



**“BETTER TO DIE  
WHILE SPEAKING  
THE TRUTH...”**

**ATTACKS AGAINST HUMAN  
RIGHTS DEFENDERS IN  
NORTH KIVU, DRC**

**AMNESTY  
INTERNATIONAL**



Amnesty International Publications

First published in 2013 by  
Amnesty International Publications  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Amnesty International Publications 2013

Index: AFR 62/008/2013

Original language: English  
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission of for any inquiries, please contact [copyright@amnesty.org](mailto:copyright@amnesty.org)

Cover photo: A woman human rights defender in North Kivu, DRC, 2013.  
© Amnesty International

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY**  
**INTERNATIONAL**



## CONTENTS

MAP.....	5
GLOSSARY.....	6
1. INTRODUCTION.....	7
2. METHODOLOGY.....	8
3. PROTRACTED ARMED CONFLICT IN NORTH KIVU.....	9
4. THE ROLE OF HUMAN RIGHTS DEFENDERS IN NORTH KIVU.....	13
5. CLIMATE OF SELF-CENSORSHIP.....	16
5.1 Intimidation and death threats against human rights defenders.....	16
5.2 Effects on human rights defenders of ‘revolving-door’ control of towns....	17
5.3 Fear of reprisals in times of crisis: M23 takeover of Goma.....	19
5.4 Effect on human rights defenders of problematic reintegration processes.	20
5.5. Dual threat against women human rights defenders.....	23
5.6 Insecurity for human rights defenders in Goma.....	24
5.7 Targeted vs. non-targeted security threats.....	25
5.8 Strategies used by defenders to adapt to armed conflict.....	26
6. LEGAL FRAMEWORK.....	27
6.1 International Framework.....	27
6.2 Regional Framework.....	29
6.3 National Framework.....	29
7. OTHER PROTECTION MECHANISMS IN DRC AND THEIR LIMITATIONS.....	31
7.1 UN Special Rapporteur on Human Rights Defenders.....	31
7.2 MONUSCO Protection Framework.....	31
7.3 African Commission Special Rapporteur on Human Rights Defenders.	32

7.4 National efforts .....	33
7.5 Diplomatic Missions' Protection Framework .....	34
7.6 Protection Mechanisms by International NGOs .....	35
8. IMMEDIATE MEASURES NEEDED TO IMPROVE DEFENDERS' SECURITY.....	35
8.1 Need for increased tools of communication.....	35
8.2 Need for strengthening local networks .....	36
8.3 Examples of State-led and diplomatic measures.....	36
9. NEED FOR LONG-TERM REFORM AMIDST IMPUNITY .....	37
10. RECOMMENDATIONS.....	40



**Administrative map of North Kivu, DRC**

© UN Office for the Coordination of Humanitarian Affairs.

## GLOSSARY

ANR	National Information Agency ( <i>Agence Nationale de Renseignements</i> )
CNDH	National Human Rights Commission ( <i>Commission Nationale des Droits de l'Homme</i> )
CNDP	National Congress for the Defence of the People ( <i>Congrès national pour la défense du peuple</i> )
DRC	Democratic Republic of Congo
FARDC	Armed Forces of the Democratic Republic of Congo ( <i>Forces armées de la République démocratique du Congo</i> )
FDLR	Democratic Forces for the Liberation of Rwanda ( <i>Forces démocratiques de libération du Rwanda</i> )
FPD	Popular Front for Democracy ( <i>Front Populaire pour la Démocratie</i> )
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICGLR	International Conference on the Great Lakes region
INGO	International non-governmental organization
IDP	Internally displaced person
M23	March 23 Movement
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of Congo ( <i>Mission de l'Organisation des Nations Unies pour la Stabilisation en RDC</i> )
MPA	Popular Movement for Self-Defence ( <i>Mouvement Populaire d'Auto-Defense</i> )
RCD-Goma	Congolese Rally for Democracy – Goma ( <i>Rassemblement Congolais pour la Démocratie - Goma</i> )
OHCHR	Office of the United Nations High Commissioner for Human Rights
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNJHRO	United Nations Joint Human Rights Office

## 1. INTRODUCTION

**“We are a threat to the armed groups and the armed groups are a threat to us. They know that we know everything that happens on the ground.”**

– Human rights defender based in Kitchanga, Masisi territory, North Kivu province<sup>1</sup>

For over two decades, the eastern provinces of the Democratic Republic of Congo (DRC) have been marred by successive waves of instability and protracted armed conflict resulting in widespread human rights abuses against civilians and mass internal displacement.<sup>2</sup> Various armed groups, foreign armies, and the Congolese national army FARDC (Forces Armées de la République Démocratique du Congo) have vied for political and military control of land and resources. This report highlights the impact of the ongoing armed conflict on human rights defenders in North Kivu. Human rights defenders are women and men who are often the front-line recourse for victims of serious human rights violations and abuses, including war crimes and crimes against humanity, that are all too common in this eastern province of DRC. They are “individuals, groups and associations...contributing to...the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals”.<sup>3</sup> They work through non-violent means towards the promotion and protection of civil and political rights as well as of economic, social and cultural rights.<sup>4</sup>

In eastern DRC, human rights defenders often offer vital assistance to victims amidst increased abuses against the civilian population and insecurity caused by operations between the FARDC and armed groups. Since the worsening of the conflict in mid-2012, with the creation of March 23 Movement (M23) and the concurrent proliferation of armed groups, there has been a serious clampdown on the space for human rights defenders to work. This insecurity is particularly acute when national security forces and justice systems fail to provide adequate protection of civilians and means for reparation.

As they report and denounce violations of human rights and international humanitarian law, human rights defenders are generally perceived as a threat both by the national army whose elements have been responsible for serious human rights violations, and by armed groups who have also been responsible for serious human rights abuses. Many of these violations and abuses of human rights may constitute war crimes or crimes against humanity.

Amnesty International has documented numerous cases of intimidation, death threats, arbitrary detentions, ill-treatment, and unlawful killings of human rights

defenders. Defenders in North Kivu have now been broadly forced to stop their monitoring and reporting activities, operate clandestinely, or risk their life for reporting abuses by both armed groups and elements of the national security forces. Many have been unable to return to their homes because they have been identified as 'human rights activists' in their towns and fear reprisals.

These human rights defenders' experiences reveal how the particular features of the North Kivu armed conflict directly affect their ability to conduct human rights work. The armed conflict is marked by frequent hostilities between armed groups and the national army resulting in certain towns being controlled in a 'revolving-door' fashion by armed groups and state forces. Failed security sector reform allows certain army regiments to retain control over zones where they have personal, ethnic and economic interests. Perpetrators of war crimes, crimes against humanity and other serious violations of international human rights law enjoy continued impunity for their actions. This impunity, as well as the flawed process of reintegrating armed group members into the national army without adequate vetting measures, further contributes to the protracted violence.

All these factors directly impede activists' freedom of expression and association, and their ability to monitor and report human rights violations and provide assistance to victims. Violations go undocumented, victims are left without support, and perpetrators continue to operate without accountability. Rather than being a secondary concern occurring in parallel to the conflict, the threats and violations faced by human rights defenders are directly detrimental for all victims of human rights violations and abuses. As one Goma-based human rights defender explained, "the whole population in my country [is] constantly threatened. But the human rights defenders are all the more important as they are the spokespeople of the silent or unknown majority of people. By protecting them, we indirectly assist the whole community." If human rights defenders cannot speak up, the whole community is at risk.<sup>5</sup>

According to the UN Declaration on Human Rights Defenders, states have a responsibility to create the conditions necessary to ensure that every person can act to defend human rights.<sup>6</sup> The assistance and protection measures available for these individuals from the DRC government, as well as from the diplomatic community and the UN, are insufficient.

## 2. METHODOLOGY

Amnesty International has previously documented violations against human rights defenders operating throughout the country, including extrajudicial executions, disappearances, unlawful detentions, unfair trials, threats and intimidation by Congolese authorities.<sup>7</sup> This report focuses on human rights defenders in North Kivu province, particularly in Nyiragongo, Rutshuru and Masisi territories. However, the violations and insecurity faced by human rights defenders occur in other territories of North Kivu, as well as in other provinces affected by armed conflict, including



South Kivu, Katanga, and Orientale provinces.<sup>8</sup>

This report is based on research from June 2012 onwards, and conducted through research trips to Kinshasa in May 2013 and Goma in July 2013, as well as through regular communication with human rights defenders. While in DRC, Amnesty International delegates conducted in-depth interviews with human rights defenders, diplomatic representatives, governmental authorities, and international NGOs in Kinshasa and Goma. Delegates interviewed 60 human rights defenders. Most defenders interviewed were from outside of Goma but were unable to return home because they feared reprisals related to their human rights work. Human rights defenders were interviewed in French, English, and Kiswahili with French interpretation, and by phone for activists based in other provinces. For security reasons, the interviews were conducted on condition of anonymity and pseudonyms have been used. Other identifiable information, including specific locations and names of armed groups, have been omitted accordingly.

Amnesty International delegates met with the Minister of Justice Wivine Mumba Matipa, Vice-Minister of Human Rights Sakina Binti and her advisors, as well as representatives of seven diplomatic missions in Kinshasa, including the EU delegation, and the representative of one diplomatic mission in Goma.<sup>9</sup> Amnesty International also interviewed staff of five units of the United Nations based in DRC and met with staff of five international NGOs based in Kinshasa and Goma who work on improving protection of human rights defenders.

Information from interviews has been cross-checked with other interviews and sources. Reports and briefings by other actors, including the Congolese government, the UN, and civil society organizations, were taken into consideration in this research.

This report calls on the DRC authorities and members of the international community to address the urgent need for increased protection for Congolese human rights defenders, particularly in areas affected by armed conflict in North Kivu and other provinces. It hopes to provide impetus for similar research to be conducted beyond North Kivu, both in DRC and in other countries.

Amnesty International expresses its utmost appreciation to human rights defenders who shared their experiences and who resiliently continue to conduct human rights monitoring, reporting, and campaigning, often at great risk to their lives.

### **3. PROTRACTED ARMED CONFLICT IN NORTH KIVU**

North Kivu province has been marked by chronic instability, particularly since the 1994 genocide in Rwanda. However, since mid-2012, there has been a stark deterioration in the security situation for civilians, amidst increased operations by armed groups and hostilities between these groups and the national army. The eastern provinces have seen a mushrooming of armed groups, who are to varying

degrees fuelled by the struggle for political power, the drive to defend ethnic-based agendas from perceived security threats, and the desire for economic gain, including access to mineral resources.

The creation of new armed groups, such as the M23 in April 2012, prompted other armed groups to form or 'resurrect' to ostensibly counter the threats presented by M23 as well as the FDLR.<sup>10</sup> This proliferation of more localized community-led self-defence armed groups aimed at defending their territory against other armed groups contributed to the protracted instability. Many such 'Mai Mai' groups (deriving from the word for "water" in Swahili) were created to resist the impact of Rwandan forces and Rwandan-affiliated Congolese armed groups. For example, the Raia Mutomboki ("outraged citizens") is a series of different armed groups which expanded as they intended to protect their community from FDLR attacks, claiming the Congolese army failed to do so. In response to the increasing operations of the Raia Mutomboki and the M23, the Nyatura militia ("the whip") operates as a self-defence group to protect Hutu communities.

This proliferation of armed groups and the perpetual shifting of alliances between them, sometimes based on opportunistic gains despite ethnic antagonisms, have given rise to a complex politico-military landscape with persistent insecurity for civilians. Amidst this protracted insecurity, the Congolese state has a weak ability to enforce the rule of law due to a dysfunctional justice sector coupled with generally undisciplined, under-resourced and unreliable security forces. More broadly, Congolese army soldiers sometimes defect to armed groups, frustrated by poor living conditions, lack of resources, unreliable salaries, and perceived ethnic discrimination.

### MARCH 23 MOVEMENT (M23)

In April 2012, hundreds of soldiers defected from the national army and created the 23 March Movement (M23), initiated by General Bosco Ntaganda. As many of the M23 members had previously been part of the National Congress for the Defence of the People (CNDP),<sup>11</sup> the M23 is the most recent iteration of a series of armed groups that have operated in the Kivus since 1998. The main grievance for the M23 was the perceived non-fulfilment by the DRC authorities of their commitments under the 23 March 2009 Agreement. Underlying these grievances is the concern that the DRC authorities will not protect interests of Tutsi communities in the Kivus, including physical security, economic investments, and political power.<sup>12</sup>

Since July 2012, when M23 established control over parts of Rutshuru territory, Amnesty International has documented numerous human rights violations and abuses and violations of international humanitarian law committed by M23 in Rutshuru territory, such as rape, forced recruitment including of children, forced labour, and unlawful killings.

International attention increased when the M23 launched an offensive on Goma,

the provincial capital of North Kivu, in late November 2012. The M23 seized the towns of Goma and Sake on 20 and 22 November 2012 respectively and maintained control until 1 December 2012. Troops from the FARDC had retreated toward Minova, Kalehe territory, South Kivu province. The UN Joint Human Rights Office (UNJHRO) and Congolese NGOs reported gross violations of human rights and violations of international humanitarian law between 15 and 30 November 2012. Since mid-2012, Rwandan officials have denied accusations made by the UN and international NGOs of providing support to the M23.<sup>13</sup> On 19 July 2013, an interim report by the UN Group of Experts reported that M23 received "continued but limited support" from within the territory of Rwanda.<sup>14</sup> The interim report also noted local-level collaboration between the national army and the FDLR.

## INITIATIVES BY THE INTERNATIONAL COMMUNITY AMIDST SPORADIC FIGHTING

On 9 December 2012, negotiations began between the Congolese government and M23 in Kampala, Uganda under the auspices of the International Conference on the Great Lakes Region (ICGLR).<sup>15</sup> These talks focused on the review of the peace agreement of 23 March 2009, as well as modalities for amnesty, disarmament, civil-military integration of M23 members, and the return of refugees.

On 24 February 2013, the Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the Great Lakes Region was signed in Addis Ababa, Ethiopia, by 11 countries in the region.<sup>16</sup> Amongst other commitments, the DRC government agreed to "deepen security sector reform, particularly with respect to the Army and Police" while regional governments agreed to "neither tolerate nor provide assistance or support of any kind to armed groups".<sup>17</sup>

In late February 2013, fighting broke out following a leadership dispute between two M23 factions, one led by General Bosco Ntaganda and the other led by Colonel Sultani Makenga. On 16 March 2013, members of the Ntaganda-faction fled to Rwanda, including Bosco Ntaganda, Bishop Jean-Marie Runiga (political leader of the M23), Colonel Baudouin Ngaruye (military commander of the M23), Colonel Innocent Zimurinda (military commander of the M23) and several hundred combatants.<sup>18</sup> On 18 March 2013, Bosco Ntaganda reported to the US Embassy in Kigali and requested to be transferred to the International Criminal Court (ICC) in The Hague. Bosco Ntaganda had been under an ICC arrest warrant since 2006 and is accused of committing war crimes and crimes against humanity, while allegedly serving as commander of the Patriotic Forces for the Liberation of Congo (*Forces patriotiques pour la liberation du Congo*, FPLC) armed group in Ituri district, Orientale province, in 2002 and 2003.<sup>19</sup> On 26 March 2013, Bosco Ntaganda appeared before the Pre-Trial Chamber II for his first hearing.<sup>20</sup>

On 28 March 2013, the UN Security Council unanimously adopted Resolution 2098 (2013) extending the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO) until 31 March 2014 and authorizing the creation of a specialized "Intervention Brigade". This Brigade is intended to "carry out targeted offensive operations ... either

unilaterally or jointly with the FARDC..." in order to "prevent the expansion of all armed groups, neutralize these groups, and to disarm them".<sup>21</sup> MONUSCO's previous mandates have, under Chapter VII of the UN Charter, authorized the "use [of] all necessary means to fulfil its mandate" to protect civilians facing imminent physical threat. This renewed mandate, however, has made the ability to engage in offensive operations more explicit.

Fighting broke out sporadically between the FARDC and the M23, for several days in mid-May, mid-July, and late August 2013.<sup>22</sup> In late October 2013, after several days of hostilities, the FARDC dislodged the M23 from Rutshuru territory and retook control of the zone. On 5 November 2013, the M23 officially declared the end of their military rebellion. Shortly thereafter, the FARDC retook control of the areas formerly controlled by the M23. On 12 December 2013, the negotiations between the Congolese authorities and the M23 concluded with the signing of the "Nairobi Declaration".

Beyond Rutshuru territory, the civilian population in other parts of the province continue to face abuses of international human rights and humanitarian law due to operations by other armed groups. For example, in Masisi territory, fighting around the town of Kitchanga has broken out sporadically throughout the year, including from 27 February to 4 March 2013, between the national army and the Mai Mai group Alliance of Patriots for a Free and Sovereign Congo (*Alliance des patriotes pour un Congo libre et souverain*, APCLS),<sup>23</sup> led by General Janvier Buingo Karairi.<sup>24</sup>

The town of Pinga, in Walikale territory, has been the scene of fighting between the national army and armed groups, mainly APCLS and Nduma Defence of Congo-Sheka (also known as Mai Mai Sheka), led by Ntabo Ntaberi Sheka. UN and local sources have reported various human rights abuses in this area, including unlawful killings,<sup>25</sup> targeted threats against medical humanitarian staff leading to suspension of medical humanitarian support,<sup>26</sup> and abduction of civilians, including school children.<sup>27</sup>

In Beni territory, the Allied Democratic Forces (*Alliance des Forces Démocratiques*, ADF)<sup>28</sup> has been increasingly active over the past few months, causing large-scale displacement of populations,<sup>29</sup> and have been accused of committing numerous abductions of civilians.<sup>30</sup>

While the FDLR remains the most prominent foreign armed group, other groups continue to represent a significant threat to civilians in North Kivu, including the Patriotic Force of Resistance in Ituri (*Forces de Résistance Patriotique d'Ituri*, FRPI), the Forces for the Defence of the Interests of Congolese People (*Forces des Défense des Intérêts du Peuple Congolais*, FDIPC), the Nyatura, the Popular Forces for Democracy - Mai Mai Shetani (*Forces Populaires pour la Démocratie*, FPD), the Popular Movement for Self-Defence (*Mouvement Populaire d'Autodéfense*, MPA), and the Raia Mutomboki.

## 4. THE ROLE OF HUMAN RIGHTS DEFENDERS IN NORTH KIVU

**“On the ground, if no one knows what happened to you, then the trauma is even worse.”**

– Cecile,<sup>31</sup> woman human rights defender in Rutshuru territory, North Kivu province

Human rights NGOs, in territories controlled by armed groups or affected by frequent hostilities between the national army and armed groups, provide essential assistance to victims of violations and abuses. Due to the militarized context, these victims do not have adequate recourse to official sources of reparation through the police or justice systems, and go to human rights NGOs to report abuses and to seek assistance.

Human rights defenders also conduct public activities, human rights education, train communities on documentation of human rights violations, conduct mediation within the community to try to “harmonize human rights with local traditions and customs”,<sup>32</sup> and engage in advocacy with local chiefs, FARDC officials, leaders of armed groups, and the UN. Some NGOs provide a space for victims to receive psychological support, rehabilitation assistance, and legal aid. The NGOs often share information with a network within and beyond North Kivu through public reports, regular communications, and press releases.

Many human rights defenders in North Kivu are therefore known to have links to human rights organizations beyond their specific town – for example to NGOs in Goma or Kinshasa, international NGOs, the UN and diplomats. As UN human rights officers, international NGOs, and journalists have little or no access to difficult-to-reach zones, or those controlled by armed groups, human rights defenders can link communities at risk to those beyond that area.

In North Kivu, human rights organizations often work in close proximity to a variety of armed groups, ranging from loosely-organized self-defence militia conducting attacks on civilians, to armed groups temporarily taking control of certain towns from governmental forces, to armed groups with a hierarchical military and political leadership establishing long-term control over particular areas.

Human rights defenders are often well-acquainted with members or leaders of armed groups, as they may have grown up in the same town or area, have studied together, and have mutual contacts. A human rights defender based in Kitchanga, Masisi territory, explained to Amnesty International, “When there are violations, people do not know where to go. They come to us. We speak to the leaders of the armed groups. We have mechanisms to interact with them.”<sup>33</sup> However, in some cases while being in contact with leaders of armed groups is a protection measure,

it can also make human rights defenders more vulnerable to receiving anonymous messages and death threats when adversaries feel their work has become threatening.<sup>34</sup>

When Amnesty International delegates met with Sultani Makenga and Vianney Kazarama, the M23 military spokesperson, in September 2012 in Rutshuru, both stressed that protection of civilians was their duty and main priority.<sup>35</sup> One activist who has faced death threats by two armed groups explained: "Though the armed groups say they are there to protect the population ... anyone who does not adhere to their ideology is seen as the enemy."<sup>36</sup>

The militarization of North Kivu has a destabilizing impact on the environment in which human rights defenders work. For example, there is a lack of resources and training, particularly for defenders in rural areas, on best practices for human rights reporting, security and protection. Defenders speak publicly on the radio or in conferences about cases involving high-ranking officials of the national army or armed groups, sometimes not adequately safeguarding the information they collect, using computers in facilities known to be insecure and tapped, and conducting their activities in the presence of armed group members.<sup>37</sup>

Due to the perception of human rights defenders as a threat to authority, armed groups and elements of the state security forces often intimidate and threaten victims of abuses for speaking with and reporting violations to human rights defenders – thus interfering with the legitimate work of civil society. One human rights defender based in Rutshuru territory reported that victims and witnesses who were sharing information with him were pressured by M23 to stop reporting violations. "They tell people not to go to human rights organizations. If you do that, they say, then you will lose your life."<sup>38</sup>

The threats and risks faced by human rights defenders are undoubtedly present in other regions affected by armed groups' activities and armed conflict. For example, in the village of Kawakolo, in Pweto territory, Katanga province, a member of the human rights NGO Libertas, named Godefroid Mutombo, was fatally shot on 7 August 2013, reportedly by members of a Mai Mai armed group.<sup>39</sup> He had been serving as an interpreter from the local language of Kiluba to French in the proceedings of the mobile courts at the time. Libertas had previously denounced human rights abuses committed by armed groups in the region, including the Mai Mai Gédéon and the Bakata Katanga armed groups. The prosecutor of the *chef-lieu*, Kipuchi, was informed of the case but an investigation has yet to be opened.<sup>40</sup>

On 25 October 2012 in Bukavu, South Kivu, Dr. Denis Mukwege, a doctor and long-time activist of the rights of women, was attacked shortly after returning to his home. As armed men opened fire on him, he narrowly escaped being shot by diving on the ground. Dr. Mukwege had been threatened several times before by armed groups for his denunciation of rape and other forms of sexual violence.<sup>41</sup>

## WOMEN HUMAN RIGHTS DEFENDERS IN NORTH KIVU

The term woman human rights defender refers to any woman who is involved, individually or in association with others, in the promotion and protection of human rights; as well as anyone, irrespective of their gender, who works on women's rights and gender issues.<sup>42</sup> In North Kivu, women defenders working directly with victims or in remote areas are often prevented from speaking out. These defenders face a dual threat, by threatening the status quo twice over.<sup>43</sup>

First, women human rights defenders can arouse hostility as they are seen to challenge and defy cultural and social norms that traditionally discourage women from publicly criticizing state or non-state actors and vocally defending the rights of women. One woman human rights defender, Marie, explained, "When I went to the police station, they perceived me badly because I was denouncing abuses. The police thought that I was the one who pushed the victim to press charges".<sup>44</sup> Another explained that when they denounce crimes, "women are ill-treated ... they are accused of getting things wrong".<sup>45</sup>

Second, the breakdown of state infrastructure and authority, as well as the prevalence of rape and sexual violence by armed groups and elements of the national army<sup>46</sup>, creates a climate of insecurity among women in general, and a particularly acute climate of fear among women who denounce cases of sexual violence. Women human rights defenders often carry out a significant amount of fieldwork in remote areas, including on sexual violence, and often in the presence of armed groups. But it is challenging for them to get the same visibility as their male counterparts. For example women human rights defenders are often not supported in their work because they are challenging cultural gender norms. They have limited access to education, human rights research methodology training and support strengthening their networks. The prevalence of rape and sexual violence occurring in the province can also impact women human rights defenders psychologically and, by challenging the perpetrators in the area, put them at risk of physical violence.

The hostility and repression women defenders face may take gender-specific forms, ranging from verbal abuse directed at women because of their gender to sexual harassment and rape.<sup>47</sup> In DRC, there have been several cases of women human rights defenders who, as a result of carrying out their work assisting victims of sexual violence, then faced the threat or act of rape and sexual violence themselves.<sup>48</sup>

In an interview with the Minister of Justice Wivine Mumba Matipa, Amnesty International noted with concern how the Minister dismissed the particularities of risks faced by women human rights defenders. The Minister of Justice stated that all human rights defenders face challenges in the same way. She noted that she had not received any information suggesting women receive particular gender-based threats, including threats of sexual violence, due to their work. The Minister of Justice stated her commitment to combating cases of rape and sexual violence and encouraged women human rights defenders to share threats and cases of gender-based violence due to their work with her Ministry.<sup>49</sup> A gender-specific approach to

human rights defenders is under-appreciated by the Ministry of Justice, the diplomatic community and some MONUSCO officials.

## 5. CLIMATE OF SELF-CENSORSHIP

### 5.1. INTIMIDATION AND DEATH THREATS AGAINST HUMAN RIGHTS DEFENDERS

**"Here, we can only watch and not speak."**

– Woman human rights defender based in Masisi territory, North Kivu province<sup>50</sup>

In areas with weak presence of state security forces and state infrastructure, and in those controlled by armed groups, human rights defenders have faced numerous cases of intimidation, death threats, illegal taxes, and surveillance by elements of armed groups and of the national army, resulting in a climate of fear and silence among human rights organizations, and of fear in victims and witnesses who wish to report abuses to those human rights defenders.

Particularly in Rutshuru territory which was controlled by M23 from mid-2012 to late October 2013, human rights defenders' freedom of expression and ability to work freely and independently is extremely limited.<sup>51</sup> Despite statements by M23 elements denying accusations that they threatened journalists and insisting that critics of the M23 should enjoy freedom of expression,<sup>52</sup> numerous activists and UN staff independently explained that M23 used intimidation, threats, and other abuses against individuals suspected of relaying information and reporting on abuses to those outside their area of control. They often cannot answer their phones during daylight hours for fear of being overheard and reported to the armed group hierarchy. Any public statement made by human rights organizations reporting on human rights abuses increases their vulnerability to reprisals by officers of the accused group.

In late September 2012 in Rutshuru territory, the M23 requested NGOs in the area to share their plan of action for the next three months. One activist explained, "My plan of action included information on abuses by M23. How could I share this with the perpetrators? I did not submit anything because I was scared." Due to this, he fled Rutshuru in October 2012 due to fear of reprisals for his work.<sup>53</sup>



One organization working in Rutshuru territory was requested in mid-December 2012 to provide information to M23 officers. They were asked to present their documentation on sexual and gender-based violence. Following the request, the staff feared reprisals and closed the listening centre for several weeks.<sup>54</sup>

Another NGO based in Rutshuru territory working on women's and children's rights and economic development explained that M23 officers came to their office in March and May 2013, asking them to present an action plan and their budget. They were also asked by an M23 officer why women were visiting their offices and what services the NGO provided.<sup>55</sup>

Three organizations independently explained that M23 officers imposed illegal taxes on NGOs for the offices to be allowed to operate in areas under their control. One organization reported that the M23 required a payment of \$30 for authorizing the office to operate.<sup>56</sup> As a result of these demands, one of the main human rights organizations in the region has closed its office in Rutshuru since July 2012.<sup>57</sup>

Beyond the area controlled by M23, one activist explained how in Binza 'groupement', a town in northeast Rutshuru territory, where at least three armed groups are active, the organization had to request permission from the armed group that was in control of the town at any given point for authorization to conduct public activities with the population, for example, an awareness raising presentation on humanitarian issues.<sup>58</sup>

## **5.2. EFFECTS ON HUMAN RIGHTS DEFENDERS OF 'REVOLVING-DOOR' CONTROL OF TOWNS**

**"At that point, I realised it was very serious. I realized I was now threatened by both armed groups."**

– Human rights defender based in North Kivu province<sup>59</sup>

Over this period of research, certain towns, such as Pinga, Nyamilima, Kitchanga, and Beni, have been held by various armed groups who temporarily oust the FARDC to gain political and economic control of the area. For example, Nyamilima, located near the Ugandan border, is currently controlled by the national army but has been disputed between the army and several armed groups particularly since mid-2012. Its location near the Ugandan border means the armed group which controls the town and its surrounding area can gain from trade through the passage of trucks and vehicles coming from Uganda and other countries across the border into DRC.<sup>60</sup>

In early October 2012, the M23 temporarily seized Nyamilima for several weeks. Near the end of the month, the Mai Mai group Popular Front for Democracy, also

known as FPD–Shetani,<sup>61</sup> retook the town. In early February 2013, after hostilities between the Mai Mai FPD–Shetani and the MPA–Nyatura,<sup>62</sup> the latter took control of Nyamilima on 7–8 February 2013 for over one week. During this time, threats by the MPA–Nyatura against Radio Dorica FM journalists caused them to go into hiding and to suspend their activities.<sup>63</sup> On 17 February 2013, the Mai Mai FPD–Shetani regained control of the town, pushing the MPA–Nyatura to Kisharu about 28 km away, where they reportedly committed abuses against the local populations.<sup>64</sup> In mid–July 2013, the Congolese national army officially retook control of the zone from armed groups.<sup>65</sup>

The experiences of human rights defenders in such towns exemplify the effects of two main features of the conflict in North Kivu. It demonstrates the difficulties of working in areas with weak presence of state security forces, weak rule of law, and where former members of state security services often defect and join armed groups in the same zone. It also highlights the challenges of working as a human rights defender in North Kivu in close personal and physical proximity to members of armed groups who seize control of towns, some of whom are acquaintances.

Christian<sup>66</sup> works for a human rights NGO in North Kivu and provides assistance to victims, gathers testimonies from witnesses, and gives public trainings on sexual and gender based violence. He gathers information on abuses ranging from illegal taxes, looting, abductions and arbitrary detentions, unlawful killings, torture including sexual violence and other ill–treatment committed in the area. According to Christian, “Anyone who commits violations is unhappy to see me because they know I will most likely report what happened to others.”

Christian explained that as armed groups increased their operations in the area, including by levying taxes on passing vehicles, imposing fees on sellers, and demanding illegal taxes from civilians, his NGO gathered information on abuses against civilians. “We, along with several other civil society leaders, shared this [with] MONUSCO and with our coordinator, who shared it with our broader network, including the leaders of civil society and international organisations. We provided information on all types of abuses committed by armed groups.”

According to Christian, two rival armed groups in the territory contacted him at different times in early 2013. Both armed groups accused him of opposing their presence in the area, reporting critically on abuses they had committed, and having allegiances to the rival armed group. Christian explained, “Even though their words were not threatening, I knew that I should hide in the evenings. Politicians always use nice language but they can eliminate you in other ways.”

“At that point, I realised it was very serious. I realised I was now threatened by both armed groups.” Since then, Christian has taken several security precautions, including changing his location, not answering phone calls from unknown or suspicious numbers, and greatly reducing his human rights monitoring. Christian informed the local MONUSCO presence of these threats. Even after changing locations, he continued to receive calls from members of the armed groups.<sup>67</sup>

A different organization that works in Rutshuru territory states that despite the return of the governmental forces, human rights defenders are still working secretly and in a tense environment, fearing retaliation for reports or statements they

issue.<sup>68</sup>

Eric, a member of civil society in North Kivu, was in his home during the fighting between the Congolese army and an armed group in July 2013. He was detained in three military camps for a week and reported being physically beaten by officers. He reported that detainees from an armed group in the area who were being held at the military camp confirmed that he was neither a member of the armed group nor a civilian collaborator. Eric was freed one week after his arrest. No criminal charges had been formally presented to him. MONUSCO confirmed that after Eric's release, he received threats from an army official who had ordered his arrest and accused him of collaborating with the armed group, which he denied. He was also accused of publicly denouncing human rights violations committed by the FARDC. MONUSCO was made aware of his detention and intervened on his behalf, including by telling army officers to either officially charge him and launch an investigation within the legal system and respect fair trial standards, or to release him and stop any intimidation or threats.

Eric explains that he used to be on relatively good terms with the national army and the armed groups who had controlled or been active in the area: "We were able to do some 'démarches' with them to defend human rights." But facing these accusations and in light of further cases of arbitrary arrests by the FARDC which he has documented, Eric laments the difficulties civil society now faces in cooperating with the national army.<sup>69</sup>

Eric's arrest by the Congolese authorities is in violation of provisions under international and Congolese law. According to Article 9 of the International Covenant on Civil and Political Rights (ICCPR), anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. According to Article 9(3), anyone arrested or detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. According to Article 6 of the African Charter on Human and Peoples' Rights (ACHPR), no one may be arbitrarily arrested or detained, or deprived of their freedom except for reasons and conditions previously laid down by law. Further, under Article 18 of the DRC Constitution, the individual must be released or transferred to a relevant legal authority within the first 48 hours of police custody. Everyone who is arrested must immediately be informed of the reasons for the arrest and their rights, has the right to contact their legal counsel and their family. All detainees must be treated in a way that preserves their life, their mental and physical health, as well as their dignity.

### **5.3. FEAR OF REPRISALS IN TIMES OF CRISIS: M23 TAKEOVER OF GOMA**

Following renewed fighting between FARDC and M23 on 15 November 2012, the M23 seized Goma on 20 November 2012 and advanced to Sake, Masisi territory, on 22 November 2012. The UN Joint Human Rights Office (UNJHRO) reported serious violations of international humanitarian law committed against civilians by both the FARDC soldiers of 8<sup>th</sup> and 10<sup>th</sup> Military Regions and the M23. 17 people were killed and approximately 139 civilians injured. The UNJHRO accused national army soldiers of committing, in a systematic manner, rapes and sexual violence against at least 102 women and 33 girls in Minova and surrounding villages in

South Kivu province. In the same report, the M23 was accused of having committed 59 cases of sexual violence, including at the Mugunga IDP camp, 11 cases of arbitrary execution of civilians, and cases of attempted arbitrary execution, recruitment and use of children, forced labour, cruel, inhuman, or degrading treatment, and looting. Some of these reported violations of international humanitarian law represent criminal offenses under Congolese domestic criminal code and may constitute war crimes and crimes against humanity, as outlined in Articles 7 and 8 of the Rome Statute of the ICC, which have been incorporated into Congolese domestic criminal code.<sup>70</sup>

During M23's takeover of Goma, dozens of human rights defenders, legal professionals and journalists, and government employees received threats, including death threats, from M23 members "mostly for having spoken out against the group or resisting recruitment" or not complying with orders.<sup>71</sup> This caused most NGOs to cease their activities and close their offices and prompted some to flee Goma. Over 20 activists were evacuated by INGOs from Goma and the surrounding zones due to direct threats and fear of reprisals by the M23.<sup>72</sup> Several high-profile human rights defenders received MONUSCO assistance for relocation, in addition to 22 magistrates who had received threats.<sup>73</sup> According to the UNHCHR, after the fall of Goma, at least 19 human rights defenders and three journalists received death threats from M23 combatants after they denounced human rights abuses committed by the group.<sup>74</sup> For example, on 20 November 2012, as the M23 advanced toward Goma, the leader of a Goma-based NGO received death threats via phone and SMS. The message, in Kiswahili, stated: "We know where you are and we will go even to Kinshasa to find you – so where will you go to hide? (*Tunajuwa kwenye uko, ata Kinshasa tutafika na hatuj uwe kama uta endaka jificha wapi*)".<sup>75</sup> As a security measure, he was relocated through UNJHRO assistance for two months. Diplomatic assistance was very limited as only one representative remained in Goma during this time.

Alice, a woman human rights defender in Goma who had publicly criticized the negotiations between the national government and the M23, explained that she hid for one month following the takeover of Goma by the M23. She felt highly insecure after the abduction of her colleague in October 2012 for one night. According to Alice, unknown armed men had identified her colleague as a woman human rights defender and picked her up by car and requested her to show them where Alice lived. When her colleague refused, she was taken to an unknown location where she was ill-treated and was released the following day. She subsequently spent several days in the hospital due to injuries sustained during her captivity.<sup>76</sup>

#### 5.4. EFFECT ON HUMAN RIGHTS DEFENDERS OF PROBLEMATIC REINTEGRATION PROCESSES

**“Previously, I hid from the CNDP. In 2008, I spent three months in hiding with my family. This year, it’s the M23 that is looking for human rights defenders...”**

– Human rights defender based in Rutshuru territory, North Kivu province<sup>77</sup>

Successive waves of integration of armed groups within the army with neither vetting nor accountability have contributed to creating an ill-disciplined army with a weak chain of command. The first attempt at integration, known as *brassage*, started in 2003, when some 120,000 members of former armed groups and of the former army were to be integrated into a new national army, the FARDC. The process was meant to break down former command structures and traditional loyalties.<sup>78</sup> However, some former belligerents, especially in the east, were reluctant to dismantle their armed groups to report for *brassage* and held their best troops back. The Congolese Rally for Democracy (RCD-Goma), deemed protectors of the Tutsi community, was particularly concerned about the dilution of its strength, as well as its own security, in any move away from their power base in the Kivus.<sup>79</sup> One key RCD-Goma officer, General Laurent Nkunda, who eschewed participation in *brassage* then went on to lead a Tutsi-based dissident faction of the RCD-Goma, and formed another armed group, the National Council for the Defence of the People (CNDP), in 2006.

After the failure of *brassage* culminated in fighting between the CNDP and the FARDC, a new attempt at integrating the CNDP began in early 2007. Known as *mixage*, this more limited form of integration provided for General Laurent Nkunda's forces to be integrated within the FARDC in North Kivu before the mixed troops were deployed locally. Far from diluting loyalties to former armed groups, *mixage* allowed General Nkunda to retain command structures and control of his troops, keep his units intact, receive cash and equipment and even expand his influence and territorial control.<sup>80</sup>

After renewed fighting, another round of negotiations led to an agreement signed between the DRC government and CNDP on 23 March 2009. The agreement stipulated that ex-CNDP officers were to be integrated within the FARDC, with high-ranking officers promised key positions and many ex-CNDP staying in the Kivus region. The integration process, done without comprehensive vetting and without ensuring broad geographical distribution of integrated soldiers, allowed some of these officers to maintain parallel chains of command and remain, as FARDC officers, in the areas they used to control as the CNDP. In 2011, FARDC troops undergoing an army restructuring process known 'regimentation' were temporarily withdrawn from certain areas of North and South Kivu to consolidate the various

brigades into 27 regiments. The process was intended to dismantle influence gained by ex-CNDP within the military and to break former rebel allegiances, but resulted in security vacuums that were exploited by armed groups such as the Raia Mutomboki.<sup>81</sup>

In April 2012, General Bosco Ntaganda, then a high-ranking officer in the FARDC and previously in the military leadership of the CNDP, initiated desertions of ex-CNDP soldiers from the Congolese army in North and South Kivu, creating the M23 and worsening an already volatile security situation.

Amnesty International spoke with two human rights defenders who faced threats several years ago from the CNDP and more recently from the M23. Their experiences highlight how the stalled security sector reform, and the agreements that allow for reintegration of armed groups without proper background checks and vetting mechanisms, have allowed officers to remain in zones in which they operated as a member of an armed group.

Jean<sup>82</sup> is a human rights defender based in Rutshuru territory who had to relocate to Goma for several months due to threats made against him by an M23 officer, who used to be part of the CNDP. "Previously, I hid from the CNDP. In 2008, I spent three months in hiding with my family. This year, it's the M23 that is looking for human rights defenders because we are the ones who speak out about how they abuse human rights..."

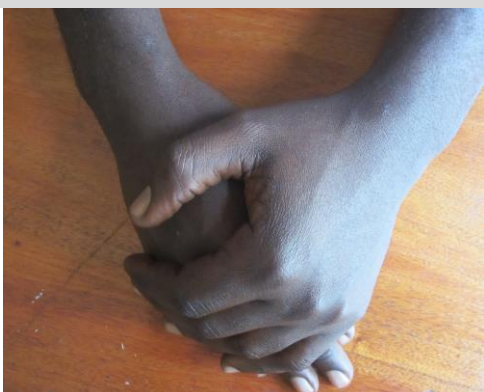
"I tried to stay in Rutshuru. I wanted to stay in order to gather information. That's why I was subjected to insecurity.... I am not safe here [in Goma]. Traders [who travel from Rutshuru] inform me that the situation is not safe for a human rights defender in Goma. They say that one M23 officer in particular is looking for me – this is because I had documented crimes he committed."

Nicolas has worked for a human rights NGO for several years in Rutshuru territory. His organization monitors all types of human rights violations committed by FARDC officers and armed group members, provides accompaniment and legal assistance to victims, and conducts advocacy towards governmental and UN officials.

In November 2008, Nicolas had to flee Rutshuru territory due to threats as the CNDP increased their control of the zone. Again in July 2012, he had to flee to Goma due to threats and insecurity caused by the M23.

Nicolas explained that M23 officers went to his neighbourhood twice in the evening searching for him. According to the neighbours who were asked where Nicolas lives, the officers reportedly wanted him to open the NGO's office and explain the work they do. His neighbours said he did not live in the area.

"How could I open the office with case-files containing information about them and what they did when they were officers in the national army? What happens if you have a piece of information on a soldier who has tortured and he arrests you?"



Nicolas's worries did not end when he moved to Goma. He also faced difficulties following the M23's takeover of Goma in late November 2012. He had provided assistance to a victim of harassment by an

army official in northern Rutshuru. This army official was amongst those who escaped from prison in Goma after M23 took control of the provincial capital.<sup>82</sup> Nicolas feared that the officer's "first mission was to hunt me down." He has received several threatening text messages since then, including death threats. Nicolas fears reprisals now that this official is outside of prison.<sup>83</sup>

Human rights defenders explained their fear of threats or reprisals by certain members of armed groups, who have been included in the list drafted by the Government of the DRC in September 2013 of individuals who are not eligible for reintegration into the national army due to their participation in "successive rebellions".<sup>84</sup> The cyclical nature of the conflict, with repeated reintegration of armed groups, causes certain individuals to face protracted difficulties, often finding themselves threatened, over the course of several years, by certain officers not only when they are in armed groups but also when they hold army positions.

Amnesty International is calling for security sector reform to progress and for the adoption of a comprehensive vetting mechanism to remove individuals who may be reasonably suspected of having committed crimes under international law or other human rights violations, until such allegations can be thoroughly, independently and impartially investigated and prosecuted. Any agreement between the DRC government and armed groups should not integrate members of the armed group who are under the UN Sanctions regime due to alleged responsibility for human rights abuses or other individuals accused of committing human rights abuses, without full investigations and prosecutions. The setting up of a vetting mechanism was recommended in the 2010 UN Mapping Report as an essential measure to end entrenched impunity and protect civilians.<sup>85</sup>

## 5.5. DUAL THREAT AGAINST WOMEN HUMAN RIGHTS DEFENDERS

**"Congo belongs to us. The next time, if we hear you are talking about a case of rape in this area, we will come back and kill you..."**

– Threat issued by a member of the national army to a woman human rights defender in North Kivu<sup>86</sup>

As mentioned previously, the participation of women in human rights activities can incur a dual-level of threat for them.

Marie<sup>87</sup> shared with Amnesty International her experience as a psycho-social counsellor working for a human rights organization at a listening centre in Masisi territory, North Kivu province. She has faced difficulties with both the national army and local self-defence groups due to her work with women and for being a focal point for victims of sexual and gender based violence and other types of violations.

She provides assistance and accompaniment for victims to get medical assistance and to report cases to the police.

Marie explained to Amnesty International that in early February 2013, several women came to report to her that they had been victims of sexual violence by several FARDC soldiers in a makeshift camp for IDPs in Masisi territory. Marie contacted one of the local leaders of the area, who accompanied her and the other women to see a FARDC official. A few soldiers were arrested but were released a few days later. The soldiers were instructed not to commit acts of sexual violence against women. Meanwhile, Marie provided family mediation assistance for the victims and their families, as their husbands had rejected them.

Several weeks later, Marie was visited at the listening centre by two unknown soldiers from the FARDC who stopped by around midday. In Lingala, they threatened her, saying "*Congo belongs to us. The next time, if we hear you are talking about a case of rape in this area, we will come back and kill you...*" Marie did not return to the listening centre for over two weeks.

A few months later, she faced another threat due to her work by a local self-defence armed group, an episode that highlighted feelings of antagonism towards women who teach women's rights. One morning in May 2013, Marie was planning to lead an awareness-raising session on the prevention of sexual and gender-based violence. As Marie and a colleague were walking several kilometres to the session, they encountered a group of six members of a local Mai-Mai group, who stopped the two women in a small village on the way, armed with knives and sticks. They confronted the women and stated that they were not welcome to teach the women in their area to denounce acts. They referred specifically to the cases of sexual violence allegedly committed by the FARDC soldiers. "They threatened us, and said they did not want to have the same problem that happened to the FARDC to become their problem."<sup>88</sup>

Marie's children have asked her why she does not stop her activities. She explained that she cannot abandon her work - that it is a calling.

## 5.6. INSECURITY FOR HUMAN RIGHTS DEFENDERS IN GOMA

Many of the North Kivu human rights defenders either reduced or stopped their work or relocated to Goma as a security measure. As one member of an NGO stated, "Our activists are now wandering like dogs despite their intention to help their community. Their work puts them at risk and now has no more value, since they had to flee...to go live where they do not want to, in order to save their lives."<sup>89</sup>

As UN staff explained, they have recently received fewer cases where human rights defenders have been targeted, mainly because most have relocated to Goma, making it more difficult for the perpetrator to put any threat into action. However, human rights defenders are not necessarily safe in Goma. "If they want to kill them in Goma, they can kill them in Goma."<sup>90</sup>

One activist, who has expressed himself on the conduct of parties in the armed conflict, has received death threats, anonymous messages and house visits letting him know he is being watched. Like many in the region, he is aware of acquaintances that joined the ranks of the M23 since its creation. In June 2012, he received



several anonymous death threats via SMS, stating "we're going to chop your head off" and "we know where you live".

In late November 2012, due to the takeover of Goma by M23, he fled Goma to spend several weeks in a neighbouring country fearing reprisals. During his absence, men identified by his family as M23 members went to his family house twice.

Upon his return, he decided to change his residence following these threats. In early February 2013, he was spending one night at his family's home, and men in civilian clothes came to threaten him again there. A police patrol arrived later and verified that no one had been injured. The human rights defender alerted MONUSCO of the incident the following morning.<sup>91</sup>

In September 2013, he received several death threats while in Goma from unnamed individuals in reaction to his criticism of the limitations of freedom of expression in the context of the armed conflict, accusing him of being a 'collaborator' against the national army.<sup>92</sup>

Finally, stemming from their recognized role in the community, human rights defenders expressed concern over risks that they face following the publication of reports on the human rights situation by INGOs or the UN, irrespective of whether the publications incorporate information specifically collected by their NGO. One NGO demanded that third parties, who publicly use data and victim testimony on human rights violations gathered by NGOs on the ground, adhere to strict standards of confidentiality. This NGO expressed concern that their statistics and findings have been previously publicly associated with their NGO, thereby increasing the risk to their staff.<sup>93</sup>

## 5.7. TARGETED VS. NON-TARGETED SECURITY THREATS

Difficulties in conducting human rights monitoring due to targeted threats against human rights defenders are compounded by general insecurity and sporadic fighting between the army and armed groups (see Protracted Armed Conflict in North Kivu section).

For example, a journalist for Radio Colombe, Tatiana Kahashi, based in Rubare, Rutshuru territory, fled to a neighbouring country for several weeks in November 2012 due to insecurity and reported threats against colleagues in a human rights organization. She returned to Rutshuru town in mid-February 2013, amidst tension between two splitting factions of the M23, the pro-Sultani Makenga faction and the pro-Bosco Ntaganda faction.<sup>94</sup> On 24 February 2013, Tatiana Kahashi died after being caught in crossfire during the hostilities between the two factions in Rutshuru town.

Government officials, diplomatic representatives, UN staff, and international NGOs noted how hard it is to assess whether allegations of threats and insecurity expressed by human rights defenders are directly related to their human rights work

or stem from broader insecurity. One human rights defender, Paul,<sup>95</sup> raised the same question: "Did they harass me because of my work? Sometimes it is difficult for even the human rights defenders themselves to know whether they are being threatened due to their work or due to general insecurity of the place they live".<sup>96</sup> Paul contends that external assistance should instead be evaluated on the credibility of their human rights work, and what type of assistance is needed to help create an enabling environment for them.

## 5.8 STRATEGIES USED BY DEFENDERS TO ADAPT TO ARMED CONFLICT

**"If some [human rights defenders] have stayed, it's because they are really stubborn. They know they are at risk of reprisals but they also know that the victims do not have any other recourse."**

– Human rights defender based in Goma<sup>97</sup>

Though the climate of fear and silence imposed on human rights defenders caused most to flee, some continued their work having adopted strategies to help protect themselves and others.

For example, human rights organizations train volunteer local leaders, such as religious figures or school teachers, to provide assistance to victims.<sup>98</sup> Others have held public conferences attended by members of armed groups on human rights and humanitarian issues. "We hope to make the armed groups more sympathetic and better respect the local population".<sup>99</sup> As many confirmed, numerous activists no longer publicly identify as human rights defenders.<sup>100</sup> NGOs working on human rights issues can also work in difficult areas by ensuring that human rights agendas are combined with other programs of work focusing on social issues, such as access to health services and agricultural development. "We speak about the two topics together".<sup>101</sup>

Another strategy used by those who can no longer use their offices or listening centres is to meet victims and witnesses at private homes. This increases risk for both the defender and the victim or witness, as the homes of certain people who are associated with human rights work can be monitored and increased 'traffic' can be noticed by the group controlling the zone.<sup>102</sup>

Many local human rights defenders, through local organizations, are providing services normally delivered by the state, including social services and pro bono legal aid. But the system available for protection of these human rights defenders is weak and ad-hoc. Strategies used by local civil society are frustrated by lack of resources and protection, and their security situation is aggravated by weak political will of state authorities and weak state infrastructure as well as low international involvement in the situation of human rights defenders.

## 6. LEGAL FRAMEWORK

### 6.1. INTERNATIONAL FRAMEWORK

The international framework on human rights defenders is based on the UN Declaration on Human Rights Defenders. Adopting the resolution by consensus on 9 December 1998, the UN General Assembly demonstrated its recognition that the implementation of international human rights standards greatly relies on individuals and groups who educate their local communities, monitor and publicize cases of human rights violations, help victims secure reparation for violations, and push for greater accountability of perpetrators. The set of non-legally binding principles and rights outlined in the Declaration stem from human rights standards enshrined in other legal instruments, including the International Covenant on Civil and Political Rights, which is itself binding and to which the DRC is a State Party.<sup>103</sup> Rather than creating new rights, or assigning a special status to defenders, the UN Declaration explains existing rights in a way that makes it easier to apply them to the practical role and situation of human rights defenders.<sup>104</sup> It sets out the minimum standards necessary to be able to defend human rights and provides specific protection to defenders.

Under the UN Declaration on Human Rights Defenders, everyone, both individually and in association with others, has the right

- to promote and to strive for the protection and realization of human rights at the national and international levels;<sup>105</sup>
- to exercise the right to freedom of opinion and expression, including the right to seek, obtain, receive and hold information relating to human rights;<sup>106</sup>
- to benefit from an effective remedy and to be protected in the event of the violation of those rights;<sup>107</sup>

- to make complaints, in the case a person's rights or freedoms are allegedly violated, and to have such complaint reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision providing redress;<sup>108</sup>
- to effective protection under national law in reacting against or opposition, through peaceful means, acts or omissions attributable to States that result of violation of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedom.<sup>109</sup>

## STATE RESPONSIBILITY AND PROTECTION MEASURES

Several core international human rights declarations clearly state that states have the primary responsibility to respect, protect and fulfil human rights, including the right to defend human rights.<sup>110</sup> Under the UN Declaration on Human Rights Defenders, states have the same obligation to protect and respect the human rights of defenders as they have to protect and respect those of everyone else under their jurisdiction. The Declaration highlights states' obligation to create conditions in the social, economic, political and other fields, as well as the legal guarantees and legislative and administrative measures that are necessary to ensure that all persons under its jurisdiction are able to enjoy all those rights and freedoms, including the right to defend human rights.<sup>111</sup> States also have a responsibility to take necessary measures to protect everyone against any violence, threats, retaliation, adverse discrimination, pressure or any arbitrary action as a consequence of their legitimate exercise of the right to defend human rights.<sup>112</sup> States also have a duty to conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred.<sup>113</sup> They also have a responsibility to provide an effective remedy for persons who claim to have been victims of human rights violations.<sup>114</sup> Further, states have an obligation not to interfere, obstruct or violate the right to defend human rights and to protect that right from interference, obstruction and abuse by others, whether they are state agents or not.<sup>115</sup>

Promoting the work of women human rights defenders and protecting them to enable them to do their work requires a response that addresses both inequality and discrimination. It requires states to take specific steps to provide an enabling environment for all human rights defenders, and measures to protect women human rights defenders that are appropriate to their gender-specific experience.<sup>116</sup>

Furthermore, multiple Security Council Resolutions on women, peace and security have called for women's participation in peace-making and peace-building, emphasizing the existing rights of women under international human rights law to equal political participation with men. Women human rights defenders are important resource-persons to provide women's leadership to sustain comprehensive agreements that address inequalities which affect women and girls before, during,

and after conflict.

**General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations by the Committee on the Elimination of All Forms of Discrimination against Women**

"While women often take on leadership roles during conflict as heads of households, peacemakers, political leaders and combatants, the Committee [on the Elimination of Discrimination against Women] has repeatedly expressed concern that their voices are silenced and marginalized in post-conflict and transition periods and recovery processes. The Committee reaffirms that the inclusion of a critical mass of women in international negotiations, peacekeeping activities, all levels of preventive diplomacy, mediation, humanitarian assistance, social reconciliation, peace negotiations at the national, regional and international levels as well as in the criminal justice system can make a difference. At the national level, women's equal, meaningful and effective participation in the various branches of government, their appointment to leadership positions in government sectors and their ability to participate as active members of civil society are prerequisites for creating a society with lasting democracy, peace and gender equality."<sup>117</sup>

## 6.2. REGIONAL FRAMEWORK

The DRC has participated in several multilateral regional forums which have adopted soft law agreements referencing the importance of human rights defenders in the promotion and protection of human rights in Africa. The Grand Bay Declaration and Plan of Action were adopted at the First Organization of African Union Ministerial Conference on Human Rights in Africa in April 1999.<sup>118</sup> The DRC is a member State of the International Organization of the Francophonie (OIF), which adopted the Bamako Declaration in November 2000.<sup>119</sup> The DRC also participated in the First African Union Ministerial Conference on Human Rights in Africa, held on 8 May 2003 in Kigali, which led to the adoption of the Kigali Declaration.<sup>120</sup>

Furthermore, the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commonly known as the Maputo Protocol, was ratified by the DRC on 9 June 2008. The Protocol calls on states to "ensure that the rights of women are promoted, realized and protected". Article 4 (2)(e) calls for states to punish perpetrators of violence against women and to implement programmes for the rehabilitation of victims.<sup>121</sup>

## 6.3. NATIONAL FRAMEWORK

### LACK OF DOMESTIC LEGAL FRAMEWORK

While the DRC has adopted several regional declarations which commit states to promote and protect the work of human rights defenders, there is currently no

domestic legal framework for their protection. This is an additional reason for justice and security officials to overlook or dismiss claims made by human rights defenders, even if the types of violations and abuses they face exist in the criminal code.<sup>122</sup>

A bill on the protection of human rights defenders and of those who denounce corruption and embezzlement of public funds was introduced to Parliament by the government on 27 May 2011.<sup>123</sup> The bill is currently pending before the Senate and is not a government priority. The adoption of a national law which recognizes the rights and responsibilities of human rights defenders, including women human rights defenders, as well as state responsibilities in creating an enabling environment for those who defend human rights would be a landmark piece of legislation in the country.

However, such legislation must be approached with caution to ensure it enables, rather than further restricts, the freedom of expression, association and movement of human rights defenders.<sup>124</sup> For example, the draft law seen by Amnesty International includes an article which states that human rights defenders have the duty to preserve and reinforce the national independence and territorial integrity of the State and to generally contribute to the defence of the country, to ensure the preservation and reinforcement of positive African cultural values and to generally contribute to the promotion of the 'moral health' of society.<sup>125</sup> If adopted with these, or similar clauses, there is a strong possibility that legitimate human activities would become unlawful.<sup>126</sup> Indeed, several human rights defenders have explained that their work is deemed to threaten and destabilize the integrity and national solidarity of the State when, for example, they report on violations of international humanitarian law committed by national army soldiers or members of the police.

Any legislation aimed at the protection of human rights defenders must be in accordance with the UN Declaration on Human Rights Defenders and must not include any provisions that could effectively restrict their freedom of expression and freedom of association.

In South Kivu, a bill for the protection of human rights defenders was submitted to the Provincial Assembly on 14 January 2011, but is currently stalled. A previous attempt to pass a similar law had been rejected in the Provincial Assembly in February 2009.

## **7. OTHER PROTECTION MECHANISMS IN DRC AND THEIR LIMITATIONS**

### **7.1. UN SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS**

On 26 April 2000, the UN Commission on Human Rights adopted Resolution 2000/61 which called on the UN Secretary General to create a UN special mechanism to monitor and support the implementation of the UN Declaration of Human Rights Defenders.<sup>127</sup> On 18 August 2000, the Secretary-General appointed the first Special Representative on the situation of Human Rights Defenders, whose mandate includes seeking, receiving, examining and responding to information on the situation of human rights defenders, establishing cooperation and conducting dialogue with governments and other interested actors on the UN Declaration of Human Rights Defenders, and recommending and following up on effective strategies to improve protection for human rights defenders. Special Rapporteur Margaret Sekkagya has held this post since March 2008.<sup>128</sup> Following her visit to the DRC in May - June 2009, the Special Rapporteur wrote, especially of the eastern provinces, "defenders in the DRC face numerous challenges that seriously impede their legitimate activities: they are killed, disappeared, tortured, threatened, arbitrarily arrested and detained, under surveillance, banned from travelling, displaced or forced into exile."<sup>129</sup> A future visit by the Special Rapporteur should address the exacerbated difficulties faced by those in zones of armed conflict, particularly in North Kivu, South Kivu, Katanga, and Orientale provinces.

### **7.2 MONUSCO PROTECTION FRAMEWORK**

In DRC, the Protection Unit of the UNJHRO works toward providing collective protection for civilian populations, judicial protection to victims and witnesses in certain legal cases, and individual protection to victims, witnesses, human rights defenders, and journalists for insecurity due to their work. There is currently one Protection Officer stationed in each of the following provinces: North Kivu, South Kivu, Katanga, Equateur, Kasai Orientale, Kinshasa. Two Protection Officers are based in Province Orientale, one in Ituri and one in Kisangani.<sup>130</sup>

The Protection Unit, who confirmed that threats faced by human rights defenders are frequent in North Kivu, works in partnership with local NGOs and is often the first to be alerted of threats and violations suffered by human rights defenders due to their work. UN staff noted that the distinction between human rights defenders and victims is a porous one. If a victim of a human rights violation reports what happened and by whom, and is then threatened because they spoke out, they can be considered both a victim and human rights defender. Equally, an individual who accompanies victims of human rights violations and then faces insecurity due to their work can be considered both a human rights defenders and a victim.

The Unit also aims to strengthen local capacities in protection, and can provide advice, training,<sup>131</sup> and help drafting security plans to increase personal security, information security, and physical security of offices and homes.<sup>132</sup> If the alleged perpetrator is known to the victim, the Protection Unit can also approach that individual, unless they are part of an armed group, to stop threatening or harming the victim. The Unit also serves as a source of information-verification for diplomatic staff and international NGOs based both in and outside of Goma. In exceptional cases, the Unit can also, through the Protection Trust Fund funded by several embassies, fund transportation and temporary relocation for high-threat cases.<sup>133</sup>

In light of the high volume of allegations submitted to the Unit, staff must assess the veracity of the threats and evaluate the appropriate case-by-case response, which can lead to delays in providing assistance in urgent situations.<sup>134</sup> The Protection Unit has difficulty accessing certain volatile zones. It is also challenging to provide timely support to all of North Kivu, particularly Rutshuru during the M23's control and the northernmost parts of the province, given their small number of Goma-based staff.<sup>135</sup>

### **7.3. AFRICAN COMMISSION SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS**

In 2004, the African Commission on Human and Peoples' Rights established the special mechanism of the Special Rapporteur on Human Rights Defenders with the adoption of Resolution 69 during the 35th Ordinary Session of the Commission. The post has been held by Special Rapporteur Reine Alapini-Gansou since November 2011, who also previously held the post from 2005 to 2009. The Special Rapporteur is mandated to seek, receive, examine and act upon information on the situation of human rights defenders across Africa and submit reports at every ordinary session of the Commission. The Special Rapporteur is also mandated to cooperate and engage in dialogue with Member States, National Human Rights Institutions, relevant intergovernmental bodies, international and regional mechanisms of protection of human rights defenders and other stakeholders, as well as to recommend and follow up on effective strategies to better protect human rights defenders. The Special Rapporteur can also issue urgent appeals for human rights defenders at risk, engage in confidential communication with the relevant state authorities, and conduct country visits to investigate the situation of human rights defenders.



## 7.4. NATIONAL EFFORTS

Congolese authorities claim three state initiatives currently provide institutional support to human rights defenders: the Human Rights Liaison Entity, the Protection Cell for Human Rights Defenders, and the National Commission on Human Rights (CNDH). At the time of writing, the first two initiatives were ineffective and the CNDH has yet to be implemented.

Launched on 12 August 2009 by then Prime Minister Adolphe Muzito, the Human Rights Liaison Entity is a framework for regular consultation between representatives of the Ministry of Justice and Human Rights, members of the security services including the intelligence services *Agence Nationale des Renseignements* (ANR),<sup>136</sup> human rights defenders, and diplomats.<sup>137</sup> The objective was to evaluate national human rights activities, suggest recommendations for protection of human rights and examine the root causes of human rights violations and propose solutions.<sup>138</sup> Civil society welcomed this means of engaging with state security forces but the results of the few meetings were limited in scope. According to certain members of civil society, there was a lack of political will for the mechanism to fully accomplish its objectives.<sup>139</sup> At the time of writing, no Human Rights Liaison Entity meeting had taken place since the appointment of the current Minister of Justice and Vice-Minister of Human Rights in May 2012.<sup>140</sup>

According to the Vice-Minister of Human Rights Sakina Binti's statement to the Human Rights Council in March 2013, the national structure is currently decentralised to the provincial level, with provincial Liaison Entities in seven of eleven provinces.<sup>141</sup> The entity is still not operational in North Kivu and remains an "empty shell" initiative.<sup>142</sup>

Former Minister of Justice Bambi Lessa Luzolo, through a Ministerial Decision on 13 June 2011, established a Protection Cell ('*Cellule de Protection*') for human rights defenders. The initiative is mandated to receive complaints from human rights defenders at risk and react on individual cases, while keeping governmental authorities informed. It would be composed of a National Alert Committee as well as Provincial Alert Committees and would coordinate with other alert systems and the UNJHRO.<sup>143</sup> However, the Cell is not yet operational, neither in Kinshasa nor in the provinces, due to lack of financial and technical resources.

A national human rights commission (CNDH) was promulgated by President Kabila on 21 March 2013,<sup>144</sup> following significant input by civil society and several years of advocacy. The Commission is composed of representatives from human rights NGOs, labour unions, professional orders, religious groups, universities, persons with disabilities, persons living with HIV/AIDS, and from women's human rights NGOs. The Commission can be seized to investigate human rights violations, conduct prison visits, provide capacity-building for human rights NGOs, and work towards the implementation of national, regional and international legal instruments on human rights.<sup>145</sup> The CNDH is not yet active, as its budget and selection of the Commissioners are still to be confirmed.

## 7.5. DIPLOMATIC MISSIONS' PROTECTION FRAMEWORK

The European Union diplomatic missions have dedicated resources to implementing the EU Guidelines on Human Rights Defenders, a set of commitments that inform EU missions on best practices and practical suggestions for enhancing EU action and intervention for the promotion and protection of human rights defenders.<sup>146</sup> The EU delegation in DRC has a staff member who serves as a human rights focal point. This person is responsible for liaising with human rights defenders, for identifying those at risk due to their work, for referring them to appropriate diplomats, and for helping analyze security trends. In Kinshasa, regular meetings are held between Human Rights Focal Points of the various embassies for information-sharing. Certain delegations in DRC are particularly active on the issue of human rights defenders, including the French, Belgian, Dutch, and Swedes, by funding UN protection measures and several human rights NGOs and by maintaining relations with some high-profile human rights defenders. NGOs in Kinshasa welcome certain practices by diplomats, including their steady involvement in monitoring a high-profile trial of those accused of assassinating human rights defender, Floribert Chebeya and his colleague and driver Fidele Bazana in June 2010. They also welcome invitations to the diplomatic missions as well as diplomats' visits to their offices. These good practices point to the effectiveness of "publicity as protection" principle in certain cases.

However, despite the heavy volume of information on human rights defenders in many provinces, diplomats highlighted difficulties in identifying which cases of threats and abuses are both genuine and actionable. Due to volatility and insecurity in North Kivu, diplomatic representation in Goma is minimal, as staff from only a few embassies are usually present on short or long-term missions. Certain diplomats expressed frustration at the lack of human and financial resources available for investigating cases of defenders at risk. The distance between Kinshasa and Goma, both geographically and relationally between relevant actors, results in diplomats having an overly-limited network of local human rights defenders and being generally under-informed of the details of the threats they face in North Kivu. Without ample information on the nuances of cases (such as, for example, threats due to a specific armed group's ethnic ties to the zone where an activist is working), diplomats face greater difficulty in helping to increase protection mechanisms for human rights defenders.

Human rights defenders are generally not aware of the EU Guidelines nor of ways to contact the relevant diplomatic representatives in Kinshasa.<sup>147</sup> Further, the existence of funds managed by the EU and its Member States to provide financial assistance for measures to act preventively and reactively in urgent situations is neither well-known nor used to its potential in eastern DRC. For example, the European Commission's European Instrument for Democracy and Human Rights (EIDHR) is an emergency fund through which EU and Member States can urgently provide direct small grants of up to 10,000 Euros to human rights defenders.<sup>148</sup>

## **7.6. PROTECTION MECHANISMS BY INTERNATIONAL NGOS**

Certain international NGOs (INGOs) can provide assistance for reactive and preventive measures of protection. The types of assistance vary, and can include temporary relocation for the individual and relatives in or outside Congo, funds for medical services, and lobbying relevant authorities for assistance. INGOs can also provide funding for capacity-building, provide grant-based projects for preventive security measures, and conduct trainings on topics ranging from methodology in documenting human rights violations and security plans for NGOs, to grant-writing and e-security. The main limitations of assistance from INGOs for reactive cases are delays for the individual to receive assistance due to the need for information verification and administrative delays. There is also a need for greater communication between INGOs to ensure effective information-sharing and to avoid overlap of protection efforts.

## **8. IMMEDIATE MEASURES NEEDED TO IMPROVE DEFENDERS' SECURITY**

In light of the security threats and clampdown on freedom of expression and freedom of association, human rights defenders raised several measures that could be implemented in the short term. As one activist explained, "It is virtually impossible to place a policeman near every human rights defender to keep them safe, but I do think it is absolutely important to work towards creating an environment in which they are allowed to do their work...it is better if the defenders stay alive and in their zones to do their work, but for this, their work environment needs to improve".<sup>149</sup>

### **8.1. NEED FOR INCREASED TOOLS OF COMMUNICATION**

The majority of defenders that Amnesty International spoke to highlighted the need for increased resources for communication as a precautionary security measure. Marie, who continues to conduct human rights accompaniment for victims of sexual violence in Masisi territory, explained that, on a technical level, she has no reliable access to SIM cards and finds herself without means of communication in urgent situations. One INGO provided mobile phones with unlimited phone credit to certain members of NGOs who are part of an alert system, in order to facilitate their ability for rapid communication between each other when threats or security risks arise.<sup>150</sup> Another INGO with offices in North Kivu provided 'work packs' for some of their local collaborators, which included a laptop and phone credit as a way to increase their security while they monitor and report abuses. This type of support is relatively

cheap and represents a practical, low-risk measure to increase their security. However, ensuring defenders have phones and credit is complicated by unreliable phone networks, the frequency of looting and theft, and sustainability concerns.<sup>151</sup>

Similar low-cost efforts donors could provide are measures for increasing the physical security of NGO offices. Several NGOs have noted the risks of targeted looting, as cupboards containing names and accounts of victims as well as of suspected perpetrators can be stolen. Suggested measures for increased physical security include more sophisticated lock systems on the NGO office doors, day- and night- guards, lockable storage units, and training on e-security programs.

## 8.2. NEED FOR STRENGTHENING LOCAL NETWORKS

There is a need to strengthen local capacity for coordinated and sustainable monitoring of risks, threats, and violations against human rights defenders, to improve the current ad-hoc system of threat reporting, to devise protection measures, and to buy time before MONUSCO and international NGOs react.<sup>152</sup>

There are currently two Kinshasa-based phone networks to report threats involving human rights defenders, which could be considered for the North Kivu context. The RENADHOC, a network of NGOs, established a 24-hour 'numéro vert' ('green number') telephone hotline which can be called to report threats throughout the country. RENADHOC could in theory contact and lobby state, UN, and diplomatic authorities regarding a particular case. They explained that their main challenges are the availability of human resources to monitor the 24-hour phone line and of transportation in case a threat requires rapid reaction. Several NGOs based in Kinshasa (*Voix des Sans Voix, Forum de la Femme Ménagère, Fonds pour la Femme Congolaise, Ligue des Electeurs, Toges Noires, Amis de Nelson Mandela pour les Droits de l'Homme, and Association Africaine pour la défense des Droits de l'Homme*), with the assistance of the Carter Center, have set up the 'Human Rights House Alert and Protection System'. It is a security phone-tree system managed by appointed individuals of the NGOs who serve as members of the alert system. When a threat occurs, a person at risk can contact one of the focal points, who will then pass on the message in a coded fashion to all other focal points for coordinated response. The system is currently only functional in Kinshasa and will be set up in other provinces as well.<sup>153</sup>

## 8.3. EXAMPLES OF STATE-LED AND DIPLOMATIC MEASURES

An increasing number of states are implementing their commitments under the UN Declaration on Human Rights Defenders through a variety of domestic laws and some countries have established national protection mechanisms. Some countries have developed practical measures to support the government in safeguarding the lives, integrity, and security of anyone exposed to imminent and exceptional risk as

a direct consequence of political, public, social or humanitarian activities. Other countries also have enacted laws that try to ensure there are resources and coordination around cases of human rights defenders at risk.

Amnesty International has also noted certain best practices by diplomatic missions in other countries which could be applicable to North Kivu context. Diplomats sometimes accompany human rights defenders to communities in which they work, providing a useful protection tool to increase their visibility, as well as provide safe meeting spaces for civil society groups. Diplomatic missions have also shared the territory of the countries by region, with human rights focal points in charge of monitoring and receiving information by territory and undertaking visits to those areas. Other strategies include coordinating diplomatic missions' interventions in the case of a defender at risk who required urgent support (including medical treatment) and protection, sharing the burden between them financially and logistically.

Further, there are several aspects of a gendered approach to protection for human rights defenders that should be incorporated into state, diplomatic, and international organizations' approach to defenders' protection. Efforts must be made to create an environment where women human rights defenders are recognized and supported. Responses to cases involving women human rights defenders must be developed, in full consultation with them, taking into account the specificities of their situation – for example the “gendered structures and ideologies permeating the context; the range of state and non-state perpetrators who may pose specific threats to women human rights defenders; and the resulting gendered consequences of violations.”<sup>154</sup>

Several foreign affairs ministries of donor governments, are currently reviewing their policies of engagement with human rights defenders to improve their practices in DRC. Amnesty International encourages this and urges these Ministries and others to engage directly with human rights organizations, including women's human rights organizations, to tailor their policies to take into account the dynamics of the armed conflict.

## **9. NEED FOR LONG-TERM REFORM AMIDST IMPUNITY**

Investigating and prosecuting those responsible for attacks against human rights defenders is a crucial element in affording defenders the protection that international human rights law guarantees. As long as impunity is enjoyed by perpetrators of serious crimes against human rights defenders, by both state and non-state actors, and as long as the civilian population suffers from the armed conflict, human rights defenders of all types will remain at significant risk for their legitimate human rights work.

## EMBLEMATIC CASES OF IMPUNITY

The following cases are two of several human rights defenders, including journalists Serge Maheshe and Didace Namujimbo, who have been assassinated and for whom justice has not yet been served.

**Pascal Kabungulu**, a leading human rights activist, Secretary General of the Congolese NGO *Héritiers de la Justice* and father of six children, was killed in the early hours of 31 July 2005 by a group of armed men who broke into his house in Bukavu, South Kivu. The attackers dragged him out of his bedroom and shot him dead in front of his family. After an investigation into Pascal's murder, a number of soldiers were arrested and a military tribunal in Bukavu heard the case in late November 2005. It was suspended after two weeks, when evidence emerged that more senior political and military figures may have been involved in the killing. The ruling of the military tribunal was that a higher military court had to hear the case. Although an army colonel was indicted by the military tribunal on suspicion of involvement in the killing, he has not been suspended from duty and remains free. In October 2008, the Military Court of South Kivu declined jurisdiction over the case, in part due to the alleged involvement of senior political leaders. The case was transferred in March 2009 to the General Prosecutor of the DRC to be heard at the Supreme Court of Justice. No date has been set for the hearing and the case is currently stalled. The men accused of killing Pascal Kabungulu, who include soldiers and more senior military and political figures, remain free.

**Floribert Bahizire Chebeya**, executive director of "Voix des Sans Voix" (VSV) and RENADHOC and one of the country's most prominent human rights defenders, had himself organized civil society to push for prosecution of Pascal Kabungulu's assassination. Floribert Chebeya was found dead in his car on the morning of 2 June 2010, after having been summoned to the police headquarters to meet with General Inspector John Numbi on 1 June 2010. Floribert Chebeya's driver and member of the VSV, **Fidele Bazana Edadi**, has been missing since then. On 23 June 2011, in the Military Court of Kinshasa-Gombe, four policemen, including Colonel Daniel Mukalay, were sentenced to death for the killing of Chebeya and Bazana, three of them sentenced in their absence. Another policeman was sentenced to life imprisonment. Three others were acquitted. These five individuals remain in detention, at the time of writing. On 19 June 2012, the appeal trial, requested by the civil parties, began at the High Military Court of Kinshasa.

On 7 May 2013, the High Military Court transferred the case to the Supreme Court of Justice, on the basis that it could not adjudicate certain legal issues raised by the civil parties on the constitutionality of previous verdicts. The case is set to be heard by the Constitutional Court, promulgated in October 2013 by President Kabila. The case has not yet been examined by the Constitutional Court and no hearing date has yet been set, at the time of writing.

A fundamental grievance of the civil parties, including the widows of Floribert Chebeya and Fidele Bazana, is that one of the main suspects has yet to be summoned to appear as an official suspect because the High Military Court could not judge a person of his military rank.

Recourse to effective investigations and prosecutions within the justice system in DRC remains out of reach. As a former administrator in Rutshuru territory explained, "The judicial apparatus is still sick".<sup>155</sup> One blogger and human rights defender explained that "there are many policemen, armed group leaders, and others who are known to have harassed human rights defenders or for having killed some. But all these crimes remain unpunished".<sup>156</sup> Several human rights defenders who have received threats or suffered human rights abuses due to their work stated that one can register the case with the police, but the police and prosecutors will

not carry out investigations and prosecutions. The magistrates often lack the capacity or the will to carry out an investigation and victims are regularly obliged to pay for the magistrate to conduct investigations, including for their transport costs. The notion that pursuing justice is a costly endeavour is a clear deterrent for victims to press charges.<sup>157</sup>

A law on the protection of human rights defenders, if passed in accordance with the UN Declaration on Human Rights Defenders, would be landmark legislation in the DRC. However, implementing such a law in North Kivu would be challenging, as legal tools can be used only if the institutions, such as accountable and disciplined army and police services and an independent and impartial justice system, are in place.<sup>158</sup>

The need for justice is undeniable: impunity fosters cycles of violence and violations, undermines confidence in the justice system and the state, and prevents victims and their families from gaining accountability and reparations.<sup>159</sup> Measures that need to be part of a long-term comprehensive justice strategy include ensuring the independence of the judiciary and reinforcing independent oversight mechanisms, ensuring that suspects are tried in proceedings that fully respect international fair trial standards, developing a comprehensive reparation programme, and ensuring that sufficient, safe and secure prisons are built that meet international standards. Increasing the allocated budget for the justice system, and ensuring that this budget is disbursed in a timely and regular fashion throughout the system will be required.<sup>160</sup>

The need for long-term improvement towards creating a reliable justice system is closely linked to comprehensively reforming the security sector, taking lessons from past attempts at army and police reform. In the Peace, Security, and Cooperation Framework for the DRC, signed in February 2013, the DRC government committed to "continue, and deepen, security sector reform".<sup>161</sup> In his presidential address given on 23 October 2013, President Kabila again stated his commitment to security sector reform as his top priority, "the priority of priorities".<sup>162</sup> Creating professional, disciplined and accountable security forces requires extensive reforms. This includes the adoption of vetting mechanisms to remove individuals who may reasonably be suspected of having committed crimes under international law, until such allegations can be independently investigated. There is also a need to ensure that any future integration of armed groups into the armed forces includes a vetting process, as well ensuring collaboration with local and foreign armed groups ceases. Improving the timely disbursement of salaries and of adequate and sufficient resources to members of the security services can also contribute to increasing their respect of human rights and international humanitarian law.

## 10. RECOMMENDATIONS

### « Better to die while speaking the truth... »

– Human rights defender working in North Kivu province<sup>163</sup>

The dangers faced by human rights defenders are directly linked to the DRC government's failure to recognize in law and practice the legitimacy of their work, to ensure effective protection, and to bring those responsible for attacks against defenders to justice.

The majority of human rights defenders Amnesty International interviewed always referred back to the same point: "Peace must be re-established in North Kivu".<sup>164</sup> Knowing this is still out of reach, the resilience of these activists remains strong: "If we do not denounce, there will be no change."<sup>165</sup>

### To the DRC authorities:

- Take immediate steps to end killings, arbitrary arrests, torture, illegal detention, threats, including death threats, of human rights defenders by state security services and protect them against attacks by armed groups ;
- Carry out timely, thorough, independent and impartial investigations into violations and abuses against human rights defenders, and prosecute alleged perpetrators in accordance with international fair trial standards where sufficient admissible evidence is available;
- Ensure any legislation adopted on the protection of human rights defenders does not include provisions that could effectively restrict their freedom of expression and freedom of association;
- Renew engagement with human rights defenders, including women human rights defenders, including through genuine and regular consultation, and by activating existing mechanisms, namely the Human Rights Liaison Entity and the Protection Cell for Human Rights Defenders;
- Ensure that members of every sector of the security services, including the armed forces, police, and the national law enforcement officers, as well as members of the justice sector are trained in the provisions on State responsibility outlined in the Declaration on Human Defenders and respect the legitimate work of human rights defenders;



- Issue standing invitations to and facilitate with undue delay visits by UN thematic mechanisms, particularly the UN Special Rapporteur on the Situation of Human Rights Defenders. Similarly, issue an invitation to the African Commission Special Rapporteur on the situation of Human Rights Defenders in Africa;

### **To donor governments and the wider diplomatic community:**

- Urge the DRC government to take measures to immediately end all practices which threaten the ability of human rights defenders to engage in their work freely and independently, particularly threats, arbitrary arrests and illegal detention by state security services;
- Urge the DRC government to halt impunity for perpetrators of attacks against human rights defenders by ensuring trials against alleged perpetrators are conducted in accordance with international fair trial standards;
- Increase dialogue with human rights NGOs, including women human rights defenders, in remote areas, through greater travel to areas beyond Kinshasa and increased information-sharing with these groups to gain better understanding of the risks they face;
- Issue more frequent public communications, including press releases, on the situation of insecurity for civil society organizations and individual human rights defenders in eastern DRC;
- Ensure any grants and funding opportunities available to NGOs are tailored, flexible and take into account challenges, including gender-specific considerations, limited grant-writing capacity, restricted ability to travel cross-country to Kinshasa, and limited networks with diplomatic missions;
- Support human rights organizations in designing and proposing initiatives that increase protection for human rights defenders and which could be practically supported by diplomatic representations and donor governments;
- Make confidentiality of sources a priority to ensure no risks are faced by NGOs due to the publication of information by third parties;
- Increase training for NGOs in the region on documenting human rights abuses, information management in times of conflict, grant-writing, and tailored programs on e-security in light of concerns of surveillance;

### **To EU diplomatic missions in DRC, in addition to the above:**

- Ensure the Human Rights Defender Focal Point is given necessary resources, visibility, and political support to effectively carry out the responsibilities of this role in responding to the needs of human rights defenders and coordinating action among representations of EU Member States;
- Publicly raise concerns on the situation of human rights defenders, including individual cases, with the DRC government, and insist on the need for gender-specific approach to providing an enabling environment for human rights defenders;

### **To African diplomatic missions in DRC, in addition to the above:**

- Consider elaborating a clear plan outlining the ways diplomatic missions should engage with human rights defenders and provide support for their human rights work, similarly to the EU Guidelines on Human Rights Defenders;
- Support efforts and the implementation of recommendations made by African Commission Special Rapporteur on the situation of Human Rights Defenders in Africa Reine Alapini Gansou on the needs of women human rights defenders;

### **To MONUSCO:**

- Continue assisting civil society in North Kivu to create an effective alert network and other mechanisms of sustainable protection;
- Increase resources to the UNJHRO Protection Unit to allow for more frequent assistance, trainings, and other protection activities regarding human rights defenders;
- Facilitate training for state institutions, including the Ministry of Justice, police, judicial authorities, intelligence services (namely ANR), and security forces, on the role of human rights defenders and the need to stop attacks, harassment and intimidation of defenders for conducting their peaceful and legitimate human rights work;

### **To armed groups:**

- Stop all abuses against human rights defenders, including unlawful killing, abduction, rape and sexual violence, and intimidation;

- Cease all threats, intimidation, and targeted attacks against medical personnel and humanitarian staff;
- Grant unrestricted access to areas under control of armed groups to humanitarian workers, representatives of international organizations including MONUSCO and human rights defenders.

## ENDNOTES

---

<sup>1</sup> Interview #33, Goma, July 2013.

<sup>2</sup> Approximately 2.7 million people are internally displaced throughout the DRC, including over 1 million people in North Kivu province alone, mostly due to the armed conflict. See Statement by the President of the Security Council, 14 November 2013, p. 3. Available <https://www.un.org/News/Press/docs/2013/sc11174.doc.htm>

<sup>3</sup> UN General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, para 1. Available <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf> (accessed on 15 September 2013)

<sup>4</sup> Office of the UN High Commissioner for Human Rights, *Human Rights Defenders: Protecting the Right to Defend Human Rights – Fact Sheet No. 29*, p. 2. Available <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>. (accessed 20 September 2013)

<sup>5</sup> Interview #55, Goma, July 2013.

<sup>6</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Article 2.

<sup>7</sup> Amnesty International, *Human rights Defenders under Attack in the DRC* (Index: AFR 62/001/2010). Available <http://www.amnesty.org/en/library/asset/AFR62/001/2010/en/46d7ad48-b7cc-461f-a716-43a1c9809d06/afr620012010en.pdf> (accessed 30 September 2013); Amnesty International, *The Human Rights Council must act for better protection of civilians and an end to threats and intimidation against human rights defenders, journalists and political opponents*, (Index: AFR 62/011/2012). Available <http://www.amnesty.org/en/library/info/AFR62/011/2012> (accessed 27 November 2013)

<sup>8</sup> In Fizi and Uvira, South Kivu province, NGOs have denounced death threats received by human rights defenders after denouncing crimes committed by army officers and armed groups. Radio Okapi, “Une ONG dénonce les menaces de mort contre les activistes des droits humains a Fizi et Uvira” 17 September 2013. Available <http://radiookapi.net/actualite/2013/09/17/une-ong-denonce-les-menaces-de-mort-contre-les-activistes-des-droits-humains-fizi-uvira/> (accessed 30 September 2013)

<sup>9</sup> This was the only diplomatic representative in Goma at the time of the research mission.

<sup>10</sup> Armed group largely composed of Rwandan Hutus and containing remnants of the Interahamwe and former Rwandan soldiers responsible for the 1994 genocide, as well as fighters not involved in the genocide. See Rift Valley Institute, Usalama Project, *From CNDP to M23: The evolution of an armed movement in eastern Congo*, 2012. Available <http://riftvalley.net/resources/file/RV1%20Usalama%20Project%201%20CNDP-M23.pdf> (accessed 5 October 2013)

<sup>11</sup> The National Congress for the Defence of the People (*Congres National pour la Defense du Peuple*) was an armed group, with a political group and a military branch, led by Laurent Nkunda and supported by Rwanda, which committed serious human rights abuses against civilian populations. The movement was operational in North Kivu between 2006 and 2009, with its bases in Masisi and Rutshuru territories, and claimed to defend the Tutsi community's interests. In 2009, the March 23 agreement, signed between CNDP and the Congolese government, integrated the CNDP members into the national army,

---

among other provisions. The CNDP was perceived by many as the continuation of the Congolese Democratic Rally (Rassemblement Congolais pour la Democratie), the armed group which controlled part of eastern DRC during the second Congolese War (1998-2003).

<sup>12</sup> Rift Valley Institute, Usalama Project, *From CNDP to M23: The evolution of an armed movement in eastern Congo*, p. 9.

<sup>13</sup> UN Group of Experts, Final report of the Group of Experts on the DRC submitted in accordance with paragraph 4 of the Security Council resolution 2021 (2011), S/2012/843, 15 November 2012. See also Human Rights Watch, DRCongo: M23 Rebels Committing War Crimes, 11 September 2012. Amnesty International, DRCongo: Civilian protection urged as tens of thousands flee escalation in fighting, 19 November 2012. Available <http://www.amnesty.org/en/news/dr-congo-escalation-fighting-forces-tens-thousands-civilians-flee-2012-11-19> (accessed 1 October 2013)

<sup>14</sup> UN Group of Experts, Midterm report of the Group of Experts on the DRC submitted in accordance with paragraph 5 of the Security Council resolution 2078 (2012) (S/2013/433), 19 July 2013. Available [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2013/433](http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/433) (accessed 14 October 2013)

<sup>15</sup> The International Conference on the Great Lakes Region is an inter-governmental organization composed of twelve member states (Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia) and based on the recognition that political instability and conflicts in the Great Lakes Region require a concerted regional effort. For more information, see <http://www.icglr.org/index.php/en/> (accessed 4 October 2013).

<sup>16</sup> These countries are Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Rwanda, South Africa, South Sudan, Uganda, Tanzania, and Zambia.

<sup>17</sup> Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the region, 24 February 2013, Addis Ababa, Ethiopia. Available <http://www.peaceau.org/uploads/scanned-on-24022013-125543.pdf>. (accessed 4 October 2013)

<sup>18</sup> All four individuals are on the list compiled by the UN Security Council Committee, established pursuant to Resolution 1533 (2004), of individuals subject to UN sanctions.

<sup>19</sup> See Situation in the Democratic Republic of the Congo in the case of *The Prosecutor v Bosco Ntaganda*, Under Seal Warrant of Arrest, 22 August 2006. See also Situation in the Democratic Republic of the Congo In the Case of The Prosecutor v. Bosco Ntaganda, Decision on the Prosecutor's Application under Article 58, 13 July 2012. Available [http://www.icc-cpi.int/en\\_menus/icc/situations%20and%20cases/situations/situation%20icc%200104/related%20cases/icc%200104%200206/Pages/icc%200104%200206.aspx](http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/situation%20icc%200104/related%20cases/icc%200104%200206/Pages/icc%200104%200206.aspx). (accessed 5 October 2013)

<sup>20</sup> CNN, "Why Bosco Ntaganda trial is just first step towards justice in DRC", 28 March 2013. Available <http://edition.cnn.com/2013/03/28/opinion/amnesty-bosco-ntaganda/index.html> (accessed 13 September 2013)

<sup>21</sup> United Nations Security Council Resolution 2098 (2013), Adopted by the Security Council at its 6943<sup>rd</sup> meeting on 28 March 2013, S/RES/2098 (2013), para 12 (b). Available [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2098.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2098.pdf) (accessed 5 October 2013)

<sup>22</sup> Between 21 and 29 August 2013, for instance, hostilities between M23 and the FARDC, assisted by

---

the MONUSCO Intervention Brigade, resulted in 15 civilians being killed and 29 injured due to indiscriminate shelling of residential areas in and around Goma , according to OCHA reports. For more information on the operations, see MONUSCO, « Conférence de Presse des Nations Unies du Mercredi 28 aout 2013 », p. 8. Available <http://monusco.unmissions.org/Default.aspx?tabid=11429&language=fr-FR>. (accessed 24 September 2013)

<sup>23</sup> The Alliance of Patriots for a Free and Sovereign Congo (APCLS) is led by General Janvier Buingo Karairi, operates mostly in Masisi territory, and is primarily composed of members of the Hunde community to confront the perceived threat against the Hunde community by the Tutsi-associated armed groups.

<sup>24</sup> MONUSCO, « Conférence de Presse des Nations Unies du mercredi 6 mars 2013 », Available <http://monusco.unmissions.org/Default.aspx?tabid=11429&ct=Details&mid=14700&ItemID=19661&language=fr-FR> (accessed 6 October 2013) ; See also UN Group of Experts, “Letter dated 19 July 2013 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the DRC addressed to the President of the Security Council, S/2013/433, 19 July 2013, Annexes 60 – 63. Available [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2013/433](http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/433) (accessed 14 October 2013).

<sup>25</sup> OCHA, “Humanitarian Action in the DRC, Weekly Bulletin”, 7 June 2013. Available <http://reliefweb.int/sites/reliefweb.int/files/resources/Humanitarian%20Action%20in%20the%20DRC%2007June2013.pdf>. (accessed 6 October 2013)

<sup>26</sup> MSF, “DRC: MSF suspends medical activities in Pinga after threats to staff”, 9 August 2013. Available <http://www.msf.org/article243/drc-msf-suspends-medical-activities-pinga-after-threats-staff> (accessed 9 October 2013)

<sup>27</sup> MONUSCO, « Conference de presse des nations unies du mercredi 16 Octobre 2013 ». Available <http://monusco.unmissions.org/LinkClick.aspx?fileticket=VOVg1Sn8oMY%3d&tabid=11429&mid=14700&language=fr-FR> (accessed 20 October 2013)

<sup>28</sup> ADF is an Islamist rebel group, which is led by Ugandan fighters and based north-west of the Rwenzori mountains in North Kivu, and which maintains regional networks for recruitment in Uganda and Burundi. As of their July 2013 report, the UN Group of Experts estimates that there are between 800 and 1,200 soldiers currently in ADF ranks. (UN Group of Experts, S/2012/433, 19 July 2013)

<sup>29</sup> UNHCR, “UNHCR fears for welfare of Congolese refugees in Uganda hills; worried about fighting near Goma”, 16 July 2013. Available <http://www.unhcr.org/51e51cdb6.html> (accessed 6 October 2013)

<sup>30</sup> MONUSCO, « Conférence de Presse des Nations Unies du mercredi 2 Octobre 2013 ». Available <http://monusco.unmissions.org/LinkClick.aspx?fileticket=Ci4TBgNCz7M%3d&tabid=11429&mid=14700&language=fr-FR> (accessed 6 October 2013)

<sup>31</sup> Pseudonym used here.

<sup>32</sup> Interview #35, Goma, July 2013.

<sup>33</sup> Interview #33, Goma, July 2013.

<sup>34</sup> Interview #39, Goma, July 2013 and Interview #61, phone interview, April, September, October 2013.

<sup>35</sup> Amnesty International meeting with Sultani Makenga and Vianney Kazarama, Rutshuru, North Kivu,

---

September 2012.

<sup>36</sup> Interview #61, phone interview, September 2013.

<sup>37</sup> In a press statement, the president of UCPDHO based in South Kivu stated that “We should not improvise as human rights defenders and make mistakes and then say we are threatened. We must know our job and take precautions to better undertake our work.” Radio Okapi, “Une ONG dénonce les menaces de mort contre les activistes des droits humains a Fizi et Uvira”, 17 September 2013. Available <http://radiookapi.net/actualite/2013/09/17/une-ong-denonce-les-menaces-de-mort-contre-les-activistes-des-droits-humains-fizi-uvira/> (accessed 5 October 2013)

<sup>38</sup> Interview #39, Goma, July 2013.

<sup>39</sup> Interview # 66, phone interview, October 2013.

<sup>40</sup> See also MONUSCO, “La MONUSCO condamne le meurtre d’un défenseur des droits humains au Katanga”, 13 August 2013. See also, Centre des Droits de l’Homme et du droit humanitaire, « Communiqué de Presse No 16M2/CDH/2013 », 15 August 2013.

<sup>41</sup> Amnesty International, *DRCongo must investigate assassination attempt on activist Dr. Denis Mukwege*, 26 October 2012.

<sup>42</sup> Women Human Rights Defenders International Coalition, *Global Report on the Situation of Women Human Rights Defenders*, January 2012. p. viii. Available [http://www.defendingwomen-defendingrights.org/pdf/WHRD\\_IC\\_Global%20Report\\_2012.pdf](http://www.defendingwomen-defendingrights.org/pdf/WHRD_IC_Global%20Report_2012.pdf) (accessed 1 September 2013)

<sup>43</sup> Draft report by the African Commission Special Rapporteur on the situation of human rights defenders in Africa, “Study on the situation of women human rights defenders in Africa”, which will be examined by the African Commission during the next session in April-May 2014.

<sup>44</sup> Interview #38, Goma, July 2013.

<sup>45</sup> Interview #45, Goma, July 2013.

<sup>46</sup> In a recent report on the prevalence of sexual violence, published by the DRC Ministry of Gender, Family and Child, over 15,000 cases of sexual and gender-based violence were reported in DRC in 2012. Nearly 7,000 of those cases occurred in North Kivu. See Ministère du Genre, de la Famille et de l’Enfant, *Ampleur des violences sexuelles en RDC et actions de lutte contre le phénomène de 2011 à 2012*, Kinshasa, Juin 2013, Annex 1.

<sup>47</sup> Draft report by the African Commission Special Rapporteur on the situation of human rights defenders in Africa, “Study on the situation of women human rights defenders in Africa”.

<sup>48</sup> For cases in 2008 and 2009, see Women Human Rights Defenders International Coalition, *Global Report on the Situation of Women Human Rights Defenders*, January 2012. pp. 34-36. Available [http://www.defendingwomen-defendingrights.org/pdf/WHRD\\_IC\\_Global%20Report\\_2012.pdf](http://www.defendingwomen-defendingrights.org/pdf/WHRD_IC_Global%20Report_2012.pdf) (accessed 16 September 2013)

<sup>49</sup> Interview # 25 with Congolese Minister of Justice, Kinshasa, May 2013,

<sup>50</sup> Interview #43, Goma, July 2013

<sup>51</sup> Interview with MONUSCO staff #59, Goma, July 2013

<sup>52</sup> René Abandi, member of M23 political leadership, stated in an interview: « Je peux vous garantir que

---

nous voulons des medias libres, nous voulons que ceux qui nous critiquent puissent s'exprimer », (“I can guarantee that we want free press and want to ensure that those who criticize us can do so.”) *Jeune Afrique, RDC : La presse sous bonne garde dans le Kivu*, 25 May 2013. Available <http://www.jeuneafrique.com/Article/ARTJAWEB20130524120942/> (accessed 1 November 2013)

<sup>53</sup> Interview #41, Goma, July 2013

<sup>54</sup> Interview # 42, Goma, July 2013

<sup>55</sup> Interview #43, Goma, July 2013

<sup>56</sup> Interview #41, Goma, July 2013; Interview #42, Goma, July 2013; Interview #43, Goma, July 2013

<sup>57</sup> Interview #60, Goma, July 2013.

<sup>58</sup> Interview #39, Goma, July 2013

<sup>59</sup> Interview #61, phone interview, April and September 2013.

<sup>60</sup> See Melanie Gouby, « Meet the Mai Mai – M23's New Enemy », *Radio Netherlands Worldwide*, 11 October 2012. Available <http://www.rnw.nl/africa/article/meet-mai-mai-m23s-new-enemy>. (accessed 20 September 2013)

<sup>61</sup> FPD-Shetani is an armed group led by Colonel Shetani Muhima and is operational in northeastern Rutshuru territory claiming to protect from M23 armed group and to curtail the 'balkanization' of the DRC.

<sup>62</sup> The MPA (Mouvement Populaire d'Autodéfense) was created in 2011 and claims to protect the interests of the Hutu community against M23 and is operational in northern Rutshuru territory. The Nyatura is an armed group that is mainly composed of Hutu elements, claim to protect Hutu interests, and is active in Masisi and Rutshuru territories. Nyatura was formed from defectors of the national army and former PARECO armed group members.

<sup>63</sup> Radio Okapi, « Nord Kivu: 7 journalistes de la Radio Dorica vivent en clandestinité à Nyamilima », 13 February 2013. Radio Okapi, « Nord-Kivu : les Mai Mai Shetani contrôlent la cité de Nyamilima », 17 February 2013. <http://radiookapi.net/en-bref/2013/02/17/nord-kivu-les-mai-mai-shetani-controlent-la-cite-de-nyamilima/>.

<sup>64</sup> MONUSCO, “Conférence de presse” 20 February 2013.

<sup>65</sup> Radio Okapi, « Nord Kivu: des ménages se réfugient à l'hôpital, après combats entre FARDC et Mai Mai à Nyamilima », 14 July 2013. Available <http://radiookapi.net/actualite/2013/07/14/nord-kivu-des-menages-envahissent-lhopital-de-nyamilima-apres-combats-entre-fardc-mai-mai/>. (accessed 16 September 2013)

<sup>66</sup> Pseudonym used here.

<sup>67</sup> Interview #61, phone interview, April and September 2013.

<sup>68</sup> Interview #39, Goma, July 2013.

<sup>69</sup> Interview #63, phone interview, September 2013. Interview #67 with MONUSCO staff, phone interview, October 2013.

<sup>70</sup> MONUSCO and UNOHCHR, “Report of the UN Joint Human Rights Office on human rights violations



---

perpetrated by soldiers of the Congolese armed forces and combatants of the M3 in Goma and Sake, North Kivu province, and in and around Minova, South Kivu province, from 15 November to 2 December 2012”, May 2013. Available [http://www.ohchr.org/Documents/Countries/ZR/UNJHROMay2013\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/UNJHROMay2013_en.pdf) (accessed 6 October 2013).

<sup>71</sup> Ibid, para 26.

<sup>72</sup> Amnesty International, *DRC: Persistent insecurity and threats against civilians demands sustained attention by the Human Rights Council* (Index: AFR 62/006/2013). Available <http://www.amnesty.org/en/library/asset/AFR62/006/2013/en/847ad841-27a7-4eb4-92b2-af8659850f9d/afr620062013en.pdf> (accessed 16 September 2013)

<sup>73</sup> Radio Okapi, “Goma: La MONUSCO évacue à Kinshasa 22 magistrats menacés de mort”, 26 November 2012. Available <http://radiokapi.net/actualite/2012/11/26/goma-la-monusco-evacue-kinshasa-22-magistrats-menaces-de-mort/> (accessed 16 September 2013)

<sup>74</sup> Human Rights Council, Report of the UNHCHR on the situation of human rights and the activities of her Office in the Democratic Republic of Congo, A/HRC/24/33, 12 July 2013, para 31.

<sup>75</sup> Interview #50, Goma, July 2013.

<sup>76</sup> Pseudonym used here. Interview #56, Goma, July 2013 and Interview #66, phone interview, October 2013.

<sup>77</sup> Interview #52, Goma, July 2013

<sup>78</sup> Marie Eriksson Baaz and Judith Verweijen, “The volatility of a half-cooked bouillabaisse: rebel-military integration and conflict dynamics in the eastern DRC”, *African Affairs*, 112/449, p. 567.

<sup>79</sup> Amnesty International, *Democratic Republic of Congo: North Kivu – Civilians pay the price for political and military rivalry* (Index: AFR 62/013/2005), pp.43-46.

<sup>80</sup> Human Rights Watch, *Renewed Crisis in North Kivu*, October 2007, pp. 16-22. Usalama Project, *From CNDP to M23, the Evolution of an Armed Movement in Eastern Congo*, Rift Valley Institute, 2012.

<sup>81</sup> Emily Paddon and Guillaume Lacaille, *Stabilising the Congo*, Forced Migration Policy Briefing 8, December 2011, p. 14. See also Usalama Project, *The National army and armed groups in eastern Congo: Untangling the Gordian Knot of Insecurity*, Rift Valley Institute, 2013. p. 27.

<sup>82</sup> Pseudonym used here. Interview #52, Goma, July 2013.

<sup>82</sup> Report of the Secretary General on the United Nations Organization Stabilization Mission in the Democratic Republic of Congo, 15 February 2013, Para 12. Available [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2013/96&Lang=E](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/96&Lang=E) (accessed 4 October 2013)

<sup>83</sup> Pseudonym used here. Interview #46, Goma, July 2013.

<sup>84</sup> République Démocratique du Congo – Agence Nationale de Renseignements, *Note à Monsieur le Représentant Spécial du Secrétaire General des Nations Unies, Chef de la MONUSCO: Commandants, Assimilés et Hommes de troupes du M23 non éligibles à l'intégration au sein des FARDC*, Kinshasa, September 2013.

<sup>85</sup> OHCHR, Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the DRC between March 1993 and June

---

2003, August 2010, p. 506. Available

[http://www.ohchr.org/Documents/Countries/ZR/DRC\\_MAPPING\\_REPORT\\_FINAL\\_EN.pdf](http://www.ohchr.org/Documents/Countries/ZR/DRC_MAPPING_REPORT_FINAL_EN.pdf) (accessed 20 October 2013)

<sup>86</sup> Interview #38, Goma, July 2013.

<sup>87</sup> Pseudonym used here.

<sup>88</sup> Interview #38, Goma, July 2013.

<sup>89</sup> Interview #42, Goma, July 2013.

<sup>90</sup> Interview #58 with MONUSCO staff, Goma, July 2013.

<sup>91</sup> Interview #67 with MONUSCO staff, phone interview, October 2013.

<sup>92</sup> Interview #55, Goma, July 2013. Interview #67 with MONUSCO staff, phone interview, October 2013.

<sup>93</sup> Ibid

<sup>94</sup> United Nations Security Council, Report of the Secretary-General on the United Nations Organization Stabilization Mission in the DRC, S/2013/388, 28 June 2013, p. 1. Available [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/2013/388](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/388) (accessed 1 October 2013).

<sup>95</sup> Pseudonym used here.

<sup>96</sup> Interview #55, Goma, July 2013.

<sup>97</sup> Interview #42, Goma, July 2013.

<sup>98</sup> Interview #60, Goma, July 2013 and Interview #33, Goma, July 2013.

<sup>99</sup> Interview #33, Goma, July 2013.

<sup>100</sup> Interview with INGO #57, Goma, July 2013 and Interview #39, Goma, July 2013.

<sup>101</sup> Interview #42, Goma, July 2013.

<sup>102</sup> Interview #39, Goma, July 2013.

<sup>103</sup> Office of the UN High Commissioner for Human Rights, *Human Rights Defenders: Protecting the Right to Defend Human Rights – Fact Sheet No. 29*, p. 19. Available <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf> (accessed 20 September 2013)

<sup>104</sup> Ibid

<sup>105</sup> Article 1, UN Declaration on Human Rights Defenders.

<sup>106</sup> Article 6, UN Declaration on Human Rights Defenders.

<sup>107</sup> Article 9, UN Declaration on Human Rights Defenders.

<sup>108</sup> Ibid

<sup>109</sup> Article 12, UN Declaration on Human Rights Defenders.

<sup>110</sup> See Article 2 of UN Declaration on Human Rights Defenders; See also Article 2 of International Covenant on Civil and Political Rights.

---

<sup>111</sup> Article 2, UN Declaration on Human Rights Defenders.

<sup>112</sup> Article 12, UN Declaration on Human Rights Defenders.

<sup>113</sup> Article 9, UN Declaration on Human Rights Defenders.

<sup>114</sup> Ibid

<sup>115</sup> Article 10, UN Declaration on Human Rights Defenders.

<sup>116</sup> Draft report by the African Commission Special Rapporteur on the situation of human rights defenders in Africa, "Study on the situation of women human rights defenders in Africa".

<sup>117</sup> Committee on the Elimination of All Forms of Discrimination against Women, General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations, UN Doc CEDAW/C/GC/30, 18 October 2013, para 42. Available [www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf](http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf) (accessed 3 December 2013)

<sup>118</sup> Article 17 states that the Conference recognised the importance of promoting an African civil society, particularly NGOs, and encourages the governments to engage in constructive collaboration with these organizations. Article 19 states that the Conference notes that the Declaration on Human Rights Defenders "marks a significant turning point" and calls on African States to implement the Declaration in Africa.

<sup>119</sup> Article 4(d)(23) provides that the IOF commits itself to strengthening national institutions of promotion of human rights and to support the creation within national administrative structures dedicated to human rights, as well as the work of human rights defenders.

<sup>120</sup> Article 28 of the Kigali Declaration states that the Conference recognises the important role played by civil society organizations in general, and human rights defenders in particular, in the promotion and protection of human rights in Africa and called upon Member States to protect them and encourage their participation in decision-making processes.

<sup>121</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Signed on 11 July 2003. Available [http://www.achpr.org/files/instruments/women-protocol/achpr\\_instr\\_proto\\_women\\_eng.pdf](http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf) (accessed 28 September 2013)

<sup>122</sup> Interview #47, Goma, July 2013 and Interview #60, Goma, July 2013.

<sup>123</sup> Projet de loi portant promotion et protection des défenseurs des droits de l'homme et des dénonciateurs d'actes de corruption et de détournement des deniers publics en République Démocratique du Congo.

<sup>124</sup> Interview #50, Goma, July 2013.

<sup>125</sup> Projet de loi portant promotion et protection des défenseurs, article 23 (6), (8).

<sup>126</sup> Interview #50, Goma, July 2013.

<sup>127</sup> UN High Commissioner for Human Rights, Commission on Human Rights resolution 2000/61, 65<sup>th</sup> meeting, 26 April 2000. Available [http://www.unhcr.ch/huridocda/huridocda.nsf/\(Symbol\)/E.CN.4.RES.2000.61.En?Opendocument](http://www.unhcr.ch/huridocda/huridocda.nsf/(Symbol)/E.CN.4.RES.2000.61.En?Opendocument) (accessed 1 October 2013)

---

<sup>128</sup> In 2008, when the mandate was renewed, the title was changed from Special Representative to Special Rapporteur. This change has no impact on the activities of the mandate.

<sup>129</sup> Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Mission to the Democratic Republic of the Congo, 25 February 2010, p. 12. Available <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/115/09/PDF/G1011509.pdf?OpenElement> (accessed 3 September 2013)

<sup>130</sup> Interview #59 with MONUSCO staff, Goma, July 2013.

<sup>131</sup> Interview #59 with MONUSCO staff, Goma, July 2013.

<sup>132</sup> For example, see MONUSCO, « Les Défenseurs de droits de l'homme formés et sensibilisés à Bunia », 2 August 2013. Available <http://reliefweb.int/report/democratic-republic-congo/les-d%C3%A9fenseurs-de-droits-de-l%E2%80%99homme-form%C3%A9s-et-sensibilis%C3%A9s-%C3%A0-bunia> (accessed 13 September 2013)

<sup>133</sup> Interview with MONUSCO staff #27, Kinshasa, May 2013.

<sup>134</sup> Interview with MONUSCO staff #27, Kinshasa, May 2013.

<sup>135</sup> For example, for urgent cases occurring over 330 km from Goma in Beni or Butembo, it is difficult for the Protection Officer based in Goma to provide adequate assistance in time-sensitive cases. Interview with MONUSCO staff #59, Goma, July 2013.

<sup>136</sup> The ANR has been accused of cases of arbitrary detention and ill-treatment of human rights defenders, journalists, and political opponents. See Amnesty International, *Annual Report 2013–DRC*. Available <http://www.amnesty.org/en/region/democratic-republic-congo/report-2013>  
See also Report of the UNJHRO on Human rights and fundamental freedoms during the pre-electoral period in the DRC, November 2011, para 47. Available [http://www.ohchr.org/Documents/Countries/ZR/UNJHRO\\_HRElectionsReport\\_en.pdf](http://www.ohchr.org/Documents/Countries/ZR/UNJHRO_HRElectionsReport_en.pdf) (accessed 2 September 2013)

<sup>137</sup> Interview #5, Kinshasa, May 2013. Interview #1, Kinshasa, May 2013. Press Release issued by Collectif des ONG des Droits de l'Homme de la République Démocratique du Congo, « Déclaration Du Collectif Des ONG des Droits de l'Homme de la RD Congo Relative à la mise en place de l'Entité de Liaison des Droits de l'Homme en RDC », 18 April 2010, Kinshasa, DRC.

<sup>138</sup> Décret No 09 / 35 du 12 Aout 2009 portant création, organisation et fonctionnement de l'Entité de Liaison des Droits de l'Homme en République Démocratique du Congo, Kinshasa.

<sup>139</sup> Interview #4, Kinshasa, May 2013.

<sup>140</sup> Interview #12, Kinshasa, May 2013 and Interview #4, Kinshasa, May 2013.

<sup>141</sup> Intervention de la République Démocratique du Congo au segment de haut niveau par S.E. Mme Sakina Binti Selemani Maguy, Vice Ministre des Droits Humains. Vingt-deuxième Session Ordinaire du Conseil des Droits de l'Homme, Geneva, 28 February 2013, p. 2.

<sup>142</sup> This was confirmed with the UN and with one of the civil society representatives appointed to the Liaison Entity.

<sup>143</sup> Arrêté ministériel 219/CAB/MIN/JDH/2011 du 13 juin 2011 portant création, organisation et fonctionnement d'une cellule de protection des défenseurs des droits de l'homme.

---

<sup>144</sup> Loi organique No13/011 du 21 mars 2013 portant institution, organisation et fonctionnement de la Commission Nationale des Droits de l'Homme - "CNDH".

<sup>145</sup> Loi organique No13/011 du 21 mars 2013 portant institution, organisation et fonctionnement de la Commission Nationale des Droits de l'Homme "CNDH", Article 6.

<sup>146</sup> Council of the European Union, *Ensuring protection – European Union Guidelines on Human Rights Defenders*, para 1.

<sup>147</sup> For examples of ways defenders can increase partnership with EU representatives, see Frontline Defenders, "The European Union: What it Can Do, Getting It To Take Action – Protection Handbook for Human Rights Defenders", September 2013, p. 33. Available [http://www.frontlinedefenders.org/files/Handbook\\_for\\_Hrds\\_EU\\_Action.pdf](http://www.frontlinedefenders.org/files/Handbook_for_Hrds_EU_Action.pdf) (accessed 6 October 2013)

<sup>148</sup> European Commission website, "European Instrument for Democracy & Human Rights (EIDHR)". Available [http://ec.europa.eu/europeaid/how/finance/eidhr\\_en.htm](http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm) (accessed 17 September 2013)

<sup>149</sup> Interview #55, Goma, July 2013.

<sup>150</sup> Interview with Carter Center, Kinshasa, May 2013.

<sup>151</sup> For example, one initiative in October 2013 in South Kivu by the NGO Initiative Congolaise pour la Justice et la Paix, sponsored by an international donor, is to provide laptops and internet modems to local human rights defenders. See Radio Okapi, « Sud-Kivu: des acteurs de la société civile dotés des outils de communication moderne », 6 October 2013. Available <http://radiookapi.net/actualite/2013/10/06/sud-kivu-des-acteurs-de-la-societe-civile-dotes-des-outils-de-communication-moderne/> (accessed on 14 October 2013)

<sup>152</sup> Interview #58 with MONUSCO staff, Goma, July 2013.

<sup>153</sup> Interview with Carter Center, Kinshasa, May 2013.

<sup>154</sup> Women Human Rights Defenders International Coalition, *Global Report on the Situation of Women Human Rights Defenders*, January 2012, p. 109.

<sup>155</sup> Interview #45, Goma, July 2013.

<sup>156</sup> Interview #55, Goma, July 2013.

<sup>157</sup> Interview #60, Goma, July 2013.

<sup>158</sup> Interview with MONUSCO staff, Goma, July 2013.

<sup>159</sup> Amnesty International, *The Time for Justice is Now* (Index: AFR 62/006/2011), p. 61.

<sup>160</sup> Amnesty International, *The Time for Justice is Now* (Index: AFR 62/006/2011), p. 62.

<sup>161</sup> Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the region, 24 February 2013, Addis Ababa, Ethiopia.

<sup>162</sup> « Recrutement de qualité, discipline rigoureuse, formation et équipement conformes aux standards internationaux, organisation interne efficiente et compatible avec le caractère républicain de l'armée, affectation des officiers et hommes de troupes en fonction des besoins opérationnels et dans le strict respect du principe de rotation sur l'ensemble du territoire national et sont les principes directeurs. » See Discours du Chef de l'Etat à La Nation, Palais du Peuple, 23 October 2013.

---

<sup>163</sup> Interview #44, Goma, July 2013.

<sup>164</sup> Interview #38, Goma, July 2013.

<sup>165</sup> Interview #45, Goma, July 2013.

**AMNESTY**  
**INTERNATIONAL**



[www.amnesty.org](http://www.amnesty.org)