigali and a guarantee that the Congo would grant him amnesty and protect

⁵⁴ Crisis Group interview, member of the facilitation team, December 2008.

⁵⁵ See "Fourth special report of the Secretary-General", op. cit., p. 4.

⁵⁶ "Congo-Kinshasa: Rwanda, DRC draw up FDLR disarmament plan", *The New Times*, 26 November 2008.

⁵⁷ "DR Congo rebels 'oust Gen Nkunda'", BBC News, 5 January 2009.

⁵⁸ See Laurent Nkunda Mihigo, "Déclaration politique du CNDP", 1 October 2008; "DR Congo's Nkunda attacks China to boost political kudos: analysts", Agence France-Presse, 19 November 2008.

him against International Criminal Court (ICC) prosecution.⁵⁹ Innocent Kayina (alias India Queen), a comrade of Bosco's Ituri days detained at Makala prison in Kinshasa for war crimes and crimes against humanity in Ituri, was also released as part of the deal.⁶⁰

Nkunda attempted to resist his removal, but on 16 January 2009, his era as leader of the CNDP ended. During a surprise press conference in Goma attended by a Congo delegation led by the interior minister and a Rwandan delegation led by General Kabarebe, Bosco announced that he was joining with the FARDC to fight the FDLR. He appeared to have gained the allegiance of almost all top CNDP commanders. The CNDP announced it would remove all its road blocks in North Kivu and requested promulgation of the amnesty law. PARECO and Mayi-Mayi groups made similar declarations.⁶¹

On 20 January, the Rwandan army started to deploy in North Kivu as part of the joint operation. Officially 2,100 military observers were to stay twenty days.⁶² They moved immediately towards Rutshuru, Goma and Masisi and two days later captured Nkunda and put him under house arrest in Rwanda.

B. KINSHASA AND KIGALI'S OBJECTIVES

1. Kinshasa: dismantling CNDP military capacity

Faced with the FARDC's collapse and without reinforcements from Europe or Angola, Kabila had little option but to negotiate his way out of the crisis. Kinshasa's position had always been that the only problem in the Kivus was Rwanda's influence. Kabila's continued refusal to accept and address the political and economic causes of the conflict gave the CNDP justification to continue fighting and the capacity to raise money and troops among the Tutsi community. By strik-

ing an agreement with Kagame, Kabila was able to satisfy several objectives.

Although Nkunda could never have implemented the CNDP's proclaimed military and political agenda, his media acumen had become a source of humiliation for the Congolese president. Kabila became less concerned with managing his alliance with the Nande and Hutu leadership opposed to the CNDP than with the need to eliminate Nkunda and halt the CNDP's military progress. He judged that Bosco Ntaganda, a less articulate military man with no political ambitions and handicapped by an ICC arrest warrant, would be a more accommodating CNDP leader.

Under pressure from Kigali, the political leadership of the CNDP reluctantly agreed to the removal of Nkunda, which came with promises by the DRC that could prove hard to keep. These included:

- in addition to the amnesty law agreed during the Goma conference, demarches to the ICC to lift Bosco's arrest warrant and obtain guarantees against prosecution for all CNDP commanders;
- political control by the CNDP over the "petit nord", the territories of Masisi, Rutshuru and Walikale, that would become a province controlled by the Banyarwanda;⁶³
- creation of a separate military command for the new region that would be given to ex-CNDP officers in FARDC uniforms;
- safeguards for the cattle ranches and hundreds of thousands of cows in Masisi belonging to CNDP financiers and protected by CNDP troops; and
- integration of CNDP figures into the provincial administration of North Kivu.

The deal with Kagame allowed Kabila to undercut growing internal opposition from the Kivus, led by the National Assembly speaker, Vital Kamhere. As early as September 2008, Kamerhe had introduced a plan in the parliament to end the crisis by a direct dialogue in three phases (military, political and diplomatic) between the government and Nkunda. Riding the growing popular dissatisfaction in the Kivus with Kabila, he had positioned himself as a peacemaker. After presidential advisers from Katanga blocked his appointment as

⁵⁹ Minister for Justice Luzolo Lessa Bambi was discreetly dispatched to The Hague in January to explore possibilities for suspension of the arrest warrant. Crisis Group interview, DRC government official, January 2009.

⁶⁰ Crisis Group interview, CNDP officer, January 2009. Kayina has now been integrated into the FARDC in North Kivu. Among other crimes, Kayina is suspected of responsibility for the assassination of a UN Kenyan peacekeeper in Katoto in February 2004.

⁶¹ "Mai-Mai militia stops hostilities with main rebel group", France 24 International News, 18 January 2009.

⁶² MONUC estimates there were in fact between 4,000 and 5,000. See "Twenty-Seventh report of the Secretary-General on the United Nations Organisation Mission to the Democratic Republic of Congo", 27 March 2009, S/2009/160.

⁶³ Crisis Group phone interview, CNDP officials, January 2009; also Eugène Serufuli, "Le découpage territorial de la province du nord-Kivu: une piste de solution aux problèmes de la RDC", letter to the diplomatic corps, Kinshasa, 2 December 2008.

prime minister,⁶⁴ Kamerhe declared his intention to challenge Kabila in the 2011 presidential elections.

By regaining the initiative with the Rwanda deal, Kabila undercut Kamerhe's campaign to provoke internal dissension in the Kivus and a few months later forced him out of his position as speaker. He persuaded the senior leadership of the National Assembly to resign in order to pressure Kamerhe to do the same and used bribes and coercion to encourage parliamentarians to withdraw support from him. Kabila also undercut discontent among legislators from the Kivus (particularly Nande and Shi) over the return of Rwandan troops by organising a generously financed show of support from traditional chiefs.⁶⁵

At the same time, Kabila silenced his international critics. He had long been under pressure from the U.S. and the EU to work with Rwanda and act against the FDLR, but his radical policy turn was beyond their expectations and allowed him to shield his regime from complaints of bad governance, human rights abuse, corruption within the FARDC and lack of progress in the reform of state institutions.

2. Rwanda: restoring international credibility

Rwanda's interest in such a deal came primarily from the need to restore credibility with its international partners. On 12 December 2008, the release of the report of the UN Group of Experts on the DRC added pressure to change policies. It confirmed the widely known FARDC collaboration with the FDLR and demonstrated that Rwanda was actively supporting the CNDP and not respecting its Nairobi communiqué pledges.

Accustomed to trade from the moral high ground on post-genocide Western guilt to secure direct budget and other political support, the Rwandan leadership was particularly hurt when it was shown to be actively backing the Nkunda insurgency and thus contributing to the destabilisation of the eastern Congo.⁶⁶ Not only were Kigali's policies inconsistent with peace and security in the Great Lakes region, but it was shown that the leadership had systematically deceived its international partners for months about its support for the CNDP.

The Group of Experts found that assistance Rwanda gave the CNDP included help with recruitment of child as well as adult soldiers, supply of military equipment and participation of Rwandan army officers and troops in CNDP operations. If Nkunda were to be indicted by the ICC for the recruitment of child soldiers, Rwandan leaders could in principle be charged as accomplices. Although Kigali systematically denied any ties to the CNDP, phone records obtained by the Group of Experts showed communications between Nkunda and State House in Kigali.⁶⁷ Following publication of the report, Sweden and the Netherlands suspended direct budget support for the Rwandan government, citing policies inconsistent with peace and security in the Great Lakes. The UK and other European partners also sent strong protests.⁶⁸

The arrest of Nkunda was not without political cost. Tutsi refugees in Rwanda demonstrated against what they perceived as yet another betrayal by the Rwandan Patriotic Front's (RPF) leadership.⁶⁹ Two army officers were arrested after they dissented publicly. By October 2008, however, Nkunda had become an embarrassment and a liability. His 5 October call for an all-out rebellion against Kinshasa and questioning of the Chinese contracts illustrated his attempts to expand his constituency beyond the Tutsi and Banyarwanda. The Rwandan leadership had to counterattack politically to recover its lost credibility and regain control of a situation for which it was increasingly blamed. From an internal point of view, the joint military operation renewed the message to the FDLR that there would be no negotiations, and the Congo was not a safe heaven; instead, they would be pursued militarily for as long as it took, and no neighbour of Rwanda would be able to protect them.

C. SHORTCOMINGS OF THE BILATERAL APPROACH

1. No sustainable Congo-Rwanda stabilisation

On 21 February, the Rwandan military in North Kivu started withdrawing from positions taken from the FDLR and moved towards Goma, where a departure ceremony was orchestrated on 25 February. The one-

⁶⁴ Crisis Group interview, Congo analyst, Kinshasa, October 2008.

⁶⁵ Crisis Group interviews, Congolese officials, Kinshasa, March 2009.

⁶⁶ This policy was also reported in Jeffrey Gettleman, "Rwanda stirs deadly brew of troubles in Congo", *The New York Times*, 4 December 2008.

⁶⁷ See "Rapport final du Groupe d'Experts", op. cit.

⁶⁸ Crisis Group interviews, European diplomats, Nairobi, January 2009.

⁶⁹ "Rwanda puts down Nkunda dissent", BBC, 27 January 2009, <http://news.bbc.co.uk/1/hi/world/africa/7853155.stm> Since 1994, the relations between the RPF's Anglophone leadership and francophone Tutsis from Rwanda, Burundi and the Congo have been marked by tension and the latter's accusations of betrayal.

month anti-FDLR Operation “Umoja Wetu” had a mixed outcome. It was limited to North Kivu, despite an important FDLR presence in South Kivu. From 1 January to 26 February 2009, only 509 Rwandan combatants were repatriated, including 122 who were not FDLR but former Rwandan army soldiers who had been absorbed by the CNDP and were eager to return home. Others were child soldiers. Another 191 FDLR combatants disarmed in March and April, and 164 Rwandan officers from the CNDP returned in those months, bringing the total registered by MONUC to 578 FDLR and 286 ex-CNDP over the first third of 2009. Many FDLR combatants, moreover, surrendered without weapons.⁷⁰ During the operation, up to 4,000 of the approximately 20,000 FDLR civilian dependents also returned.⁷¹

The North Kivu operation pushed the FDLR westward, farther from Rwanda. Its command and control structure was temporarily disorganised, and it was dislodged from important bases, but the combatants mainly dispersed in small groups in nearby forests without suffering major casualties. FARDC and MONUC are now left with the responsibility of continuing disarmament and protecting populations against the risk of retribution. Deliberate efforts by the Rwandans to avoid civilian casualties did not prevent an increase of killings and sexual violence by the FDLR on the eve of the army’s departure. As early as 13 February, Human Rights Watch reported that retaliatory FDLR attacks had killed over 100 Congolese civilians.⁷² FARDC looting was also reported.

On 6 March, the UN High Commissioner for Refugees (UNHCR) reported that up to 160,000 additional IDPs had been registered since January 2009 and expressed deep concern over the deteriorating situation. Once Operation “Umoja Wetu” ended, FDLR combatants returned to Masisi, Walikale and Lubero. In the three weeks following the operation they carried out seventeen attacks on civilians, targeting humanitarian convoys in particular. Between 25 February and 6 March, 34 civilians were killed and 22 injured. In addition, rape and looting were reported.⁷³ An additional 100,000 civilians were uprooted in North Kivu in March and April, and dozens of villages were pillaged

and set ablaze in FDLR-dominated areas of South Kivu.⁷⁴ By 10 April, the UN Office for the Coordination of Humanitarian Affairs (OCHA) confirmed that in the first quarter of 2009, attacks against aid workers had risen by 22 per cent compared to the same period in 2008, reaching a rate of eleven attacks per month, more than one every three days.⁷⁵

MONUC and the FARDC should have filled the vacuum left by the joint operation and assured a progressive restoration of state authority. Instead, in the absence of FARDC planning and adequate coordination with MONUC, FDLR units regrouped and started to re-occupy their former positions while retaliating violently against civilians. This was followed by Rwandan requests to renew joint military operations. Kinshasa unsurprisingly rejected these requests, although the problem remains.

During the anti-FDLR operation, MONUC attempted to coordinate the transport of FARDC forces to areas that had been vacated by the Rwandan army. It tried to get better information from the coalition forces but was only able to learn about activities already underway and was shut out of the planning and coordination process. On 17 February, Egypt announced it would give MONUC 1,325 new troops as part of an authorized reinforcement of 3,000. The main challenge for MONUC, however, is not troop levels but planning and coordination with the Congolese authorities and a concerted effort to restore state authority.

2. No real CNDP integration

The return of the FDLR to previous positions is likely to jeopardise progress made on the integration into the FARDC of CNDP forces, who will be angered at the absence of strong determination by the high command to address the problem and who will not easily accept orders to move from the Kivus to other provinces. If that happens, the other armed groups might also pull out of the process. The fast-track integration of former CNDP, PARECO and Mayi-Mayi combatants started on 27 January, five days after the entry of Rwandan troops into the Congo. The first task of the joint operation was to guarantee that units remaining loyal to Nkunda would join the integration process. On 28 January, however, the official ceremony planned to launch that process at the Rumangabo military base had to be abruptly adjourned.

⁷⁰ MONUC communication to Crisis Group, May 2009.

⁷¹ There are usually a minimum of three dependents per combatant.

⁷² It also reported rapes committed by the deployed Rwandan troops. See “DR Congo: Rwandan Rebels Slaughter Over 100 Civilians: Congolese and Rwandan Forces Should Make Protecting Civilians a Priority”, Human Rights Watch, 13 February 2009.

⁷³ UNHCR press conference, Geneva, 6 March 2009.

⁷⁴ “DR Congo: top UN humanitarian official condemns new ‘terror and upheaval’”, United Nations press service, New York, 30 April 2009.

⁷⁵ “DRC: Attacks against aid workers on the rise”, IRIN, 10 April 2009.

CNDP Colonel Sultani Makenga and his men, previously responsible for military operations in Rutshuru, demanded Nkunda's return and organised transfer of all "CNDP-seized" weapons and ammunition from Rumangabo to their Masisi stronghold.⁷⁶ CNDP rank and file were not convinced the Kigali-Kinshasa deal was in their interests and were particularly unhappy with the dismantling of the administrative, taxation, customs and duties structure established by the movement that had guaranteed them a steady income for three years.⁷⁷

After a few days of uncertainty and additional pressure from Rwanda, integration moved forward with the creation of newly mixed brigades, but it did not respect the initial FARDC and MONUC plans or include real training. CNDP officers were given key positions in the FARDC North Kivu command, and on 5 February, the group's new political leader, Désiré Kamanzi, announced its transformation into a political party. This was followed the next day by a similar statement from PARECO, and soon thereafter from other Mayi-Mayi groups. Platoon-level units (twelve men) of CNDP, FARDC and PARECO were mixed together, creating a disparate assembly of former enemies who agreed to wear the same uniform but lacked the cohesion, motivation, solidarity and respect for the chain of command that characterise a functional army.

As with an attempt at military integration in North Kivu known as "mixage" in 2007, this fast-tracked procedure only dismantled CNDP units and broke down the CNDP chain of command. It was not intended to create a capacity to fight the FDLR, a task left to the Rwandan army. As with security system reform⁷⁸ elsewhere in the Congo and with other ex-Rwandan and Ugandan proxies, it was an effort to dismantle rebel capacities, rather than a genuine effort to rebuild the army. As soon as integrated units stopped being paid, in March, the province suffered from increased criminal attacks by ex-CNDP soldiers and other ex-militias, notably on humanitarian convoys.⁷⁹

Fast-tracked integration does not include the transfer of commanders all over the country that would genuinely dismantle the rebel chain of command and its capacity to reconstruct itself. Integration can only be sustained if the soldiers agree to stay with their new units and chain of command. Since all CNDP rank and file remain in North Kivu, the disintegration of the newly formed units could be as rapid as their formation, followed by the reformation of CNDP military units, particularly if the old commanders decide the deal was not good enough for them.

On 22 February 2009 Congo and CNDP delegations announced in Goma that they had negotiated a preliminary agreement addressing the former insurgents' political concerns. A final agreement was then signed on 23 March after another month of closed-door negotiations.⁸⁰ On paper, the CNDP agreed to end its insurgency, become a political party and have its fighters join the police and army and obtained in return key concessions, including:

- ❑ release and return to areas of origins of its political prisoners;⁸¹
- ❑ promulgation of a comprehensive amnesty law;⁸²
- ❑ creation of a national mechanism in Kinshasa in charge of reconciliation;
- ❑ creation of local structures of reconciliation and of a local police representative of local populations, with CNDP police in the meantime to be integrated within the National Police without being dismantled;
- ❑ integration of CNDP officials into the North Kivu administration;
- ❑ rapid return of Tutsi refugees from Rwanda and Burundi by the tripartite commission involving neighbouring countries, the Congo and the UNHCR; and
- ❑ integration at current rank of all CNDP soldiers and police.

Similar documents described detailed government commitments to other armed groups in the Kivus, which

⁷⁶Crisis Group telephone interview, FARDC commander, January 2009.

⁷⁷More than \$1 million was produced by that structure annually. "Rapport final du Groupe d'Experts", op. cit.

⁷⁸This report uses the term "security system reform" (SSR), which for practitioners has widely replaced the term "security sector reform", pursuant to the OECD DAC Handbook on SSR (www.oecd.org/dataoecd/43/25/38406485.pdf). It includes in its coverage the traditional security sector, including military and police, as well as the justice sector.

⁷⁹Seven attacks were recorded against humanitarian convoys in the first week of March. Crisis Group interview, humanitarian official, Goma, March 2009.

⁸⁰See "Accord de paix entre le Gouvernement de la République démocratique du Congo et le CNDP", Goma, 23 Mars 2009.

⁸¹The CNDP committed to list these prisoners, who are likely to include some of Bosco's comrades held for crimes in Ituri. This measure could give a blanket de facto amnesty to all Tutsi and Hema militia leaders arrested during the Ituri pacification.

⁸²The CNDP considered that the text produced after the Goma conference was too restrictive and had to cover more crimes.

ultimately agreed to disband on 18 April.⁸³ The UN and the Great Lakes special envoys were called to witness signature of the 23 March agreement and mobilise funding to support its implementation. National and international follow-up committees are supposed to be created for three months to aid implementation according to an annexed timetable. As a goodwill gesture, CNDP political leaders were given new provincial executive positions in North Kivu entailing responsibility for facilitating the return and reintegration of the approximately 60,000 Tutsi Congolese refugees from Rwandan camps.⁸⁴

On paper, the government gave the CNDP everything it could wish. In reality, implementation of such an agreement will require a major national and international effort, as well as a degree of goodwill and efficiency heretofore unknown in the Congolese government. Most of the terms are extremely general and require difficult further negotiations. The return of refugees and reintegration of IDPs in particular cannot reasonably happen if basic security is not guaranteed, and, as noted above, the FDLR is already returning to former positions, attacking the FARDC and taking revenge on communities it believes supported the joint operation.⁸⁵

The agreement also grants control of the Masisi, Rutshuru and Walikale territories (the “petit nord”) to the Banyarwanda, where they dominate army, police, intelligence and administrative structures, at the expense of Hunde, Nyanga and Nande communities.⁸⁶ The mine of Bisiye in Walikale – the largest cassiterite deposit in the Congo – was left in the hands of ex-CNDP soldiers and agents, who are protected by the military region leadership as long as they share the illegal exploitation of resources with the inner circle of the presidency in Kinshasa.⁸⁷ This is likely to meet with widespread

opposition by the leaders of those communities, and the most probable scenario is continuation of the status quo – neither war nor peace. Already ex-CNDP Hutu members of the fast-tracked integration units are deserting because they have not been paid and believe they have been given a raw deal.

Only one command position given to ex-CNDP units has gone to a Hutu. There are also complaints that ex-CNDP Tutsi officers control mineral exploitation and that Bosco Ntaganda’s wife is involved in the business of provisioning troops – who are themselves not paid – through imports from Rwanda. The disaffected soldiers are linking up with similarly angry Hutu PARECO militias and Nande Mayi-Mayi to re-create an anti-Tutsi alliance in North Kivu.⁸⁸ If the situation is not addressed, it is only a matter of time before they join up again with the FDLR.

As of 18 April, the official end-date of the fast-tracked integration program, two battalions, led by Colonel Sultani Makenga and Colonel Claude Mucyo, had refused the process. These units remain in control of the heavy weapons seized by the CNDP from the FARDC in Rumangabo in October 2008.⁸⁹ No measures are in place to deal with the several hundred demobilised Rwandan soldiers who joined the CNDP or traded their uniforms for Congolese ones during the joint operation and did not return to Rwanda.⁹⁰ Ex-CNDP will wear FARDC uniforms but will reject transfer outside of North Kivu and maintain their military control of the “petit nord”.

The reconciliation process that the agreement is supposed to have created ignores necessary judicial requirements. It provides for a blanket amnesty of all combatants in the province, regardless of their crimes, implying this would also cover Nkunda. He is under house arrest in Rwanda, and on 6 February, the Congolese and Rwandan foreign ministers announced a technical committee to study security conditions for his transfer to Congolese authorities. The amnesty law passed on 7 May 2009 by the Congolese parliament excluded war crimes and crimes against humanity, but negotiations were also under way to have Nkunda transferred to a third country, which would allow him

⁸³ “DRC: Armed groups sign their own ‘death certificate’”, IRIN, 21 April 2009.

⁸⁴ A provincial government reshuffle had already seen the appointment of Tuyihumbaze Rucogoza, a Tutsi from Rutshuru proposed by the new CNDP leadership, as judicial administration, human rights and reinsertion minister on 14 February 2009. Two additional provincial ministries are supposed to be created for the CNDP: land and infrastructure and refugee return.

⁸⁵ “DRC: Thousands of civilians trapped in east as clashes resume”, IRIN, 24 April 2009; “Hutu rebel ‘hit list’ in DR Congo”, BBC News, 14 April 2009.

⁸⁶ Crisis Group interviews, ex-PARECO and Mayi-Mayi leaders, Goma, April 2009.

⁸⁷ The Bisiye mine is said to produce \$800,000 monthly, with \$60,000 sent to Kinshasa. A company belonging to ex-RCD General Bora Uzima and operating between Goma and Kigali is said to be the marketing agent for the cassiterite. Crisis

Group interviews, FARDC and ex-CNDP officers, Goma, March 2009.

⁸⁸ Crisis Group interview, ex-CNDP and PARECO officers, Goma, April 2009.

⁸⁹ Ibid. The biggest artillery pieces are believed to have been moved to Rwanda by Col. Ruvucha, who led RDF support for the CNDP at Rumangabo in October 2008.

⁹⁰ Crisis Group interview, CNDP officer, Goma, March 2009.

to escape trial.⁹¹ Bosco Ntaganda, under an ICC arrest warrant for war crimes, is now FARDC deputy commander for the anti-FDLR operation, but even a joint demarche by Kinshasa and Kigali to the ICC would not result in the lifting of the arrest warrant. Unrealistic promises to CNDP officers could also be undermining fast-tracked integration.

IV. ELEMENTS OF A GENUINE PEACEBUILDING STRATEGY

The shortcomings of the bilateral cooperation approach point to the need for a broader peacebuilding strategy that can be outlined according to five complementary building blocks:

- ❑ a comprehensive joint strategy for disarming the FDLR, combined with restoration of state authority to fill the vacuum created by military operations;
- ❑ focusing security system reform on rebuilding FARDC capacity in the Kivus and Orientale and entrenching solid accountability mechanisms;
- ❑ fostering human security and reconciliation through investing in the fight against impunity and guaranteeing land security to IDPs and refugees;
- ❑ improved governance in the province, leading to an end to illegal exploitation of resources by both government and non-government actors, local elections and the institutional reforms required for genuine decentralisation; and

sustainable stabilisation of relations between Rwanda and the Congo based on an open assessment of economic and political interests and development of mutually beneficial economic partnerships.

The first three elements of this strategy are closely inter-linked. Significant progress on FDLR disarmament is a key condition to improvement of the Kivu security environment and, therefore, to sustainability of CNDP integration and refugee and IDP return and reintegration. The last two priorities address the fundamental requirements for a national and regional political environment conducive to successful peacebuilding.

A. FIVE PRIORITIES

1. Implementing an effective anti-FDLR strategy

Successful disarmament of the FDLR is a cornerstone of stabilisation in the Kivus, but military action is only one of the elements required. A continuous, credible display of military force will be necessary to induce the FDLR high command to accept disarmament. MONUC and the FARDC should sustain campaigns to destroy permanent camps and make the illegal taxation and exploitation of natural resources more difficult. At the same time, the international community must put additional legal and other pressure on the group's political leaders in the West and in Africa.

⁹¹ "Congo passes amnesty law for eastern rebels", Reuters, 07 May 2009.

MONUC and the FARDC need to increase their information campaigns directed toward the FDLR.

Since 2002, disarmament efforts have been hampered by three stumbling blocks: lack of political will from Kinshasa; lack of military capacity and lack of cooperation from Rwanda. A new and more conducive environment has been created by the 5 December 2008 Kigali-Kinshasa agreement and the planned 3,000 increase in MONUC forces.

Military operations against the FDLR will require joint efforts by MONUC, the Rwandan army and the FARDC. Planning among the three should include:

- use of Rwandan special forces, supported as needed by MONUC helicopter gunships and transportation assets to attack the FDLR leadership;
- joint FARDC-MONUC operations to prevent the FDLR from re-establishing permanent bases in North Kivu, to destroy its positions in South Kivu and to end its control over mineral trafficking routes; and
- joint FARDC-MONUC operations to create an environment conducive to civilian returns by establishing area domination, creating weapons-free zones and filling the vacuum left by fleeing FDLR units.

Rwandan support in the planning and execution of operations against the FDLR should be focused on intelligence and special forces strikes against the military leadership. If Kigali is really determined to address the problem and not simply engage in a public relations exercise, it will need to share its intelligence more freely with MONUC and the FARDC and use some of its best troops to neutralise the group's military leadership.

For such a joint effort to succeed, it is critical that only FARDC commanders with no past history of collaboration with the FDLR be part of the planning process. Those with records of collaboration must be transferred out of the Kivus and replaced with officers likely to execute, not sabotage, the plan. Sensitisation is a key aspect of a proper FDLR demobilisation strategy. Once the command and control structure is on the run, disarmament efforts must offer a genuine and safe exit to the rank and file, who, after years of indoctrination, fear returning to Rwanda even though they may want to stop fighting. The prospect of resettlement in other areas of the Congo or in a third African country should be offered as an alternative. Every effort should be made to protect civilians in the areas of military operations from FDLR revenge attacks, even if that means maintaining troops in the area for a relatively long period after the initial activity appears to be over.

Finally, Kigali must display much more policy consistency. Even though the Rwandan amnesty law provides clear guarantees that any combatant under sixteen at the time of the genocide will not be prosecuted, the authorities have blown hot and cold regarding the treatment of former FDLR leaders who agreed to disarm. This vacillation has bolstered allegations by FDLR leaders in the Congo that a deceitful Rwandan regime cannot be trusted. When Amani Mahoro, an ex-commander who voluntarily disarmed in 2004, was abruptly demoted in January 2008 and sent to face Gacaca – the national transitional justice mechanism established to promote justice and reconciliation for some of the crimes committed during the genocide – Kigali did a favour for FDLR leaders calling for continuation of the struggle.

Western and African countries should help put pressure on the FDLR political leadership. FDLR President Ignace Murwanyashaka and Executive Secretary Callixte Mbarashimana, who are in France, face travel restrictions. Their access to VOA, BBC, Deutsche Welle and RFI broadcasts should stop. Demobilised combatants have explained that such radio interviews – heard in the Kivus – are instrumental in maintaining troop cohesion and are used by FDLR commanders to illustrate the international support and audience of their political leaders. Western countries should make a concerted effort within the possibilities of their laws to prevent circulation of FDLR propaganda in their national public media and via websites in their territories. A legal task force should explore modalities for curtailing fundraising and fund transfers to FDLR operatives and the pre-payment of satellite communications links used by commanders on the ground.

2. Refocusing security system reform on results in the East

The FARDC's inability to fulfil responsibilities in a comprehensive anti-FDLR strategy combined with the state's inability to reestablish its authority in areas freed from FDLR occupation have been the two Gordian knots of Kivu stability. Not only have the commands of the 8th and 10th military regions been preoccupied with the illegal exploitation of mineral resources and their often lucrative collaboration with the FDLR, but the FARDC has also proved to be a serious abuser of human rights. The systemic mismanagement of the Congolese army completely undermines the performance of its units, after they have been trained and equipped. Lack of supplies, theft of soldiers' pay and lack of ammunition and confidence between the FARDC and the people under their control have subverted any attempt to restore state authority in the two provinces.

At the same time, competition among Angola, South Africa, and European countries to lead security system reform has often led to confusion and inability to hold the government accountable for its failures. The main reason for the lack of progress, however, is the Congo government's absence of political will to address such reform in a comprehensive, coordinated and integrated fashion.⁹² Renewed and coordinated efforts on security system reform are a key to peacebuilding. They can be divided into three main components:

Training, support and mentoring focusing on the restoration of state authority

Joint planning and execution by MONUC and the FARDC will be required to fill the political and security vacuum likely to be created by continued military operations against the FDLR and to meet the need to establish immediate area domination and weapons-free zones to protect civilians against FDLR reprisals. The new FARDC units created by fast-tracked integration are probably even weaker than other units, since their members often joined reluctantly, have very different backgrounds, and frequently do not recognise the new chain of command. MONUC is already involved in providing basic training.

MONUC and the FARDC need to work together to transform the new units into effective instruments of state authority that can win the population's confidence. Once these units have received training, MONUC must support them for at least one year. This should include embedding its own military personnel at the company, battalion and brigade levels to provide mentoring throughout the chain of command. Payment of extra allowances to deployed units and additional training to reinforce cohesion and capacity to coordinate movements should also be provided, together with the strengthening of accountability institutions such as military police and military justice.⁹³ Indeed, MONUC's

support should be strictly conditioned to dramatic improvement in FARDC accountability.

Mentors, supported by mobile operation bases, communication facilities and adequate logistics, may help prevent the newly integrated units from abusing human rights and robbing natural resources. MONUC should also support the civil-military cooperation (CIMIC) operations of the FARDC to improve the mutual confidence of soldiers and civilians and progressively restore the civilian backing the army will need to protect communities effectively. Governments of the Great Lakes region have offered troops for mentoring.⁹⁴ They need to follow through with adequate equipment and a sustained effort.

Rehabilitation of capacity, including military justice

Security system reform in the Congo has been hindered by failure to give it sufficient priority and by donor reluctance to acknowledge the immensity of the task. Rebuilding FARDC capacity needs to be focused on its most pressing missions and at the level of the military regions. For the next three years, priority should be given to the 8th, 9th and 10th military regions – tasked with providing security and disarming groups in the Kivu, as well as Orientale province. The second priority should be Katanga, Bas-Congo and Kinshasa, the third Equateur, Maniema and the two Kasais.

The European Commission, through the EU Security System Reform Mission to the DRC (EUSEC RD Congo), and EU member states might concentrate on rehabilitating physical infrastructure and management systems at the military region level for property, equipment, logistics, and communications. This would not only build capacity to conduct military operations but would also help improve the daily lives of soldiers and reduce their temptation to prey on the population to satisfy basic needs. Improvement of FARDC management and performance is vital for persuading ex-CNDP combatants to leave North Kivu, based on the conviction that neither they nor the Tutsi community will be at risk of violence from the government or its proxies.

Given that the Congolese army is a primary perpetrator of human rights abuses, army reform must include comprehensive training in human rights and international humanitarian law, as well as the systematic prosecution of culprits by the military justice system. To eradicate the culture of impunity now rampant within the FARDC, it will be crucial to reinforce and enforce legislation forbidding sexual violence by the military

⁹²For an excellent assessment of security system reform shortcomings in the Congo, see Sebastien Melmot, "Candide au Congo: l'échec annoncé de la réforme du secteur de la sécurité", Institut Français de Recherche Internationale, Laboratoire de recherche sur la défense, focus stratégique n°9, September 2008. On the consequences of failure for the Kivus, see also Hans Hoebbecke, Henri Boshoff, Koen Vlassenroot, "Assessing SSR and its impact in the Kivu provinces", Institute for Security Studies, situation report, Pretoria, 26 November 2008.

⁹³For a more systematic approach to the benefits related to training, adequate pay and accountability in reforming institutions of fragile states, see Anthony W. Gambino, "Effective Training, Adequate Pay, and Accountability for Actions (TPA): Three Keys to a Successful Development Strategy in Fragile States", West Point Center for the Rule of Law, 16 April 2009.

⁹⁴Crisis Group interview, Great Lakes conference executive secretary, Zanzibar, March 2009.

and to create within the military police and military justice system internationally-supported units for investigating and prosecuting sexual crimes.

On 28 April 2008, the ICC unsealed an arrest warrant for Bosco Ntaganda, the CNDP chief of staff, for crimes in Ituri in 2002-2004, namely enlisting and conscripting children under fifteen to participate actively in hostilities. He should be removed at once from his command, suspended from active duty and brought to trial before the ICC. Ntaganda is not such a powerful and central figure that his cooperation is essential to stability in the eastern Congo and thus a candidate for special political action by the UN Security Council to delay the ICC procedure. The only alternative that might appropriately be negotiated with him and other criminals is a trial before a Congolese court. Such a national judicial process, which would need to be supported by international technical assistance to guard against political manipulation and corruption, might eventually be supplemented by the establishment of transitional justice mechanisms, such as a truth and reconciliation commission, cooperation with which might be taken into account during the sentencing of those found guilty by the court.

In the long run, primary responsibility for domestic security should shift from the army to the police. However, it will be necessary both to bring to justice members of the police who commit serious human rights and other crimes and to remove from the police and the FARDC abusers of human rights through appropriate vetting procedures.

Sorting out international confusion and pressing the government to engage

The most important security system reform challenge faced by the international partners will probably be overcoming the piecemeal approach the Congolese government favours so as to avoid structural reforms. Kinshasa has blocked any attempt to proceed at a high command level and has only accepted international help with a few disjointed initiatives. EUSEC was able to reform the chain of payment for soldiers down to brigade level. Together with South Africa, it also made progress on establishing bona fide rosters of soldiers, in an effort to eliminate ghost-soldier payment fraud. In connection with integration into the FARDC of former rebels from the RCD, MLC and Ituri militias, Belgium, Angola and South Africa have trained and equipped various units, but they have not addressed the mismanagement and corruption at central level. France is training a battalion that will serve in CENTBRIG, the stand-by brigade of the Central Africa region.

Such approaches have shown their limitations. In view of the FARDC's collapse in north Kivu, a piecemeal approach leaving impunity intact will not produce effective security system reform. The Congolese government is weakened by a drastic decline of its foreign exchange reserves, due to the collapse of international commodity prices. Donor aid, including direct budget support, should be conditioned on active collaboration in security system reform, including restructuring the FARDC high command. Kinshasa cannot expect financial support to feed corruption and mismanagement. It should, in particular, establish a commission to identify and exclude corrupt individuals and human rights abusers from the army.

For such a policy to be successful, a critical mass of support must be created among donors. The next Contact Group on the Great Lakes⁹⁵ should have efficient donor coordination as its top priority. A specific donor group should be created to coordinate action-related aid conditionalities with the Congolese government.

3. Fostering reconciliation and human security

The government has agreed to give CNDP political leaders provincial administration posts they can use to put in place measures to facilitate the smooth return of Tutsi refugees from Rwanda and Burundi. The resettlement of 850,000 IDPs and return of up to 60,000 refugees requires, however, a transparent political process that goes beyond logistics, finances and organisation. Coping with the serious risk of ethnic tensions over land issues should be central to the post-conflict reconstruction strategy. Local Congolese politicians used incendiary speeches during the Nkunda insurgency to mobilise support for the government's military campaign. Similarly, CNDP propaganda arguing that all other Congolese were natural enemies embarked on a new genocidal plan reflected a siege mentality among the Tutsi of North Kivu.⁹⁶

Fear of other communities and the desire for revenge were promoted among both IDPs and refugees as instruments of control and mobilisation. These attitudes now have to be dealt with among returning civilian populations, who are also traumatised by almost thirteen years of uninterrupted conflict.⁹⁷ Reconciliation is a key

⁹⁵ Its members are Belgium, France, the UK, EU, Netherlands, U.S. and UN. The World Bank participates as an observer.

⁹⁶ "RDC, Nord Kivu: les guerres derrière la guerre", Pole Institute, Goma, 26 Septembre 2008.

⁹⁷ Most contributions by community leaders during the January 2008 Goma conference illustrated the depth of ethnic tensions, fear of discrimination and lack of willingness to recognise other communities suffering, as well sometimes as

aspect of the eastern Congo's stabilisation, but it cannot happen in the absence of human security. The internationally supported and monitored restoration of state authority by the army, police and state administrative services can provide a necessary but not sufficient condition for human security.

If the return and reintegration of refugees and IDPs becomes a bone of contention between communities, it will lead to further violence and instability. Privileged treatment for one community, lack of sensitisation and consensus building on the reintegration process, institutionalised corruption in land allocation and insecurity of land tenure are ingredients for resumed conflict and need to be addressed as essential components of the reintegration policy. In addition to the current tripartite efforts of the Congo, Rwanda and UNHCR to prepare the return of refugees and parallel provincial planning to organise IDP reintegration, a provincial commission should be created to look into requirements for peaceful resettlement, notably land security and active sensitisation of communities.

Human security in North Kivu will also depend importantly on appropriate investment in the reintegration of ex-combatants.⁹⁸ Far too often, the "R" part of the disarmament, demobilisation and reintegration (DDR) process is forgotten, even though ex-combatants are potentially dangerous for other civilians and need far more than just a few months of training and employment to once again become accepted members of their communities.⁹⁹ In particular, a pattern of domestic violence and substance abuse has characterised the return of male ex-combatants to communities that have learned to live without them. The reintegration of ex-combatants should become a priority focus for donors, who need to condition their partnership with the UN Development

desire for revenge. See, for instance, "Déclaration de la Coalition Patriotes résistants Congolais/Forces Armées Populaires, Pareco à La Conférence sur la Paix, la Sécurité et le Développement des provinces du Nord-Kivu et du Sud-Kivu", January 2008.

⁹⁸ See Leontine Specker, "The R-phase of DDR processes", Clingendael Institute, Conflict Research Unit report, September 2008.

⁹⁹ According to several reports, demobilised men are very often guilty of sexual violence. "Though the vast majority of rapes are committed by members of armed groups, Masika says civilians are increasingly responsible for sexual violence, some of whom are demobilised militia members". "Rape as a Weapon of War", Institute for War and Peace Reporting (IWPR), www.iwpr.net; "The DDR programme seems in this respect to have failed to adequately address issues of justice and social order, or to have adequately followed-up what happens after ex-combatants return to their designated home community". www.humanrights.se.

Programme (UNDP) in particular on effective, on-the-ground service delivery.

To consolidate peace in the Congo and especially in North Kivu, it is time to move beyond the culture of impunity that has prevailed for so long. The atrocities by armed groups are such that none of their leaders, Nkunda least of all, should escape a judicial process. However, if it is to ease tensions, that process must be balanced and fair – not a winners' justice or one that settles scores. Congolese courts lack the capacity, credibility and political neutrality to judge war crimes and crimes against humanity committed in North Kivu since 1993. A consolidated approach needs to be developed involving both international and national judicial mechanisms. Overcoming the use of rape as a weapon of war adds to the post-conflict complexities. Long-term peaceful settlement in the region will be problematic if specific policies and practices that end impunity for sexual violence are not implemented.

ICC arrest warrants for crimes against humanity, including sexual violence, are a tool with which to attack impunity and deter future abuse. But such international initiatives need to be accompanied by a reform of the Congolese justice system, including establishment of a civilian court of appeal for victims of sexual abuse to replace the military court that now handles such cases. The government and the courts should encourage civilians to trust and use the judicial system rather than support a system by which perpetrators pay money to the victims in exchange for their silence. But the judicial system must take into account that victims fear a rise of tensions within their communities or their rejection from it after denouncing sexual abuse. The international community should help create an administrative environment in the judiciary that inspires the confidence of victims of sexual violence and induces them to file complaints and have the courts hear their cases.

The launch of an overall strategy against sexual violence in the Congo on 1 April by the UN special adviser on that subject¹⁰⁰ is a positive step but will only make a difference if it is action- and result-oriented, intended to deliver concrete improvements with respect to impunity and protection of civilians. UN coordination and programming will not bring significant changes in the Kivus or the rest of Congo, if the fight against rape is not supported by robust political engagement at all levels of the Congolese civilian and military bureaucracy, and culprits are not systematically put behind bars.

¹⁰⁰ "Launch of overall strategy in the fight against sexual violence in the DRC", MONUC, 2 April 2009, www.reliefweb.int/rw/rwb.nsf/db900SID/EGUA-7QQSMD?OpenDocument.

The Congolese parliament needs at long last to pass a law establishing a credible Truth, Justice and Reconciliation Commission mandated to deal with the crimes committed in Orientale province, the Kivus and Katanga between 1991 and 2008. Parliamentarians from the eastern Congo and civil society organisations should be supported by international partners to lead a national debate in order to build a consensus on creation of this commission with a mandate free from short-term partisan interests.

4. Improving governance

Improving governance and promoting sustainable regional stabilisation is the next building block for a peacebuilding strategy in the eastern Congo. Illegal exploitation of mineral resources deprives the government of much-needed tax revenues and empowers warlords who claim to be the legitimate representatives of their communities. Regional stability, improved security and reconciliation all depend in part on a peace economy operating within a transparent legal structure. Peacebuilding requires in particular an improvement in provincial economic management and the building of efficient and functional provincial institutions.

Illegal exploitation of resources facilitates the continuation of conflict and should be a priority target for improved governance in the Kivus. Once the mines have been demilitarised, those involved in the mineral industry – including members of the presidential family – need to pay taxes like all other economic actors in the Congo. To help ensure the state can collect the taxes it needs for paying salaries and providing basic services, the Congo should establish an internationally supported and adequately paid administrative corps devoted to revenue collection from extractive industries and import-export activities.

The international community currently shows an inclination to disengage from improving governance at the centre in order to concentrate on stabilising the periphery. This cannot deliver sustainable results, because it neglects the intimate links between reform in Kinshasa and improvements in the East. Decentralisation was identified as a key requirement for improving governance in the country during the national conference of the early 1990s,¹⁰¹ and it remains a fundamental aspiration for most Congolese. Local authorities who both represent all communities and effectively pro-

vide services are envisaged as a necessary component of the decentralised framework set out in the 2005 constitution. That framework in turn is meant to serve as a counterweight to Kinshasa's predatory tendencies at the same time as it brings accountable government closer to the people.

Supporters of a strongly centralised Congolese state often argue that devolution is too dangerous for a country traumatised by secession attempts (Katanga in the 1960s) and ringed by neighbours that seek to dominate its border provinces. But a strong political movement in favour of partition never emerged during the last decade of war in either the Kivus or Orientale. On the contrary, the eastern Congo provinces, which suffered from foreign occupation, were and remain the strongest defenders of national unity, while also desiring devolution in the hope it will improve public services and government accountability.

Stabilisation of the Kivus cannot succeed if Kinshasa's reach for control of natural resources is not regulated, and the national laws and regulations necessary to establish efficient local authorities are not promulgated. Likewise, improved governance and simultaneous peacebuilding benefits anticipated from local elections will not materialise if local authorities are not empowered. Peacebuilding in the Kivus, in other words, requires continuation of institutional reforms in Kinshasa and improvement of central government accountability, particularly in management and allocation of funds devoted to state rebuilding and economic recovery.

Although the resignation of Vital Kamerhe as National Assembly speaker is a party affair, and the speaker cannot simultaneously fulfil the responsibilities of that post and lead the opposition, the corruption and threats used by the executive branch to drive him out undermined the parliament as a democratic institution and its role as the main check and balance to the presidency. The benefits of ten years of international investment in rebuilding national institutions should not be allowed to go to waste because of complacency towards the Kabila regime and the illusion that peacebuilding in the East can be achieved with political disengagement in Kinshasa.

MONUC should devote as much energy to supporting consolidation of democratic institutions in Kinshasa and development of a strong legal and administrative framework in the provinces as to improving security and civilian protection in the Kivus. At the same time, donors should condition financial support to the government on rapid and significant progress in the areas of customs, revenue collection on mineral exploitation and increased transparency in management of that sector by the relevant government bodies.

¹⁰¹ During the aborted democratic transition of the early 1990s, President Mobutu conceded the holding of a national conference bringing together political parties and civil society organisations to discuss the kind of political system the population wanted.

Local elections should produce adequate representation of all communities, but MONUC, donors and Kinshasa should urgently refocus on the legal and administrative reforms necessary to create effective provincial institutions before they are held. As part of this process, the Congolese government should establish provincial justice sector mechanisms empowered to audit public accounts, summon officials and recommend prosecution when necessary.

5. Sustainable stabilisation of regional relations

Stabilisation of regional relations cannot be based on military cooperation alone. Kigali in particular remains in denial of its responsibility for the suffering of Congolese civilians since 1996 and the need to examine the recent past honestly if it is to build genuinely stable relations with its giant neighbour and move forward on joint economic projects. Both Rwanda and the Congo need to promote reconciliation. Rwanda should acknowledge responsibility for large-scale massacres that took place during the war and provide compensation for the victims. Kinshasa has a responsibility to fight revisionism over the Rwanda genocide and acknowledge failings towards its Tutsi nationals.

Rwandans have invested substantially in cattle ranches in Masisi and formed partnerships with Congolese to exploit mineral resources. Kigali also needs the Congo in order to meet its energy requirements. Gas reserves in Lake Kivu can be successfully exploited only if the countries work together. Similarly, demographic pressure that leads to migration from Rwanda to the Congo is an issue that is not openly discussed but is poisoning bilateral relations. Emigration into Congolese areas that are literally empty, however, need not be a source of tension if it is regulated, monitored and organised for mutual benefit.¹⁰²

¹⁰²Two proposals, one by the former U.S. Assistant Secretary of State for African Affairs, Herman Cohen, in support of regional integration between the Kivus, Rwanda and Uganda, the other by French President Nicolas Sarkozy on the benefits of joint development ventures at the border, have generated unnecessary controversy in Kinshasa and charges that Paris and Washington support partition of the country or at least putting the Kivus under the economic influence and control of their eastern partners. Sarkozy had an opportunity to reiterate support for the Congo's territorial integrity during his visit to Kinshasa on 26 March 2009. The Congolese need to feel actively consulted on an issue so sensitive for long-term regional stabilisation. Better results are likely if regional actors take the initiative without external pressure. See Herman Cohen, "Can Africa trade its way to peace?", *The New York Times*, 15 December 2008, and "Propositions françaises pour le retour de la

The International Conference for the Great Lakes offers a forum where such issues can be discussed openly and that could promote a progressive and sustainable improvement in bilateral relations. The conference secretariat would need to create one or more committees to look into the practical modalities for: 1) jointly addressing the history of the region and promoting reconciliation among its peoples, including exploring compensation for crimes committed during the various wars; 2) regulation, control and monitoring of migratory patterns between countries of the Great Lakes; and 3) joint economic exploitation of energy resources along borders. Committee recommendations would then need to be presented to a heads of state summit for endorsement and implementation.

B. MEETING THE IMPLEMENTATION CHALLENGES

MONUC and other international partners have been dealing with peacebuilding in the eastern Congo for years. Under Security Council Resolution 1756 (2007), MONUC and the UN country team started working on a security and stabilisation strategy for the East encompassing some of the above elements, as well as defining the key benchmarks that would allow it to downsize. Security system reform, including DDR, as well as rehabilitation of infrastructure and the repatriation and reintegration of refugees and IDPs have been identified as central action points. But implementation of such a peacebuilding strategy requires more than bureaucratic engineering.

International leadership, pressure and appropriate incentives have been lacking as much as cooperation from the Congolese side to support the strategy. International partners of the Congo need to capitalise on the leadership of former Presidents Obasanjo and Mkapa to coordinate their support and apply pressure on Kinshasa and regional actors, when necessary, with regard to peacebuilding priorities. The call in the 23 March government-CNDP agreement for the UN and the Great Lakes special envoys to provide support, with the help of an international follow-up committee, should be taken as the opportunity to produce an implementation roadmap and the details of an international division of labour.

A new summit of the Great Lakes Regional Initiative, supported by the UN Security Council, the EU, AU, South Africa and Angola should endorse this roadmap and mandate Obasanjo and Mkapa to oversee it in co-

paix et de la stabilité dans la région des Grands Lacs", March 2009.

ordination with the parties and their other international partners. MONUC and the UN country team should remain the operational arm of international support for peacebuilding inside the Congo. Because neither has the political authority or leadership to keep the peacebuilding momentum going, however, that should be the main role of the two former presidents.

MONUC and the special envoys should contemplate sustaining their activities through the 2011 general elections. It will take two years of busy engagement and reforms to make peacebuilding irreversible in the Kivus, including dismantling the chain of command and repatriating up to three fourths of the FDLR combatants there, rehabilitating the three eastern military provinces and returning and reintegrating nearly 900,000 IDPs and refugees. MONUC's help will also probably still be necessary to organise successful elections. The drawdown of the mission should not be envisaged before the full process has been completed.

Resistance to coordinated security system reform and the establishment of adequate judicial processes to deal with the perpetrators of mass crimes and sexual violence must be met with similar international resolve. Political, economic and judicial accountability have to be factored in as essential elements of international engagement with the Congo.¹⁰³ Kinshasa should receive financial support only if it is willing to assume the responsibility to protect its own citizens and contribute significantly to the fight against impunity. In view of the horrendous crimes committed in the eastern Congo and the FARDC collapse in October 2008, the inclusion of a comprehensive judicial component in security system reform and reconciliation efforts as described above should be non-negotiable conditions for such aid.

On 20 November 2008, the Security Council adopted Resolution 1843, increasing MONUC by 2,785 soldiers and 300 policemen to a total force of 19,560. A subsequent resolution tasked MONUC, whose credibility with the parties was at its nadir, to forcefully disarm any combatants, including FARDC and CNDP, threatening civilians.¹⁰⁴ Additional troops are not the only answer to MONUC's shortcomings, however. On the operational front, its civilian and military leaders have

to take responsibility for failure to protect civilians and be replaced if need be.

MONUC's initiatives to improve protection of civilians, such as creation of joint protection teams bringing together its different components to share information and coordinate response and the adaptation of rules of engagement to the requirements of robust Chapter Seven implementation, are steps in the right direction.¹⁰⁵ But failure to act in the face of violence must also be penalised if attitudes are to change and efficiency to improve. The UN cannot afford to continue having blue helmets watch helplessly when civilians are killed in front of their positions, as in Bunia in 2002, Bukavu in 2004 and during the September-November 2008 crisis. MONUC's credibility will only be restored if its soldiers take the risks that should be considered a normal part of successful peacekeeping and peacebuilding, and its leaders are held accountable for both action and non-action.

Simultaneously, the mission should build its strategy on achieving tangible, measurable and sustainable results in the progressive restoration of control over the Kivus, territory after territory, concentrating more on protection of civilians than on bureaucratic requirements.¹⁰⁶ Its performance should begin to be judged by concrete results rather than by the quality of the process it puts in place. Only a results-oriented strategy that delivers quick benefits to civilians will restore Congolese confidence in its intentions and address its crisis of credibility. By the time it leaves the Congo after the 2011 elections, MONUC should have contributed to the total dismantlement of the FDLR command structure and the return of at least three fourths of its remaining 6,000 combatants. DDR of militias should have succeeded in three quarters of Kivu territory, and civilian authorities should no longer need army protection to operate.

Civilian protection is a shared responsibility for the entire international community. The permanent members of the Security Council need to help MONUC in this by applying effective pressure on the real actors in the crisis. The most important lesson learned from the 2008 crisis in Goma was that political engagement at the appropriate level and with the required robustness

¹⁰³ For a more detailed evaluation of the necessary changes in current patterns of international engagement in the Congo, see Thierry Vircoulon, "Réformer le 'peace-making' en république démocratique du Congo", IFRI note, February 2009.

¹⁰⁴ "Ensure the protection of civilians, including humanitarian personnel, under imminent threat of physical violence, in particular, violence emanating from any of the parties engaged in the conflict". Resolution 1856, adopted on 22 December 2008.

¹⁰⁵ See "Twenty-Seventh report of the Secretary-General", *op. cit.*

¹⁰⁶ For discussion of MONUC's withdrawal benchmarks, including more results-oriented targets than the general principles in the Secretary-General's 24th report, see Anthony W. Gambino, "Congo: Securing Peace, Sustaining Progress", Council on Foreign Relations, special report no. 40, October 2008.

can sometimes do more to safeguard civilians than military presence. Without requisite political pressure on Kinshasa and Kigali and imposition of political and financial costs if they do not keep their commitments, the Congo quagmire will endure. Bilateral partners who give Rwanda direct budget support should use their leverage so that it keeps to its proclaimed objectives of creating peace and stability in the region. Aid should be suspended if it acts differently.

V. CONCLUSION

The opportunity offered by the dramatic policy shifts of the Congo and Rwanda in the Kivus should not be wasted. These shifts have created the most conducive regional political environment for peacebuilding there in two decades. The gains made since November 2008 will be wasted, however, if there is not a concerted international effort to craft a strategy that addresses both the short- and longer-term causes of the instability. Unless momentum for radical reforms and decisive action against impunity are fostered, the Kivus will revert into a new state of neither peace nor war, a low-intensity conflict under the radar screen of capitals but with continuing tragic consequences for its civilians. Now is the time to concentrate efforts on a comprehensive strategy and on keeping both Rwanda and the Congo under pressure to abide by all the commitments they have made in the past few months.

Nairobi/Brussels, 11 May 2009

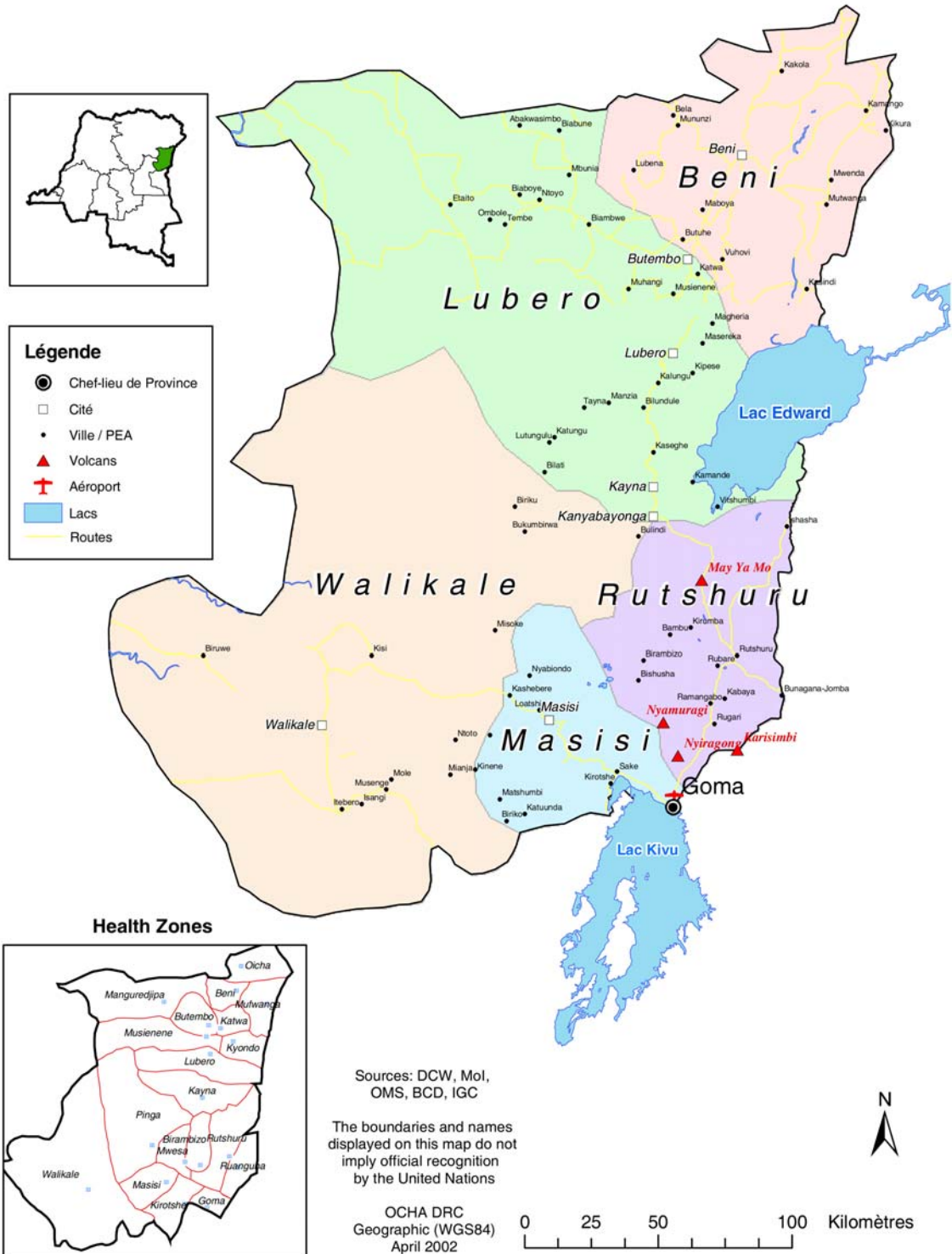
APPENDIX A

MAP OF THE DEMOCRATIC REPUBLIC OF CONGO



APPENDIX B

MAP OF NORTH KIVU



APPENDIX C

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