

## **Some key reports and documents on the unspeakable crimes committed in the DRC since the 1990s**

Although the Mapping published in 2010 remains a reference document on the subject, it is the result of several investigations and documents produced by different organizations. It should also be noted that other reports document the crimes and human rights violations that occurred after 2003. These various reports and investigations produced by different international and national experts since the 1990s on crimes in the DRC are based on scientific methods internationally recognized as such. Virtually all these reports and documents lead to the same conclusions: (1) the crimes against humanity and human rights violations committed in the DRC can be qualified as "genocide" before a competent jurisdiction. Such a conclusion had already been noted by the high authorities of the UN in 1997-1998 (see below); (2) the plundering of the natural resources of the DRC is proven and the perpetrators and accomplices are well identified; (3) the endless cycle of crimes against humanity and violations of human rights as well as the plundering of natural resources are accentuated over time because of the impunity that has taken root around the Congolese drama.

In the following pages, we present some reports and documents that paint a picture of the immense crimes committed in the DRC since the 1990s and which continue to this day.

### **A. From the first official references to the term "genocide"**

The UN had previously investigated some of the crimes described in the Report Mapping notably in 1997 when Kofi Annan, then Secretary-General, appointed a team of investigators to examine the serious crimes committed in the Congo from March 1993 to December 1997. As early as 1997, Chilean Roberto Garretón Special Reporter on human rights in Zaire, had reported "war crimes", "crimes against humanity" and even "**acts of genocide**".

In his letter transmitting the report to the report to the Security Council (S/1998/581 of June 29, 1998), Koffi Annan also highlights the possibility that the crimes committed in the DRC could be qualified as genocide : "The second is that the killings carried out by the AFDL and its allies, including elements of the Rwandan Patriotic Army, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu refugees. The Team members believe that some of the killings may constitute **acts of genocide**, depending on the intent behind them, and they call for further investigation of these crimes and their motives." (Page 2, June 29, 1998).

In the same letter, the UN Secretary General, Kofi Annan, already noted the same facts and made the same recommendation as the subsequent reports. These observations can be read at length:

*"Despite the difficulties described in the report, the Team was able to reach a number of conclusions that are supported by solid evidence. Two of these conclusions are noteworthy. The first is that **all parties to the violence that tore Zaire apart...committed serious violations of human rights or international humanitarian law**. The second is*

*that the killings by the AFDL and its allies, including elements of the Rwandan Patriotic Army, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu refugees. The Team believes that some of the killings may constitute acts of genocide, depending on the intent behind them, and calls for further investigation of these crimes and their motives. In reading the report of my Investigative Team, Council members will see one of the root causes of the recent conflicts in Africa's Great Lakes region: a vicious cycle of human rights violations and revenge, fuelled by impunity."*

Link: <https://undocs.org/en/s/1998/581>

**Another letter dated April 12, 2001, addressed to the President of the Security Council by Secretary-General Kofi Annan, in which he uses the term "genocide".**

Link: <https://undocs.org/pdf?symbol=en/S/2001/357>

Contrary to what is said in Congolese opinion today, from the outset, international bodies have stressed the need not to "forgive" those responsible for the crimes committed since the 1990s, on the pretext that this is the only way to break the cycle of impunity that has taken hold in the DRC and in the Great Lakes sub-region. As early as 1997-99, the UN Secretary-General reported to the Security Council (S/1999/790 of July 15, 1999) the following observation: "The conflict in the Democratic Republic of the Congo has inflicted further terrible suffering on a country already burdened by poverty and abandoned to itself. In this regard, I welcome the provision in the ceasefire agreement that the countries of origin of members of armed groups may take all necessary measures to facilitate their repatriation, including, where appropriate, by declaring an amnesty (from which those accused of crimes against humanity or acts of genocide would be excluded)."

Link: <https://monuc.unmissions.org/sites/default/files/n9920865.pdf>

### **Reports by the Special Rapporteur Roberto Garretón**

COMMISSION ON HUMAN RIGHTS Fifty-fourth session Item 10 (E/CN.4/1998/64 of January 23, 1998) observes that "In the preliminary view of the joint mission, some of these allegations could constitute acts of genocide. Nevertheless, the information currently available to the joint mission does not allow it to form a precise and definitive opinion. A thorough investigation on the territory of the Democratic Republic of the Congo would help to clarify this situation. Curiously, for years, the parties claiming innocence have always mobilized to prevent an investigation from establishing their alleged innocence.

Link: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/102/59/pdf/G9810259.pdf?OpenElement>

COMMISSION ON HUMAN RIGHTS Fifty-seventh session Item 9 of the provisional agenda (E/CN.4/2001/40 February 1, 2001): Report about human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, pursuant to Commission on Human Rights resolution 2000/15.

Link: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G01/108/38/pdf/G0110838.pdf?OpenElement>

## **B. Mapping Report**

Published on October 1, 2010, the "**Report of the Mapping Exercise on the most serious violations of human rights and international humanitarian law committed between March 1993 and June 2003 on the territory of the Democratic Republic of the Congo (DRC)**" is the most important UN document on the Congolese tragedy. This report is very important because it is the first time that these crimes, perpetrated by a variety of actors, have been analyzed, collected, and methodically organized in an official UN report. The genesis of the report goes back to the discovery in September 2005 of three mass graves in Kivu. A team of UN investigators was set up under the supervision of the Office of the United Nations High Commissioner for Human Rights (OHCHR). From October 2008 to May 2009, 33 Congolese and international human rights experts gathered documents, interviewed witnesses, and managed to list 617 alleged violent incidents.

The report indicates that women and children were the main victims of most of the violence recorded by the team. In order to "adequately reflect the scale of such violence committed by all armed groups" against the most vulnerable, the report devotes specific chapters to crimes of sexual violence against women and girls, as well as violence against children. It also devotes a chapter to the role played by the exploitation of natural resources in relation to crimes committed in the Congo. The report concludes that most of the documented crimes can be classified as crimes against humanity and war crimes.

**The report states that it would be up to a competent court to make such a decision.**

The **perpetrators of the crimes include** rebel groups and **the national armed forces** of the DRC, as well as the **armed forces of Uganda, Burundi, Angola, Rwanda, Chad, and Zimbabwe**, among others. The report recommends, among other things, the establishment of a specialised court to further investigate and try the suspects. Unfortunately, **the identities of the individual alleged perpetrators of these violations - some 200 people, including several dozen high-level officials - are not included in the public report, but are contained in a confidential OHCHR database.**

After attempts to censor the report by the countries concerned, and after the first version of the report was leaked in August 2010, the OHCHR finally made it public on October 1, 2010. For its part, the Congolese government has had an unclear position on this report. At first, the Congolese government seemed to welcome the report, but he will be satisfied with speeches only, without implementing even the Some of the recommendations were within its purview. The Congolese government proposed, among other things, the creation of specialised mixed chambers within the Congolese judicial system, but the law

creating such a body was never adopted. It should be recalled that at the time of official publication of the report, on October 1, 2010, by Ms. Navanethem Pillay, United Nations High Commissioner for Human Rights (OHCHR). This one noted that "the final impact of the project from which this report is derived will depend on the follow-up and the action taken by the Congolese authorities and population. It is up to the DRC and its people to take the lead in the development and implementation of their transitional justice strategy. They should also be able to count on the support of the international community in this regard. Moreover, long before the investigations that led to this report, in 2003, at the UN General Assembly, President Joseph Kabila had already called for "an international criminal court for the Congo to investigate the crimes and hold the perpetrators to account." But the reality has not changed even after the Mapping report made a recommendation along the lines of the call made by Kabila in 2003.

Apart from a network of Congolese and international NGOs, as well as activists from the Congolese diaspora, this report was hushed up while impunity prevailed at the highest levels of the international community. The Mapping Report was once again back in the spotlight on the international stage on December 10, 2018, in Oslo, when Dr. Denis Mukwege evokes the Mapping Report in his acceptance speech for the Nobel Peace Prize. And since then, he has continued to invite the UN Security Council, which has primary jurisdiction to determine the existence of a threat to peace or an act of aggression, to formally debate the report. It urges all countries whose nationals have taken part in the crimes identified in the report to do so, contribute to the efforts required to ensure that justice is made.

Dr. Mukwege invites the Congolese population to take ownership of this report, to understand its contents and to mobilise to demand the implementation of the recommended justice mechanisms, without which there can be no peace. The Mapping Report is of immediate relevance to the situation in the Democratic Republic of Congo; it is a stark reminder of the consequences of impunity. Many of the atrocities committed against civilians documented in this report are still perpetrated by the same perpetrators.

The efforts of Dr. Mukwege and the patriots involved in disseminating this report, all of whom are campaigning for the creation of a criminal court for the DRC, are in line with the ultimate aim of the Mapping Report, which is to ensure that such atrocities never happen again. This fight is the duty of all of us. Everyone must take ownership of this report and its recommendations, in their own way. Read part of this report, join activities, and calls for justice and peace, relay information on the atrocities committed in the DRC, sign petitions, participate in sit-ins and marches, mobilize human and material resources for this cause, etc.

Commenting on the Mapping Report, the newspaper L'Express noted that "The decried report is not in itself an act of investigation, but a tool. It will be up to the future competent court to rule on the qualification that the facts set out require. Which jurisdiction? ... The International Criminal Court (ICC) can only deal with crimes committed since July 1, 2002. The Arusha Tribunal for Rwanda was slow and cumbersome and has set the limits of ad hoc proceedings. There remains the hypothesis, favoured by the UN, of a mixed

court composed of Congolese and foreign judges. For the time being, this option is being rejected in Kinshasa, where it is claimed, against all evidence, that the local justice system, although in a state of disaster, can carry out such a task.

Link: [https://www.lexpress.fr/actualite/monde/afrique/rwanda-congo-le-rapport-de-l-onu-derange\\_927587.html](https://www.lexpress.fr/actualite/monde/afrique/rwanda-congo-le-rapport-de-l-onu-derange_927587.html)

### **C. White Paper on massive human rights violations in the DRC**

The DRC Ministry of Human Rights, then headed by She Okitundu, published in December 1998 a major document entitled **"WHITE PAPER ON THE MASSIVE VIOLATIONS OF HUMAN RIGHTS AND BASIC RULES OF INTERNATIONAL HUMANITARIAN LAW BY AGGRESSIVE COUNTRIES (Uganda, Rwanda, Burundi) IN THE EAST OF THE DEMOCRATIC REPUBLIC OF CONGO"** covering the period of August 2, 1998, to November 5, 1998; Kinshasa, December 1998.

In its Point 54, the Report notes "Any threat of any kind against a Tutsi subject is systematically qualified as genocide and is used as an alibi for the perpetration of appalling crimes in retaliation" and in its Point 56, we can read "Indeed, the real war criminals against whom judicial actions are mainly and imperatively to be taken are called Kagame, Bizimungu and Museveni on the charge of war crimes, crime against humanity and trivialization of genocide. "

In this very detailed document, Uganda, Rwanda, and Burundi were singled out by name as "aggressor" countries of the Democratic Republic of Congo. An exhaustive description of the serious violations of human rights and international humanitarian law (massacres, sexual violence, malicious destruction of infrastructure, summary executions, inhuman and degrading treatment, etc.) recorded in 1998 was given...

Links:

<https://www.droitcongolais.info/en/files/Livre-blanc-sur-les-violations-massives-des-droits-de-l-homme-a-l-Est-de-la-RDC-par-les-pays-agresseurs--Ministere-des-Droits-Humains,-decembre-1998-.pdf>

<https://www.droitcongolais.info/files/Livre-blanc-du-Ministere.pdf>

Some time after its publication, the Congolese state, led from 2001-2003 by actors from the AFDL and transmitted by the Sun-City dialogue, rejected the conclusions of its own report, "the White Paper". The Kinshasa authorities and their media will no longer talk about it.

This change of attitude on the facts contained in the White Paper, leads a Congolese opinion to observe the following: "If Kinshasa were to fall into the arms of Kigali, Kampala and Bujumbura, its message to the international community would be that the

"White Paper" of the Ministry of Human Rights as well as the various reports of national and international non-governmental organisations on the misdeeds attributed to Rwandan, Ugandan and Burundian soldiers would be a tissue of lies. In this case, the Congolese government should explain to its citizens why it is bringing complaints against Uganda and Rwanda before the International Court of Justice in The Hague, for aggression, killings, torture, rape, and the plundering of its country's natural resources." At the approaching the publication of the Mapping Report in October 2010, there was a call to Congolese government to "choose your field: that of truth or lies." But, for proven facts, of which many direct and indirect victims are still alive, it would be a regrettable resignation on his part to act as if the five million dead, thousands of men, women, girls and boys raped had never existed. (Le Phare, "**Genocide in Congo: She Okitundu's White Paper**", September 24, 2010)

Link: <https://www.lephareonline.net/genocide-au-congo-le-livre-blanc-de-she-okitundu/>

And since then, the Congolese government has squarely sided with Rwanda, against the facts and the truth, that is, against its own citizens. This trend has accelerated in the last two years, during which the aggressor countries have been cleared and paradoxically rewarded.

## **D. Illegal exploitation of natural resources and other forms of wealth in the DRC**

### **UN Sources: UN Panel of Experts**

The objectives of the United Nations Panel of Experts, established on June 2, 2000, were to: (1) to investigate the illegal exploitation of natural resources and other forms of wealth in the Democratic Republic of Congo; (2) to examine the existence of a possible link between the exploitation of resources and the continuation of the conflict within the country. Between 2000-2003, this group published several important reports that illustrated the extent of looting and economic crimes and the various local, regional, and international actors involved in these crimes. In October 2002, the group of experts denounced in an important document (**CS/2382**) the existence of an association of criminal groups involving Congolese, Ugandan, Rwandan and Zimbabwean political and military elites. At the press briefing following the publication of the experts' report in 2002, the final report indicated that Rwanda had kept large troops in the DRC, where they had swapped the Rwandan military uniform for that of the RCD-Goma.

The head of the Panel of Experts, Mr. Mahmoud Kassem, speaking before the members of the Security Council, described the activities of **elite networks** as responsible for the illegal exploitation in the three areas of the DRC controlled by Uganda, the DRC and Rwanda. On October 28, 2003, **the Panel of Experts published its final report (S/2002/1146) in which it listed, among other things, the companies and individuals who had contributed directly or indirectly to the conflict in the country.** The report presents a list of approximately 125 companies and individuals divided into five

categories, according to their level of cooperation during the investigation, directly or indirectly involved in the conflict. "**The issue of impunity and reparation** to the Congolese people is of the utmost importance," stressed the Congolese Minister of Foreign Affairs reiterating his proposal to establish an International Criminal Court for the DRC to try those guilty of crimes against humanity. With regard to the accusations made against certain members of his government, he stressed the competence of the Courts and Tribunals and of the National Commission for the Fight against Fraud and Corruption as well as the efforts made to clean up the Congolese economic environment.

Links:

<https://www.un.org/press/fr/2002/cs2382.doc.htm>

<https://undocs.org/S/2003/1027>

### **The most recent report of June 2021**

The report of the Group of Experts on the Democratic Republic of the Congo of June 10, 2021 (S/2021/560) provides evidence that corroborates the same crimes and human rights violations as well as the looting and smuggling of Congolese natural resources, in which the same neighbouring countries and actors are involved.

The report also exposes numerous cases of killings, sexual violence, and armed attacks against humanitarian and diplomatic missions. The ambush of diplomatic and World Food Programme (WFP) staff, some of whom were abducted or killed, on February 22, 2021, was a further manifestation of the continuing insecurity in the eastern part of the Democratic Republic of the Congo.

There are also cases of FARDC members harvesting cocoa from fields abandoned by the population and illegally transferring it to Uganda. Some FARDC soldiers were involved in trafficking in ammunition diverted to armed groups.

Smuggling of gold, tin, tantalum, and tungsten continues to this day. However, the Congolese Mining Code and military regulations prohibit the presence of FARDC at mining sites. It should be noted that gold production in Walikale was traded to Rwanda, via Bukavu, and to Uganda.

Cross-border smuggling of unlabelled tantalum and tin into Rwanda has continued. Three owners of improvised mineral depots on the outskirts of Goma, Minova and Kalungu (see S/2019/469, para. 152) informed the Group of Experts that their main buyers of coltan and cassiterite were Goma-based traders who sold the minerals to Rwanda. Two representatives of mining authorities in North Kivu and a judicial officer reported that smugglers use false compartments in trucks that have been intercepted at the Goma-Rubavu border. The case in March 2021 of a truck carrying 24 bags of coltan is an illustration. Lake Kivu continued to be used as a smuggling route into Rwanda (see S/2019/469, para. 159), as described by three smugglers who were illegally smuggling tin, tantalum, and tungsten from Kalehe territory into Rwanda (see annex 53).

Link: <https://www.undocs.org/fr/S/2021/560>

### **Local sources (DRC): Lutundula Report of the DRC Parliament**

In June 2005, the Lutundula Commission, a special commission of the National Assembly headed by MP Christophe Lutundula, submitted a report on investigations into mining and other business contracts signed by rebels and government authorities between 1996 and 2003.

Commenting on the report, HRW said: "*The Lutundula Commission report draws attention to the ongoing illegal exploitation and recommends an immediate moratorium on the signing of new contracts until after the elections. For years, politicians in Congo have entered into contracts that enrich them but do not benefit the Congolese public. Profits from such contracts have often come at the cost of enormous suffering and loss of life,*" the coalition of non-governmental organizations said. *In its report, the commission corroborates the central findings of the UN panel of experts and other investigations that say the belligerents were motivated in part by a desire to exploit Congo's mineral and economic wealth. The belligerents used some of their profits to finance additional military operations that often resulted in widespread human rights abuses against civilians and violations of international humanitarian law. The war is believed to have caused the deaths of four million people in Congo, the highest civilian death toll since World War II.*

The report found that dozens of contracts are illegal and detrimental to the country's development. One of the recommendations is that they be abrogated or renegotiated. Among other things, it recommends legal action against all politicians and business people involved in these transactions. None of these recommendations have been implemented due to pressure from politicians cited in the report.

Link: <http://congominer.org/reports/210-rapport-lutundula-version-finale>

## **E. Rape and violence against women**

A major HRW report of March 2005 entitled "Seeking Justice: Prosecuting Wartime Sexual Violence in the Congo" will reveal the massive scale of sexual violence against tens of thousands of women and girls in eastern DRC. These rapes, used as a weapon of war, are committed by perpetrators belonging to virtually all the armed forces and groups operating in eastern Congo. Such crimes have been committed by the former Congolese Rally for Democracy (RCD-Goma), a Rwandan-backed armed group that controlled large parts of eastern Congo during the war. The RCD-Goma and its Rwandan allies had several opponents - the Mai-Mai rebels and Burundian and Rwandan Hutu armed groups - who also perpetrated widespread sexual violence. Further to the north-east, other armed groups have fought for control of territory and have also been responsible for frequent acts of sexual violence. These include the Rassemblement Congolais pour la Démocratie - Kisangani - Mouvement de Libération (RCD-ML), the Mouvement pour la Libération du



Congo (MLC), the Union des Patriotes Congolais (UPC) and the Front Nationaliste Intégrationniste (FNI) in the Ituri region. Members of the former government army, the Congolese Armed Forces (FAC), and the new national army known as the Armed Forces of the Democratic Republic of Congo (FARDC) are also guilty of sexual abuse.

Link: <https://www.hrw.org/report/2005/03/07/seeking-justice/prosecution-sexual-violence-congo-war>

## **F. Massacres (Kamwena Nsapu) in Kasai**

The team of international experts on the situation in Kasai, Democratic Republic of the Congo, was established by UN Human Rights Council resolution 35/33 with the aim of establishing the facts and circumstances regarding alleged human rights violations and breaches of international humanitarian law in the Kasai regions since 2016. The team delivered its report in July 2018 in which it concluded that crimes against humanity were committed in Kasai. The team of international experts is shocked by the dire human rights situation that continues in the Kasai region. **"It is particularly concerned by the scale of the violence that its investigations have revealed. This report reflects only a small part of the acts and crimes committed. Although the Team is not in a position to give a precise number of victims, it estimates that several thousand people have lost their lives during the crisis. The Team is also concerned about the low level of attention this tragedy has received."**

These international experts consider that it is urgent to start fighting impunity now by punishing the most serious crimes committed by all the actors involved in the crisis. However, in order to ensure that the violence does not recur, to render justice to the victims and to promote reconciliation, punishing only the most serious crimes will not be sufficient.

These experts recommend the following measures to the authorities of the Democratic Republic of the Congo

- Engage in an inclusive transitional justice process aimed at establishing the truth, identifying the root causes of the crisis, and providing reparations to the victims to ensure reconciliation;
- Implement a prosecution strategy to ensure that perpetrators are brought to justice;
- Ensure that those convicted of crimes of sexual violence are given appropriate sentences and are not integrated or retained in the country's defence and security forces.

The Team of Experts reiterates the urgency of breaking the cycle of impunity by recalling that "A very serious problem of impunity remains in view of the scale and gravity of crimes in the DRC.

Link: <https://www.ohchr.org/en/HRBodies/HRC/ITEKasaiDRC/Pages/Index.aspx>

## **G. Violence in eastern DRC (Ituri, Kivu)**

### **Ituri: "Covered in Blood": Targeted violence against certain ethnic groups in the North-East of the DRC. (July 7, 2003)**

On July 7, 2003, Human Rights Watch released a report and estimated that at least 5,000 civilians had died as a result of direct violence in Ituri between July 2002 and March 2003. These casualties are in addition to the 50,000 civilians who, according to the United Nations, have died there since 1999. These casualties are just part of an estimated **3.3 million civilian deaths across Congo**, making this the deadliest war for civilians since World War II.

Link:

<https://www.hrw.org/report/2003/07/07/covered-blood/ethnically-targeted-violence-northern-drc>

Human Rights Watch and the Congo Study Group, based at New York University, are documenting the violence in eastern DRC. Known as the Kivu Security Tracker (KST) (<https://kivusecurity.org/>), this is a joint project of the two organizations. The KST monitors violence by Congolese armed groups and security forces through maps, graphs, blog posts and analytical reports. KST has reported on more than 3,000 violent incidents committed by more than 130 armed groups in its report, "Congo, the Forgotten: The Numbers Behind Africa's Longest Running Humanitarian Crisis. The report notes that instead of restoring security, Congolese government security forces have frequently committed abuses against the civilians they are supposed to protect. Politicians, intelligence services and security forces have created, supported, and used armed groups in Kivu and elsewhere in the country, often to gain control over land, mineral resources, or tax rackets.

KST observations show that fighting affecting civilians has remained at alarming levels in Kivu over the past two years. The epicentre of the violence is Beni territory: almost a third of all civilian killings have occurred mainly because of fighting between Congolese security forces and the Allied Democratic Forces (ADF) rebels. Other hot spots include Rutshuru territory, where more than a third of the abductions have taken place. Further north, where the territories of Rutshuru, Walikale, Masisi and Lubero meet, heavy fighting has pitted the Congolese army, in alliance with local militias, against the Forces Démocratiques de Libération du Rwanda (FDLR), an armed group composed largely of Rwandan Hutus.

The highlands of the Fizi and Uvira territories, at the southern tip of South Kivu, were another flashpoint in 2017, with regional dynamics exacerbating ethnic rivalries between the Banyamulenge and Bafuliro communities. Some Burundian rebels, supported by the Rwandan government, fought against Rwandan rebels and Congolese Mai-Mai groups, who were supported by the Congolese and Burundian governments.

Link:

<https://kivusecurity.nyc3.digitaloceanspaces.com/reports/28/French%20KST%20biannual%20report%20August%2012%20%281%29.pdf>

The report (S/2019/469) of the Group of Experts on the Democratic Republic of the Congo analyses the role of the Allied Democratic Forces (ADF) in the massacres in North Kivu and addresses the fact that the Islamic State of Iraq and the Levant had claimed responsibility for an attack on Congolese territory for the first time in April 2019. The Panel was not in a position, at the time of reporting, to confirm direct links between this group and ADF. The Panel also found that smuggling and underreporting continued in Bukavu and Butembo, with gold transiting through Bujumbura, Burundi, Kigali, and Kampala for final delivery to Dubai.

The Group of Experts found that armed groups continue to finance their activities through the illegal extraction of tin (cassiterite), tantalum (coltan) and tungsten (wolframite), thereby contaminating the supply chains for these minerals. This trafficking is carried out in complicity with agents of the Congolese state.

Link: [https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S\\_2019\\_469.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_2019_469.pdf)

### **Crimes linked to the ADF nebula operating in Beni-Bembo (North Kivu)**

In 2015, the United Nations Joint Human Rights Office (UNJHRO) published a report on violations of international humanitarian law committed by combatants of the Allied Democratic Forces (ADF) in Beni territory, North Kivu province. This report (published jointly with MONUSCO) deals with serious violations of international humanitarian law committed by combatants of the Allied Democratic Forces (ADF) against civilians in the territory of Beni: it describes the summary execution of hundreds of civilians, including women and children, the attack on bodily integrity, rape, abduction, and the recruitment of children, as well as the looting and systematic destruction of dozens of houses.

Link:

[https://www.ohchr.org/Documents/Countries/CD/ReportMonusco\\_OHCHR\\_May2015\\_en.pdf](https://www.ohchr.org/Documents/Countries/CD/ReportMonusco_OHCHR_May2015_en.pdf)

In March 2016, the Congo Study Group (CSG) published a report that stated that instead of "a foreign Islamist group motivated by revenge, our research instead describes a group that, over the course of twenty years of insurgency around Beni, has come to forge strong links with local militias and interest groups. But our preliminary investigation indicates that responsibility for the massacres cannot be attributed solely to the ADF. In addition to commanders who belong strictly to the ADF, some members of the Armed Forces of the Democratic Republic of Congo (FARDC), former members of the Congolese Rally for Democracy-Kisangani/Liberation Movement (RDC-K/ML), as well as members of community militias have also been involved in attacks against the civilian population."

Link: [https://peaceoperationsreview.org/wp-content/uploads/2016/03/rel\\_publications\\_tuers\\_beni\\_crg\\_rapport\\_mars2016.pdf](https://peaceoperationsreview.org/wp-content/uploads/2016/03/rel_publications_tuers_beni_crg_rapport_mars2016.pdf)

The Panel also established the activities and sources of funding of the ADF. The Group of Experts also established the activities and sources of financing of the ADF.s The Group

of Experts also obtained credible information indicating that the ADF had received international remittances and stolen the salaries of Congolese army soldiers and that their recruits and agents were channelling the funds to the camps. He also obtained credible information indicating that the armed group was also financing itself by exploiting timber in the area under its control.

Link: <https://www.undocs.org/pdf?symbol=en/S/2015/19>

## H. Rwanda's role in the violence in the DRC

In addition to the UN and Congolese reports, other private organizations have also corroborated the same findings on Rwanda's major role in the atrocities and looting in the DRC. Such is the testimony of Mr. Mark L. Schneider, vice-president of the International Crisis Group, who shared the findings of his organization's investigations on "Rwanda's role in the violence in the DRC" before the U.S. Congressional Foreign Affairs Committee, Africa subcommittee. During their investigation since late 2011, International Crisis Group has found **substantial evidence of support by Rwandan officials to armed groups in the DRC.s Rwandan officials to armed groups operating in the eastern Democratic Republic of Congo.**

Initially, the Rwandan army appeared to establish these alliances to facilitate a wave of targeted assassinations against key officers of the Forces Démocratiques pour la Libération du Rwanda (FDLR), thereby significantly weakening the rebel movement. However, **these activities quickly expanded to support a series of mutinies within the FARDC and eventually included direct facilitation, using Rwandan territory, for the creation of armed groups. The latter is composed of Rwandan army officers integrated into the Congolese army (FARDC) in January 2009.** Since the M23 moved into strategic positions along the Rwandan border in May 2012, the Group has gathered overwhelming evidence that senior RDF officers have supported the rebels with arms, military supplies, and new recruits.

Link: <https://www.crisisgroup.org/africa/central-africa/democratic-republic-congo/examining-role-rwanda-drc-insurgency>

In addition to private and public reports, there have also been leaks of some internal reports from international institutions relayed in the media that provide further details on the role of some Rwandan army officers in the violence in the DRC. For example, on October 17, 2012, **the BBC presents details of a leaked confidential UN report leaked to Reuters that shows that Rwanda's defense minister was directly commanding the rebellion in the DRC.** "Rwanda's defense minister is effectively commanding a rebellion in the Democratic Republic of Congo, according to UN experts. The M23 rebels "receive direct military orders" from Rwanda's chief of defence staff, General Charles Kayonga, who in turn acts on instructions from the defence minister, General James Kabarebe." The confidential report also stated that Uganda is also supporting the rebels. "While Rwandan officials coordinated the creation of the rebel movement as well as its main military

operations, Uganda's more subtle support for M23 has allowed the rebel group's political wing to operate from Kampala."

Link: <https://www.bbc.com/news/world-africa-19973366>

## **I. Humanitarian drama**

### **Rape, starvation, forced labour as weapons of war and slow destruction**

Véronique Parqué and Filip Reyntjens observe that "humanitarian aid is blocked or used as bait. In many cases, rebel forces or their Rwandan allies make it impossible to provide humanitarian aid to hungry, exhausted, and sick refugees, either by blocking all access or by moving them out of reach of any assistance. As early as November 1996, humanitarian agencies were forbidden access to the region around Goma, which had been declared a military zone. The same applies to Bukavu, where access is forbidden beyond a radius of thirty kilometres around the city. Within this perimeter, freedom of movement is very limited. This technique is reminiscent of the one used by the RPF in Rwanda in 1994: all areas where RPA members had committed massacres were declared military zones with no access. Similar strategies were used at the end of April 1997 south of Kisangani: Biaro and Kasese were first banned from access, then, when humanitarians were allowed in, the surviving refugees were taken to Ubundu, an area which in turn became inaccessible. In November 1996, UN Secretary General Boutros-Ghali stated: "Two years ago, the international community was faced with a genocide of Tutsis by force of arms. Today we are faced with a genocide of the Hutus through hunger. Six months later, his successor Kofi Annan said that **"one can kill by arms or by hunger. It is by hunger that we are killing today.** (Véronique Parqué and Filip Reyntjens, "Crimes Against Humanity in ex-Zaire: A Reality?)"

Link:

<https://medialibrary.uantwerpen.be/oldcontent/container2143/files/Publications/Annuaire/1997-1998/12-Parque.pdf>

## **J. Attempts to use international justice mechanisms**

### **Complaint to the International Court of Justice**

On June 23, 1999, the Democratic Republic of Congo (DRC) filed applications with the Registry of the International Court of Justice (ICJ, not to be confused with the International Criminal Court, ICC) against Burundi, Uganda and Rwanda "for acts of armed aggression perpetrated in flagrant violation of the Charter of the United Nations and the Charter of the Organization of African Unity. In addition to the cessation of the alleged acts, the Congo requested reparation for the acts of intentional destruction and pillage, as well as the restitution of national property and resources stolen from the respective respondent States.

Following a complaint filed by the Congolese government against Rwanda and Uganda:

**Uganda must make reparation for its 1998 invasion of the Democratic Republic of Congo (DRC) in violation of international and humanitarian law, the International Court of Justice said in a ruling that also condemned Uganda to make reparation for the looting of the DRC's natural resources.**

In December 2005, Uganda was found guilty and ordered to pay compensation to the DRC ranging from 6 to 10 billion dollars (5.1 to 8.6 billion euros). The highest court in the United Nations system responsible for settling disputes between States, finds Uganda responsible for abuses committed against the civilian population and violations of international human rights law and international humanitarian law, says a statement from the Court issued today.

The ICJ judgment notes that "the conduct of the Ugandan armed forces, which committed murders, acts of torture and other forms of inhuman treatment against the Congolese population, destroyed villages and civilian buildings, without distinguishing between civilians and soldiers, and failed to protect the civilian population during the clashes". They have destroyed villages and civilian buildings without distinguishing between civilians and soldiers, forgetting to protect the civilian population during clashes.

The Ugandan forces were also found guilty of "training child soldiers", "inciting ethnic conflict" and "failing to take measures to end it" as well as failing "as an occupying power" to take measures "to respect and ensure respect for human rights and international humanitarian law in the Ituri district", to respect and ensure respect for human rights and international humanitarian law in the Ituri district".

The ICJ therefore condemns Uganda to repair the damage caused to the DRC by the armed struggle and the plundering of natural resources.

Furthermore, the Court emphasizes that, "by the acts of pillage and exploitation of Congolese natural resources committed by members of the Ugandan armed forces (...) and by its failure to fulfil its obligations, as the occupying power in the Ituri district, to prevent acts of pillage and exploitation of Congolese natural resources", the Republic of Uganda has violated its obligations towards the DRC.

The Court is allowing Uganda and the DRC to agree amicably on the amount of reparations but will decide in case of disagreement.

The DRC sought \$10 billion in damages. The ICJ noted that "the actions of the various parties in the complex conflict in the DRC have contributed to the immense suffering of the Congolese people.

**"After the accession of President Kabila to power, Uganda and Rwanda were granted important advantages in the DRC in the economic and military fields," the DRC claimed. The DRC also maintained that President Kabila had been aware, "at the end of July 1998, of a coup d'état project fomented by Colonel Kabarebe (a Rwandan national), Chief of Staff of the FAC, and that in an official declaration published on 28 July 1998 he had called for the withdrawal of foreign forces from Congolese territory", including Ugandan forces.**

Link: <https://news.un.org/fr/story/2005/12/84572>

**Years later, there is still no agreement on the reparations imposed on Uganda. Thus, on September 22, 2020, the International Court of Justice (ICJ) ordered an expert assessment of the damages caused by the Ugandan occupation of eastern Democratic Republic of Congo (DRC) between 1998 and 2003.**

The expertise should also allow the judges to measure the extent of the looting of the Eastern Congolese subsoil. In particular with regard to gold, diamonds, wood or coltan, which Uganda has exploited illegally; it has been found guilty of these acts.

Discussions among experts are ongoing. In some detail, the responses of the experts to the observations of the Democratic Republic of the Congo and Uganda concerning the case of armed activities on the territory of the Democratic Republic of the Congo are available on the ICJ website.

Link: <https://www.icj-cij.org/public/files/case-related/116/116-20210301-OTH-01-00-EN.pdf>

### **Complaint to the International Court of Justice**

**The African Commission on Human and Peoples' Rights has issued its verdict on the DRC's complaint of 8 March 1999 (Communication 227/99) against Rwanda, Uganda, and Burundi for acts of armed aggression, serious human rights violations, systematic plundering of natural resources and intentional spread of sexually transmitted diseases such as HIV/AIDS as well as rape. The DRC provides evidence to support its accusation that "Rwandan-Ugandan armed forces are engaged in the spread of sexually transmitted diseases and acts of rape. Thus, nearly two thousand (2000) Ugandan soldiers with AIDS or HIV were sent to the front in the eastern province of Congo with the mission of raping girls and women in order to spread the AIDS pandemic among the local population with the aim of decimating them."**

In its verdict, the Commission found in favour of the DRC, stating that the three aggressor states had violated Articles 2, 4, 5, 12.1 and several others of the African Charter and should pay "adequate and appropriate compensation".

Link: [https://www.achpr.org/fr\\_sessions/descions?id=138](https://www.achpr.org/fr_sessions/descions?id=138)