

# MONUC/MONUSCO and Civilian Protection in the Kivus

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Interns & Volunteers Series

# Editorial

## **MONUC/MONUSCO and Civilian Protection in the Kivus**

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# List of acronyms

AFDL	Alliance des forces démocratiques pour la libération du Congo-Zaïre (Alliance of Democratic Forces for the Liberation of Congo)
AGI	Global and All Inclusive Agreement (Accord Global et Inclusive)
AU	African Union
CAS	Civil Affairs Section
CASOs	Cordon and Search tactics
CDT	Conduct and Discipline Team
CDU	Conduct and Discipline Unit
CLI	Community Liaison Interpreter
CNDP	National Congress for the Defence of the People (Congrès National pour la Défense du Peuple)
COB	Company Operating Base
CP	Child Protection
DPFS	Department of Field Support
DPKO	Department of Peacekeeping Operations
DDR	Disarmament, Demobilisation and Reintegration
DDRRR	Disarmament, Demobilisation, Repatriation, Rehabilitation and Reintegration
DRC	Democratic Republic of the Congo (République Démocratique du Congo, RDC)
EU	European Union
FAR	Forces Armées Rwandaises (Rwandan Armed Forces)
FARDC	Forces Armées de la République Démocratique du Congo (Armed Forces of the Democratic Republic of the Congo)
FC	Force Commander
FDLR	Forces Démocratiques de Libération du Rwanda (Democratic Forces of the Liberation of Rwanda)
FHQ	Field Headquarters
FNI	Front National Intégrationniste (National Integrationist Front)
FSI	Failed States Index
HQ	Headquarters
HR	Human Rights
HRW	Human Rights Watch
ICC	International Criminal Court
ICG	International Crisis Group
ICISS	International Committee on Intervention and State Sovereignty
ICRC	International Committee of the Red Cross
IDP	Internally Displaced People
IEMF	International Emergency Multinational Force
INGO	International Non Governmental Organization
JMAC	Joint Military Analysis Cell
JMC	Joint Military Commission
JPT	Joint Protection Team
LRA	Lord's Resistance Army
MILOB	Military Observer
MLC	Mouvement de Libération du Congo (Movement for the Liberation of the Congo)
MOB	Mobile Operating Base
MONUC	Mission de l'Organisation des Nations Unies au Congo (United Nations Mission in the Democratic Republic of the Congo)
MONUSCO	Mission de l'Organisation des Nations Unies pour la Stabilisation au Congo (United Nations Stabilisation Mission in the Democratic Republic of the Congo)
MoU	Memorandum of Understanding
NATO	North Atlantic Treaty Organization

NGO	Non Governmental Organization
OASEA	Office for Addressing Sexual Exploitation and Abuse
OCHA	Office for the Coordination of Humanitarian Affairs
ONUC	Organisation des Nations Unies au Congo
PARECO	Patriotes Résistants Congolais (Congolese Resistant Patriots)
PAS	Political Affairs Section
PID	Public Information Division
PNC	Police Nationale Congolaise (National Congolese Police)
POC	Protection of Civilians
QIP	Quick Impact Project
RCD	Rassemblement Congolais pour la Démocratie (Rally for Congolese Democracy)
RI	Refugees International
RoE	Rules of Engagement
RREWC	Rapid Reaction and Early Warning Cell
RtoP/R2P	Responsibility to Protect
RUD	Rally for Unity and Democracy
SC	Security Council
SG	Secretary-General
SR	Special Representative
SSR	Security Sector Reform
STAREC	Stabilisation and Reconstruction plan
TCC	Troop Contributing Country
TOB	Temporary Operating Base
UN	United Nations
UNAMIR	United Nations Assistance Mission for Rwanda
UNAMSIL	United Nations Mission in Sierra Leone
UNFICYP	United Nations Protection Force in Cyprus
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNJHRO	United Nations Joint Human Rights Office
UNOSOM	United Nations Operation in Somalia
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
UNSSSS	United Nations' Security and Stabilization Support Strategy
VIWIN	Protection network of victims, witnesses and human rights defenders

# Abstract

Although UN peace operations have evolved over time, they still do not manage to address the Protection of Civilians (POC) in an effective way as this constitutes a relatively new role for UN peacekeepers. This also applies to the United Nations Mission in the Congo (MONUC) where civilian protection remains a major concern. This paper aims to uncover the challenges MONUC is facing in the country's eastern provinces, North and South Kivu, where civilians are most heavily targeted by violence.

Our research is mainly based on insights provided by interviews with Congolese civil society and MONUC staff members. These interviews point out that MONUC is confronted with the following protection challenges: Deployed in a complex conflict environment and mandated to protect civilians as one of its many tasks, the mission is challenged by severe organizational and operational constraints. In that sense, the MONUC mission illustrates the capability gap modern UN peace operations are facing in a context of growing global demand, which proves that the creation of feasible mandates is vital when it comes to future peace operations.

Our interviews also demonstrate that while communication between peacekeepers and civilians is essential when it comes to preventing threats, it remains one of the mission's biggest challenges. Furthermore, our research shows that in terms of strategy MONUC faces serious ethical and political constraints as the mission has to collaborate with the Congolese army (FARDC) in joint military operations. Nevertheless, MONUC represents an example for other UN peace operations with regard to the development of different field protection mechanisms.

We conclude that while MONUC can play an important part, the key to improving civilian protection lies with the Congolese government. However, Kinshasa does not seem willing to assume responsibility in this area.

# Introduction

In 2001 the International Committee on Intervention and State Sovereignty (ICISS) issued a report about the international community's "Responsibility to Protect" (RtoP/R2P). The principle was defined as follows: "The Responsibility to Protect is based on the idea that sovereign states have a responsibility to protect their citizens from avoidable catastrophe, but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states." (ICISS, 2001, p.VIII) During the last decade this concept has gained widespread legitimacy and has gradually become an international norm, providing a framework to prevent mass atrocities like genocide. At the 2005 World Summit<sup>1</sup>, on the occasion of the 60<sup>th</sup> anniversary of the United Nations, all governments accepted the collective obligation to protect populations from crimes against humanity. Consequently, UN peace operations are increasingly being mandated with a Chapter VII mandate to protect civilians in conflict. (20 January 2011, "Responsibility to Protect": <http://www.responsibilitytoprotect.org>; Murthy, July 2007, p.11)

The Responsibility to Protect concept was developed as a result of previous failed peacekeeping operations, such as the United Nations Assistance Mission in Rwanda (UNAMIR)<sup>2</sup>. The past has taught us that a UN peace operation's legitimacy and credibility depends on effective Protection of Civilians (POC) and the international community's resolve to use force. Nevertheless, decisions relating to the use of force remain sensitive issues, as violence is still regarded as irreconcilable with the peaceful purpose of the Organization. However, if a peace mission is unable to address, mitigate or halt violence, we speak of failure. Moreover, the inability to protect civilians damages the standing of the whole United Nations system. Consequently, Member States might start questioning why they should still invest resources in UN peacekeeping. It is clear that this should be prevented at any price (Holt & Taylor, 2009, p.22-24; Terrie, 2009, p.27-28; Weller, 1997)

Apart from the challenges set out in the previous paragraph, we can distinguish two other major issues that characterize modern UN peace operations charged with civilian protection: Firstly, as protection is a relatively new role for UN peacekeepers, they are not trained adequately yet. Moreover, it is still not clear what "protection" means in practice as it remains vague in which circumstances action is required. Consequently, peacekeepers are forced to improvise in the field. Secondly, modern peace operations are facing an important capability gap: They are deployed in some of the most insecure and logistically challenging parts of the world, while mandated to carry out multiple tasks apart from civilian protection. However, due to the increasing global demand, UN peace operations are facing enormous resource constraints and consequently have difficulty fulfilling their mandate. So does the United Nations Mission in the Democratic Republic of the Congo (MONUC). (Refugees International, February 2010, executive summary)

Since Congo's independence in 1960, the country has been plagued by several wars. In response to the unrest in the region, the United Nations Operation in the Congo (ONUC)<sup>3</sup> was established in the sixties. In 1999, a second UN peace operation, the United Nations Mission in the Democratic Republic of the Congo (MONUC), was sent to restore peace when a new war<sup>4</sup> was threatening the Great Lakes Region. Originally deployed as a small-scale observation mission, MONUC was ultimately transformed into a Chapter VII mission with nearly 20,000 military personnel at its peak. Worldwide MONUC is the most extensive UN peace operation. It is revolutionary in the sense that its mandate goes well beyond any other given mandate in the past. Moreover, in December 2008 MONUC became the first UN peace operation ever to make civilian protection its top priority. However, this is only one of the mission's forty<sup>5</sup> tasks.

However, until today MONUC struggles to effectively address civilian protection. Consequently, the mission is heavily criticized, including by the DRC government. In March 2010 the Congolese Minister of Communication, Lambert Mende, issued a press release, in which he recommended a full withdrawal of MONUC by June 2011.

<sup>1</sup> In the run up towards the 2005 World Summit two reports were published that paved the way for world leaders to embrace the R2P principle: The High-level Panel on Threats, Challenges and Change issued "A more secure world: our shared response" (December 2004) in review of the new security landscape. Setting the agenda for the Summit, Kofi Annan presented his own report entitled "In larger freedom: towards development, security and human rights for all". In 2009 a new Secretary-General report, entitled "Implementing the responsibility to protect" and written by Ban Ki-Moon, was launched with new recommendations on implementing the R2P principle at the UN.

<sup>2</sup> UNAMIR (1993-1996) had the objective to support and implement a national peace agreement. In April 1994 the Rwandan genocide took off. Provided with only 2,548 peacekeepers and deployed under a limited mandate, UNAMIR was doomed to watch helplessly how civilians killed each other. Moreover, Belgium withdrew its troops when ten Belgian paratroopers were killed, reducing the mission's presence to a few hundred troops. Consequently, peacekeepers were left behind as a "political witness", which was a strong signal to the genocidaires, who noted that the international community would not intervene. (Mattelaer, 2006, p.11-12)

<sup>3</sup> ONUC operated in the Congo between 1960 and 1964 and deployed 19,898 peacekeepers at its peak. Unlike MONUC, ONUC had almost reached full troop strength during the first year of its deployment. Also, ONUC's budget was a lot smaller. Like MONUC ONUC was allowed to use "all necessary means" and was tasked to support and develop Congolese institutions. [1 December 2010, DPKO: [www.un.org/Depts/DPKO/Missions/onuc.htm](http://www.un.org/Depts/DPKO/Missions/onuc.htm)]

<sup>4</sup> We refer to the Second Congo War or the Great African War. (1998-2003) See annex 1.

<sup>5</sup> MONUC's mandate incorporates more than forty tasks, but the mission has never been properly equipped to fulfil them all. (Refugees International, February 2010, p.14)



Coincidentally or not, new presidential elections are to take place in 2011. In May 2010, the United Nations responded to the government's criticism by transforming MONUC into MONUSCO (United Nations Stabilisation Mission in the DRC) and by withdrawing 2,000 peacekeepers from areas where security conditions allowed this. Although MONUSCO will mainly focus on stabilization and peace consolidation, civilian protection remains the mission's top priority.

Throughout the years, MONUC has been heavily criticized due to its reactive attitude when it comes to civilian protection: Since its deployment, the UN peace mission continues running from one protection crisis to another. There was the Kisangani massacre in 2002, the Ituri crisis in 2003, the Bukavu offensive in 2004 and the Goma crisis and Kiwanja massacre in 2008. In September 2010, international criticism on MONUC again mounted when it came to the surface that the mission had failed to protect civilians when systematic rapes took place in thirteen villages in North Kivu. While MONUC peacekeepers were stationed less than thirty kilometres away, they did not manage to respond to the threat.

The recent events make us wonder how such acts can take place without MONUC knowing or doing something about it. This brings us to the paper's objective: Our aim is to identify the different protection challenges that MONUC is currently facing, in order to respond to the question why the mission's effectiveness regarding civilian protection remains limited in the field. The identification of the different protection challenges is mainly based on insights provided by interviews with the Congolese civil society and MONUC staff members. As our respondents' opinions clearly differed, the main differences will also be set out in this paper. (MONUSCO Joint Human Rights Office, September 2010)

This paper consists of four major parts: In the first part we will discuss the United Nations' shifting attitude towards civilian protection and the current challenges the UN is facing. In the second part we provide an overview of MONUC's evolving approach towards civilian protection by discussing major protection crises and strategy changes. The third part concerns the actual results of our field research. In this part we processed the interviews with Congolese civil society and MONUC staff members. The fourth and last part provides a general conclusion.

# I. The United Nations and the Protection of Civilians

## 1. Defining peacekeeping

The term “peacekeeping” has a dual meaning: Peacekeeping can refer to (UN) peace operations in general. In that sense peacekeeping is used as an umbrella term for all (UN) peace operations. However, the concept can also refer to traditional or robust peacekeeping operations.

## 2. The UN Charter, a legal basis for peacekeeping

According to the Charter, UN peace missions rely on Chapter VI mandates for the pacific settlements of disputes. Chapter VI is accorded to assist the conflicting parties by “seeking a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”. (Article 33 of Chapter VI) If a conflict cannot be resolved in a peaceful way and the Security Council (SC) determines “the existence of any threat to the peace, breach of the peace or act of aggression”, the UN will rely on Chapter VII “to maintain and restore international peace and security”. Before immediately resorting to the use of armed force, the Organization will attempt to resolve the threat by applying a “complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations”. (Article 41 of Chapter VII) The use of armed force by air, sea or land, demonstrations or blockades are last resort measures. (Article 42) Deployed under Chapter VII, peacekeepers have “the right of individual or collective self defence if an armed attack occurs”.

In recent years, the Security Council has adopted the practice of invoking Chapter VII when authorizing the deployment of UN peace operations into volatile post conflict settings where the State is unable to maintain security and public order. (UN DPKO, 2008, p.13-14)

## 3. The “Holy Trinity” of UN peacekeeping

The Holy Trinity of peacekeeping, which includes the consent of the conflicting parties, impartiality, and prohibition of the use of force, continues to serve as a navigation aid to UN staff. Below follows an explanation of these three basic principles. For more information we refer to the 1995 General Guidelines on Peacekeeping Operations and the 2008 UN Capstone Doctrine. (UN DPKO, 2008, p.31)

### 3.1 Consent of the conflicting parties

In the context of traditional peacekeeping operations (see 4.1), the United Nations could only intervene in a conflict when the main conflicting parties had given their consent.<sup>6</sup> Only if this condition was met, the Organization could take action without being restricted. Throughout the years this principle has altered and the UN currently has the possibility to intervene without authorization. Moreover, “Responsibility to Protect” (2001) emphasizes that the international community has the moral duty to intervene when a State is unable or unwilling to protect its population. (UN DPKO, 2008, p. 31-32)

### 3.2 Impartiality

Traditional peacekeeping operations required strict neutrality. However, as the Cold War passed, neutrality evolved more towards impartiality. During the nineties, failed UN peacekeeping operations have been partially attributed to the failure to abide by the twin principles of neutrality and impartiality. On the other hand, previous attempts to act in strict compliance with these principles, in fear of a shift or disrupt in the balance of power between the conflicting parties, also led to failure. The most common cited example is the United Nations Protection Force (UNPROFOR) that operated in the Bosnia-Herzegovina between 1992 and 1996.<sup>7</sup> (Weller, 1997, p.1-3, p.9-10)

<sup>6</sup> Note that the main conflicting parties’ consent does not always involve the consent of the population or peace spoilers. (UN DPKO, 2008, p. 31-32)

<sup>7</sup> While the UN had found that there existed a predominantly Serb campaign to ethnically cleanse wide areas of Bosnia and Herzegovina by starving (by denying their access to food) and by directly attacking civilians, the Organization appeared having accepted the Serbian practices by deciding that interference in the conflict would be partial. While UNPROFOR was mandated to operate under a Chapter VII mandate, the UN Secretariat did not act in accordance. The UNPROFOR case clearly illustrates that in the past the principle of neutrality was used as a pretext to act passively. (Weller, 1997, p.1-3, 9-10)

According to Weller (1997, p.1, p.3-5) humanitarian neutrality and impartiality are not absolute concepts. Their application depends on the type of international actor involved, the mandate used and the nature and extent of the international crisis or humanitarian emergency addressed. While neutrality and impartiality are generally mentioned in the same breath where their application to humanitarian action is concerned, they are distinct and should be regarded as partially overlapping principles rather than synonyms. Simply put, neutrality can be defined as a principle of abstention, whereas impartiality can be defined as a principle of action. This means that in order to remain neutral, a third party must not engage in activities beyond its obligations that would hinder the conduct of either belligerent. In other words, one is not allowed to take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature. In contrast to neutrality, impartiality does not imply that all sides must receive the same amount of assistance. Instead, assistance is given on the basis of objective criteria of need and therefore endeavours to relieve the suffering of individuals.

Note that there is a difference between reactive and proactive impartiality. Reactive impartiality requires the use of force in case the conflicting parties jeopardize the implementation of the mandate or when an agreement is breached. Proactive impartiality has to do with decisions taken by peacekeepers on the ground. (Yamashita, 2008, p.617)

### **3.3 Prohibition of the use of force**

Prohibition of force was supported by the traditional UN vision in the fifties, claiming that UN peacekeeping missions were no enforcement tools. In the era of traditional UN peacekeeping, the bulk of the operations only allowed peacekeepers to use force in self-defence and under other limited circumstances. Although there were some exceptions, like the United Nations Peacekeeping Operation in the Congo (ONUC)<sup>8</sup>, it was only until the mid-nineties that UN peace missions were more regularly deployed under a Chapter VII mandate. Examples include the United Nations Operation in Somalia (UNOSOM, 1993) and the United Nations Protection Force in Bosnia (UNPROFOR, 1995). While these operations were - at least in theory - allowed to use force to protect civilians, they failed terribly as many civilians were killed. It was not until the beginning of the new millennium that the use of force became less taboo. (UN DPKO, 2008, p.34-36)

## **4. Towards more robust peace operations: The evolving role of UN peacekeeping**

### **4.1 From traditional peacekeeping to peace enforcement<sup>9</sup>**

Since the creation of the United Nations, peace operations have evolved from traditional peacekeeping, operating under a Chapter VI mandate, towards robust peacekeeping, peacebuilding and peace enforcement, deployed under Chapter VII. However, a UN peace mission usually contains a mix of elements of peacekeeping, peacebuilding and peace enforcement. In that sense there is no clear linearity.

Traditional peacekeeping operations, also referred to as “first generation peacekeeping”, were deployed in the Cold War context and generally occurred between states (interstate) instead of within states (intrastate). They required the presence of the “Holy Trinity”, the three basic principles of UN peacekeeping, being the consent of the conflicting parties, strict neutrality (which later on shifted to impartiality) and the prohibition of the use of force. Traditional peacekeeping took place in the period between a ceasefire and a political agreement, and was designed to build confidence between the belligerents in an attempt to facilitate political dialogue. Consequently, the ultimate aim of a traditional peacekeeping mission was the implementation of a peace agreement. Under those circumstances the United Nations’ role was limited to mediation between the conflicting parties, generally reached through monitoring and observing a ceasefire and by separating combatants. Traditional peacekeeping operations were deployed under a Chapter VI mandate by which the use of force was limited to self-defence. A classic example is the United Nations Peacekeeping Force in Cyprus (UNFICYP), deployed since 1964. (Bellamy & Griffin, 2007, p.5, p.95-97; Pauwels, 2005, p. 146-147)

Besides traditional peacekeeping there is also “wider peacekeeping” or “second generation peacekeeping”. These types of peacekeeping operations generally took place during intrastate conflicts, characterized by genocide, civil war, militias and guerrilla warfare, driving the need for traditional peacekeeping operations to expand to a combination of peacekeeping and peacebuilding. Wider peacekeeping operations were deployed when traditional peacekeeping operations appeared to be insufficient, for instance when a ceasefire broke down or

<sup>8</sup> ONUC was deployed under Chapter VII, as the mission would not have been able to achieve its objective of ending the civil war while remaining restricted to the use of force in case of self-defence. (Yamali, n.d., p.6-7)

<sup>9</sup> For more information we refer to the Glossary of UN Peacekeeping Terms [26 January 2011, UN: <http://www.un.org/en/peacekeeping/sites/glossary/>] and to the General Guidelines for UN Peacekeeping Operations (UN DPKO, 1995).

political agreement failed. Although wider peacekeeping operations were facing a gap between means and ends, they were mandated to fulfil the aims of traditional peacekeeping, as well as certain additional tasks. Wider peacekeeping operations generally operated under a more extensive mandate - although often only in theory - and are therefore also referred to as "Chapter VI and a half" operations. The most common cited example is UNAMIR, a small and cheap UN peacekeeping mission, active in Rwanda between 1993 and 1996. (Bellamy & Griffin, 2007, p.6, p.128-130)

When it comes to preventing new violence in a post-conflict situation, the UN resorts to "peacebuilding". Foundations for durable peace are created by building confidence between former warring parties and by developing or reconstructing social, political and economic structures or institutions. Peacebuilding often involves the organization of elections. A recent example of peacebuilding is the United Nations Mission in the Democratic Republic of the Congo (MONUC), to the extent that after the Second Congo War (1999-2003) MONUC was mandated to support the transitional government towards the 2006 presidential elections, which were organized, supervised and conducted by the UN. (Doyle & Sambanis, 2006, p.11; UN DPKO, September 1998)

Last but not least, there is "peace enforcement" or "third generation peacekeeping". Contrary to other types of UN peacekeeping, peace enforcement missions operate under a Chapter VII mandate and are generally deployed to ensure compliance with a cease-fire mandated by the Security Council and to roll back aggression, as in Korea in 1950 and against Iraq in the Gulf War. The term "peace enforcement" refers to the fact that these types of operations can be conducted without local or international consent and implies that peace is enforced upon them. (Doyle & Sambanis, 2006, p.10, p.15)

## 4.2 Evolution triggers

Since the end of the Cold War and especially since the start of the new millennium peacekeeping operations have become more robust. Several UN Security Council Resolutions and reports triggered this evolution.

### 4.2.1 UN Security Council Resolutions 1289 & 1291

UN Security Council Resolutions 1289 (2000) and 1291 (2000) tend to be considered as the foundations of a new peacekeeping doctrine, providing more robust mandates to UN peace operations. Resolution 1289 and 1291 provided the United Nations Mission in Sierra Leone (UNAMSIL) and the United Nations Mission in the Democratic Republic of the Congo (MONUC) with the competence of using violence to protect its mandate. Both resolutions were innovative, in the sense that the Security Council inserted the "imminent threat" language, which allowed peacekeepers to protect civilians "under imminent threat of physical violence". However, it remained unclear what circumstances require action and what level of force should be used to protect civilians. Nevertheless, the inclusion of the "imminent threat" language raised the expectations of civilians.

### 4.2.2 Report of the Panel on United Nations Peacekeeping Operations (Brahimi Report)

Like UN Resolutions 1289 and 1291, the Brahimi Report, named after Algerian diplomat Lakhdar Brahimi, triggered the evolution towards more robust UN peacekeeping. Although the doctrine remained loyal to the Holy Trinity of UN peacekeeping, the Panel indicated that traditional peacekeeping was becoming obsolete by referring to previous failed peacekeeping operations. That is why Brahimi suggested the following: "There are situations in which peacekeepers not only should have the *right*, but are even *morally obliged* to use force." (Leurdijk, 2006, p. 376) Such a situation implies that peacekeepers' powers regarding the use of force should be extended. Indeed, it is of vital importance that peace operations have credible deterrence capability, as they can only be considered as feasible, provided that peacekeepers will use force to deter possible spoilers. Moreover, troop contributing countries (TCCs) must be prepared to deliver troops willing to take such risks and bare the consequences related to them. Finally, Brahimi emphasized the importance of a clear, credible and feasible mandate; which constitutes the basis of every UN peace operation. (Leurdijk, 2006, p.376-377)

## 5. Present challenges

Ten years after the Brahimi report UN peacekeeping is still facing considerable challenges: Modern UN peace operations are confronted with a large capability gap, reducing their chances of success. While UN peacekeeping became more robust, the use of force with regard to civilian protection remains a sensitive issue.

### 5.1 Capability gap

Deployed in the most challenging conflict environments, modern UN peace operations tend to operate under complex and multidimensional mandates: They are supposed to carry out multiple tasks, from supporting ceasefire

agreements to long-term peacebuilding activities, while facing severe resource constraints. Consequently, modern UN peace operations are confronted with a large capability gap and could easily become a recipe for disaster. Indeed, according to Kjeksrud (personal communication, 30 March 2009) "UN peacekeeping is getting dangerously close to a conceptual overstretch, where the expectations of what a UN peace operation is supposed to do vastly outweighs the actual capacity". This is especially problematic regarding UN peace missions mandated to protect civilians, as these types of operations tend to raise the population's expectations. In the executive summary of its 2009 non-paper, "Charting a new horizon for UN peacekeeping", the Department of Peacekeeping Operations (DPKO) and the Department of Field Support (DPFS) acknowledge that the scale of UN peacekeeping today is unprecedented<sup>10</sup> and that the diversity of mission mandates stretches the UN's capacity to deliver on all tasks. Simply put, the scale and complexity of modern UN peacekeeping is mismatched with the existing military capabilities, which are becoming increasingly scarce in the face of growing global demand. (Refugees International, February 2010, executive summary)

## 5.2 The use of force: Still a taboo

The use of force regarding civilian protection remains a sensitive issue due to several causes:

The United Nations was established in the aftermath of World War II (June 1945) to maintain international peace and security, as expressed in Chapter I of the UN Charter. Therefore, the use of force is still considered as irreconcilable with the peaceful purpose of the Organization. Force should always be considered as a means of last resort and should only be applied if all other means failed. However, according to Terrie (2009, p.27-28) such assumptions are at the basis of the inability and unwillingness of the UN to use force. While it is often claimed that the simple presence of a UN peacekeeping mission in the field is enough, the author stresses that the military approach of "deterrence through presence" is one of the biggest UN mistakes. Deterrence only works when the operation is ruled in a credible manner and credibility is often obtained by the use of force. This means that the opponent must be convinced that UN peacekeepers will use force when it comes to that. If this belief is not there, the mission is doomed to fail. (1)

The use of force continues to be perceived as a breach of the impartiality principle: The DPKO stresses that force should be applied with caution, as it entails certain policy implications that could endanger the impartiality principle (such as disrupting the political balance between conflicting parties). However, this is a dangerous statement to make, since impartiality might be used as an excuse not to intervene. Classic examples are UNAMIR and UNPROFOR. A more recent example is provided by MONUC (See chapter II). (UN DPKO, 2008, p. 35) (2)

Although most UN peace operations are currently deployed under Chapter VII and allowed to protect civilians, the Protection of Civilians constitutes a relatively new role for UN peacekeepers, who are not yet adequately trained to carry out this duty. Moreover, there is still a lack of conceptual clarity and operational guidance regarding the use of force. Conceptual clarity should be provided by the Security Council. It is the Council's duty to provide the mandate language, including multiple meanings attached to civilian protection. However, mandates are mere political statements and negotiated texts meant "to give direction to peacekeeping missions, rather than operational documents that lay out the specifics of a mission's operations and mode of action". (Holt & Taylor, 2009, p.76) The mandate rather raises awareness and helps building a normative framework to support practical strategies in the field. It is the DPKO's task to provide operational guidance regarding civilian protection. Nevertheless, as until today this guidance is generally non-existent, peacekeepers are largely left to sort it out for themselves. Indeed, it remains unclear what "protection" means in practice, what circumstances require action and what level of force should be used. Protection can imply different things, depending on the context, the type of threat and the perceptions of those who are responsible to protect.<sup>11</sup> It should also be taken into account that peacekeepers are not responsible for the local population's security, but also for their personal security (self-defence) and that of other UN personnel and assets ("force protection"). Combined with limited resources, this often puts peacekeepers in the difficult and controversial position of needing to prioritize certain elements over others, leaving others unprotected. (Holt & Taylor, 2009, p.7-8, 76-77; MONUC JHRO, 2009, p.3; Refugees International, 2010, p.4, p.6-7) (3)

It should be noted that the UN political and military component have a different perspective on the use of force in peace operations. The military component has its own "grammar", while the "logic" of the operation is determined by the political component. This tends to cause recurrent problems, as decisions about military actions are made by the political component (among others represented by the Secretariat), which is often unfamiliar with the situation in the field. (Terrie, 2009, p.27)

<sup>10</sup>The UN currently deploys over 116,000 personnel across 15 missions around the world. (UN DPKO & DPFS, 2009, executive summary)

<sup>11</sup>The type of threat most often referred to, are the "four crimes", being genocide, war crimes, crimes against humanity and ethnic cleansing. Nevertheless, these types of large scale, coordinated violence are not the only threats civilians face. As conflicts are characterized by insecurity, instability and lawlessness, they are also targeted by banditry, petty crime, coerced recruitment into armed groups, forced labour and illegal taxation. It is vital to distinguish between these threats, since they each need to be addressed by different strategies and resources. (Refugees International, 2010, p.4)

# II. Case Study: The United Nations Mission in the DRC (MONUC) and its evolving approach towards civilian protection

## 1. Introduction

Throughout its deployment, MONUC's mandate was regularly adapted due to changes in the national political context. Three phases can be distinguished: In this paper we will refer to the pre-transition phase (1999-2003), the transition phase (2003-2007) and the post transition phase (2007-2010). Below follows a brief introduction to the mission's evolving approach to civilian protection.

Although MONUC gradually evolved towards a mix<sup>12</sup> of peacekeeping, peacebuilding and peace enforcement with civilian protection as its absolute priority, the mission has come a long way. In 1999 the Security Council authorized the deployment of MONUC to restore peace, as a new war was threatening the Great Lakes Region. With only 500 military observers (MILOBs) at its disposal, MONUC was established as a traditional Chapter VI peacekeeping mission to observe and monitor the Lusaka Ceasefire Agreement. (See annex 1) Due to the complex conflict environment in which the peace mission was operating, MONUC quickly evolved towards a more robust Chapter VII operation. Although the Second Congo War officially ended in April 2003 by the signing of the Sun City Agreements and a transitional government was installed, conflict reigned on in the country's East. Indeed, in 2003 and 2004 MONUC faced two serious protection crises around Bunia (Ituri) and Bukavu (South Kivu). Although the mission was mandated to "protect civilians under imminent threat of physical violence", peacekeepers did not manage to protect the population and this resulted in the first anti-MONUC protests. However, both crisis served as an "eye-opener" as the international community realized that the 2006 elections would not take place unless the mission's mandate was adapted.

Consequently, during 2005 and 2007 MONUC's strategy shifted from reaction to pursuit: The mission became more proactive and several offensive actions were set up to deter possible spoilers. The new approach proved to be successful and the elections eventually took place in July (1<sup>st</sup> round) and November (2<sup>nd</sup> round) 2006. When in January 2007 the DRC's first legitimate government since the country's independence (1960) was installed, the transition phase formally came to an end. This had certain policy implications, as from that moment on Congolese authorities would bear the primary responsibility regarding civilian protection. As a result of the new political context, MONUC's role became limited as the mission would mainly act in support of the newly elected government, which automatically resulted in a more reactive attitude from the part of the UN peace operation.

When in October-November 2008 North Kivu's capital Goma was severely threatened by rebels, MONUC could not prevent the killing of 67 civilians in Kiwanja. Less than a month later, the Security Council adopted Resolution 1856 (December 2008), which was revolutionary in the sense that MONUC became the very first UN peace operation to make civilian protection its absolute priority. Nevertheless, until today civilian protection remains a controversial issue, as was demonstrated in July-August 2010, when MONUC was facing a new protection crisis near Kibua-Mpofi. Due to the evolved political context and increasing government criticism, MONUC was recently transformed into MONUSCO. MONUSCO will mainly focus on stabilization and peace consolidation. Nevertheless, civilian protection remains the mission's first priority.

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<sup>12</sup> Based on literature we could say that MONUC consists of a mix of peacekeeping, peacebuilding and peace enforcement: MONUC is engaged in robust and/or wider peacekeeping as it is deployed under a Chapter VII mandate and has to carry out forty tasks. MONUC can also be considered as a peacebuilding mission, since the mission operates in a post-conflict environment and supports the restoration of state institutions. MONUC is characterized by elements of peace enforcement as it operates under Chapter VII and may use force in defence of its mandate and to protect civilians.

## 2. Chronological overview

### 2.1 The pre-transition phase (1999-2003)

In 1999, the UN Security Council deployed MONUC in the context of the Great African War (or Second Congo War). With only 500 MILOBs at its disposal, the mission was established as a traditional Chapter VI peacekeeping operation to observe and monitor the Lusaka Ceasefire Agreement. Under UN Resolution 1291 (2000) the Council decided to increase MONUC's troop strength with 5,537 peacekeepers and provided the mission with a Chapter VII mandate under which MONUC was allowed to use "all the necessary means to protect civilians under imminent threat of physical violence", (including the use of force). However, in reality the mission continued to operate until late 2003 as a severely under-equipped observer mission, trying to keep the faltering peace talks in South Africa together. When in May 2002 more than 180 people were killed by RCD-Goma<sup>13</sup> rebels near a UN base in Kisangani, this consequently led to the first discussions of civilian protection as a UN military task. The Kisangani massacre illustrated the gap between MONUC's mandate and the capacity to support it and the UN's inclination to tone down civilian protection when it feels that the use of force might offend parties to the peace process. (Berkman & Holt, 2006, p.159-160; Marks, 2007, p.70-72; Mattelaer, 2006, p.16; Stearns, 8 September 2010, Congo Siasa BlogSpot: <http://congosiasa.blogspot.com/>)

### 2.2 The transition phase (2003-2007)

#### 2.2.1 The Ituri crisis (2003)

Although the Global and All Inclusive Agreement was achieved in 2002, the war did not end until the signing of the 2003 Sun City Agreements. (See annex 1) While the 4+1 Presidency and transitional government were installed in Kinshasa, conflict continued in the East and more specifically in the Ituri province, where Hema and Lendu tribes were fighting over a land dispute. When in 2003 Ugandan troops had withdrawn from Bunia, the capital of Ituri, a military vacuum developed, giving free reign to rebels. As a consequence, the Uruguayan MONUC battalion, URABATT, was sent to Bunia. However, in the offensive that followed peacekeepers did not rush to the rescue of civilians under threat. On the contrary, locals were kidnapped and murdered near MONUC compounds. More than 400 people were massacred in two weeks. However, MONUC did manage to protect 11,000 civilians who fled to the Bunia airport camp. (Berkman & Holt, 2006, p.160-161; Holt & Taylor, 2009, p. 250-252; Reyntjens, 2009, p.324-325)

There are different accounts about what happened in Bunia. According to the MONUC lessons learned report, URABATT's actual task was limited to guarding UN infrastructure and personnel. Instead, soldiers with no experience in protecting civilians were deployed in a hostile environment and consequently did not manage to perform their duty. In an internal MONUC report former Force Commander (FC) Jan Isberg stated that the Uruguayan peacekeepers were convinced that they were not operating under Chapter VII and therefore assumed they were not allowed to use force. Instead of undertaking action the peacekeepers waited for authorisation from the Uruguayan parliament. However, troop contributing countries are aware of the situation in the field before their troops are deployed, which implies that further authorisation is not necessary. Nevertheless, in practice contingents commanders tend to communicate first with their government before obliging to the Force Commander. (See Chapter III: 2.1.2 UN military structure) (Berkman & Holt, 2006, p.169-170; Holt & Taylor, 2009, p.250-252)

As URABATT was not able to defend the local population, the European Union (EU) and the UN decided to deploy the International Emergency Multinational Force (IEMF) Artemis<sup>14</sup> to Bunia for three months under UN Security Council Resolution 1484 (May 2003). Artemis was deployed under Chapter VII to enforce peace, was composed of well trained soldiers and had access to adequate resources. The operation was a success: MONUC's face and the Congolese peace process were rescued. However, as Artemis only focussed on Bunia, the rest of the Ituri province remained insecure until 2007. Later on, MONUC inherited Artemis' robust mandate for Ituri under Resolution 1493 (July 2003) and the Security Council authorized the increase of MONUC's military strength to 10,800 personnel. However, MONUC's mandate remained limited regarding North and South Kivu. (Berkman & Holt, 2006, p.161-163, p.170-171; Holt & Taylor, 2009, p.253-255; Marks, 2007, p.72-73)

<sup>13</sup> The RCD (Congolese Rally for Democracy) initially was a front of three political tendencies: Mobutist resistance, anti-Kabila resistance and democratic resistance. It was split into two factions with the RCD-Kisangani led by the movement's former president Ernest Wamba dia Wamba and the mainstream RCD-Goma. The former was backed by Uganda, the latter by Rwanda. [December 2010, Global Security: [www.globalsecurity.org](http://www.globalsecurity.org)]

<sup>14</sup> See annex 1.

### 2.2.2 The Bukavu offensive (May-June 2004)

Security in the Kivus started to decrease in late 2003 and early 2004, when tensions grew as former rebel forces from RCD-Goma started integrating into the Armed Forces of the Democratic Republic of the Congo (FARDC). In May 2004, MONUC was again confronted with a crisis. This time the scenery was provided by the city of Bukavu, South Kivu's capital. When thousands of rebels, led by the dissident Officer Laurent Nkunda<sup>15</sup> and Colonel Jules Mutebusi, entered Bukavu, MONUC only had 800 peacekeepers at its disposal. However, while the peacekeepers had access to robust resources, such as attack helicopters, they were not used. The UN soldiers were positioned between Mutebusi's rebels on one side and the FARDC on the other side. As the Congolese army decided to flee, the peacekeepers were left on their own. When Nkunda and his troops also entered the town, MONUC was not able to resist the thousands of rebels and many peacekeepers fled into their compounds, leaving the population to defend themselves. (Berkman & Holt, 2006, p.164; Holt & Taylor, 2009, p. 256-258; Marks, 2007, p.74)

The Bukavu crisis illustrates the difference in perspective regarding the use of force between the mission's military and political component: While MONUC's military command wanted to go on the offensive, the mission's leadership and its managers at the DPKO preferred to stay out of Congo's "internal affairs" as the rebels' allegiances were unclear during the invasion: Both Nkunda and Mutebusi were dissident members of the RCD-Goma, a political-military movement connected to the RCD, an official government partner during the transition. (The RCD furnished one of the four vice-presidents in the transitional government.) While in the face of genocide there is no such thing as neutrality, the difference between impartiality and neutrality had little effect in decision-making during the Bukavu offensive. In the wake of the Kisangani massacres the UN's inclination to tone down civilian protection, if it feels aggressive action could offend the conflicting parties, was again displayed. (Holt & Taylor, 2009, p.258; Marks, 2007, p.74-75)

The crisis claimed at least 88 lives and displaced about 25,000 civilians. Consequently, the offensive led to the first big anti-MONUC protests and was considered as a political low point for the peace mission. However, the crisis also served as an "eye-opener" for the international community which realized that, unless something was going to change in the field, the planned 2006 elections would not take place. As a result, the Security Council adopted Resolution 1565 (October 2004) under which MONUC was provided with a more robust mandate. Under the same resolution the Security Council authorized a troop increase (10,800 + 5,900). In the months that followed, large-scale efforts were made to shift forces to the East: Approximately 5,500 troops were redeployed to the Kivus and Ituri and the MONUC Eastern Division was established. (Berkman & Holt, 2006, p.164-165; Holt & Taylor, 2009, p. 259; Hoebeke, personal communication, 31 July 2009)

### 2.2.3 Towards the elections: From reaction to pursuit (2005-2007)

With the 2006 elections ahead, MONUC's strategy shifted from reaction to pursuit. Under the leadership of Force Commander Dutchman Patrick Cammaert, who distinguished himself from his predecessors by his willingness to intervene robustly and by using force where necessary, the mission adopted a proactive attitude. Both the international community's resolve to hold the elections as well as Cammaert's leadership resulted in aggressive action against possible spoilers. Indeed, between 2005 and 2007 several offensive operations were deployed in the country's East. The effectiveness of the Eastern Division under Cammaert's lead can be illustrated by the successful management of two crises near Sake in 2006 and 2007. When the first Sake crisis occurred in November 2006, MONUC successfully defended the population against rebels belonging to Laurent Nkunda's Congress for the Defence of the People (CNDP)<sup>16</sup>, approximately killing 200 to 400 of them. By acting robustly, MONUC prevented the CNDP from reaching North Kivu's capital Goma and safeguarded the elections. (Berkman & Holt, 2006, p.165-167; Holt & Taylor, 2009, p.271; Marks, 2007, p.75-76; Terrie, 2009, p.25)

As the first democratic elections since 1965 were to take place in July 2006, the Security Council authorized MONUC "to use all necessary means within its capabilities (...) to deter any attempt at the use of force to threaten the political process and to ensure the protection of civilians under imminent threat of physical violence, from any armed group". (Resolution 1592, March 2005) To that end, the Security Council decided that MONUC could make use of Cordon and Search tactics (CASOs) to prevent attacks on civilians and "to disrupt the military capability

<sup>15</sup> Laurent Nkundabatware is one of the most notorious perpetrators of human rights violations in the DRC. Several investigations affirm his responsibility for the Kisangani massacre in May 2002 while serving with the RCD-G and for the executions, rapes and looting following the Bukavu invasion of May-June 2004. Nkunda was promoted to General and appointed Commander of the 8<sup>th</sup> Military Region (North Kivu) at the beginning of the Transitional Government in 2003, but refused to travel to Kinshasa to officially take up his assignment. During the 2006 elections his political-military movement, the National Congress for the Defence of the People (CNDP) was established. Until early 2009 the CNDP constituted the main threat for peace in the region. Currently, most ex-CNDP elements have been integrated in the Congolese army. (OHCHR, 2007, p.3)

<sup>16</sup> The CNDP (National Congress for the Defence of the People) is a political-military movement, led by Laurent Nkunda until January 2009. The CNDP was created during the 2006 elections to defend the interests of the "Rwandophones" in Eastern DRC. This objective was later replaced by the "protection of the Tutsi minority in North and South Kivu". The CNDP consists, among others, of ex-RCD and ex-RDF (Rwandan Defence Forces) soldiers. (Hilgert & Spittaels, 2008, p.6)



of illegal armed groups that continue to use violence in those areas". (Ib.) Indeed, Cammaert's Pakistani Brigade in South Kivu - counting 3,700 peacekeepers - engaged in coercive efforts to protect civilians and aggressively pursued the Democratic Forces for the Liberation of Rwanda (FDLR)<sup>17</sup>. (Berkman & Holt, 2006, p.165-167)

However, MONUC's proactive attitude in the field entailed certain negative consequences: There was a constant danger of rebels taking revenge on the population and an increased risk of collateral damage. Indeed, this period heralded the beginning of widespread reprisal killings in the area. As a result, resistance against MONUC's actions in the field increased, both from within MONUC as from within the political headquarters in New York. The DPKO wished for all offensive actions to stop, especially after it was revealed that there had been civilian casualties in fights between militias and MONUC. The DPKO responded that the mission indeed had the duty to protect civilians, but also claimed that "it was not the peacekeepers' role to go on the offensive and take out the militias preying on civilians. We are not engaged in war". However, the DPKO's attitude could be questioned here. By making this statement, the DPKO contradicted the mandate the Security Council had accorded to MONUC. Indeed, in Resolution 1565 (October 2004) the Council authorized the mission to "discourage violence, in particular by deterring the use of force to safeguard the political process". (Marks, 2007, p.77; Terrie, 2009, p.24)

## 2.3 The post-transition phase (2007-2010)

While MONUC had adopted a more proactive attitude between 2005 and 2007, the mission's activity became more limited after the transition period, which came to an end after the 2006 presidential elections. Since February 2007 the DRC has a legitimate elected government and should be considered as a sovereign state, implying that it is currently the governments' primary responsibility to protect civilians. In March 2007 this was emphasized by the UN Secretary-General, who declared in his 23<sup>rd</sup> report that the mission's role from then on would be mainly restricted to supporting the FARDC, as demonstrated in the field.

### 2.3.1 The Goma crisis and the Kiwanja massacre (October-November 2008)

In January 2008 the Goma Conference, aimed at ending hostilities in both Kivu provinces, took place. Two *actes d'engagements*, one for each province, were signed by the representatives of twenty-two rebel groups, including the CNDP, at that time the greatest threat to peace. By signing the peace agreement all parties agreed to accept a cease-fire monitored by MONUC and to undergo *brassage*<sup>18</sup>. The Goma Conference led to the Amani Process ("amani" is Swahili for "peace") for North and South Kivu. However, the fighting between the CNDP and the FARDC resumed in summer and escalated in October-November 2008, culminating into a crisis with CNDP leader Laurent Nkunda threatening to take Goma. With only 6,000 peacekeepers in North Kivu (roughly one soldier for every 60km<sup>2</sup>) MONUC was vastly overstretched. At the same time, Spanish General Vicente Diaz De Villegas succeeds General Babaçar Gaye as the new MONUC Force Commander. However, after three weeks he resigned as a consequence of what he called a "dangerous mission creep". According to De Villegas there was need of peace enforcement. Instead, MONUC suffered from a limited operational capacity and therefore the mission could only protect the people in major towns and along key roads. Elsewhere MONUC could only protect itself. (HRW, 2008, p.1-3; Holt & Taylor, 2009, p.281-283; MONUC JHRO, 2009, p. 2-3; Refugees International, 2010, p.7)

With Goma threatened, most of the peacekeepers were deployed within and around the provincial capital. At the same time, Kiwanja, a smaller town in North Kivu, was also attacked by the CNDP. Although MONUC had around 120 peacekeepers stationed in a military camp at approximately three kilometres from the attacks, the mission did not manage to protect the local population: At least 67 civilians<sup>19</sup> were systematically killed as they were suspected of being Mai-Mai<sup>20</sup> or as a reprisal for their alleged support to Mai-Mai fighters. (HRW, 2008, p.1-3; MONUC JHRO, 2009, p. 2-3)

<sup>17</sup> The FDLR is a political-military movement, active in North and South Kivu. The movement consists of ex-FAR (Rwandan Armed Forces), ex-Interahamwe, but mostly of ordinary Hutu civilians, who fled to eastern Congo after the Rwandan genocide. The FDLR is often described as a violent rebel group, although only 200 to 300 of them would be ex-génocidaires. The aim of the movement is primarily political, being the launch of the Inter-Rwandan dialogue to be able to return to Rwanda. Over the years internal splits were created, which led to the emergence of extremist and violent militias, such as the RUD (Rally for Unity and Democracy) and Rasta. Both militias committed grave human rights violations. The presence of the FDLR in North and South Kivu is problematic, as it gives Rwanda a pretext to intervene in the Congo. (Hilgert & Spittaels, 2008, p.8-11)

<sup>18</sup> A respondent explained *brassage* as following: Around 2005-2006 the integration and demobilization process took off: Government soldiers, ex-MLC combatants, ex-RDC combatants and other armed elements were trained during six months. This process was called *brassage*. After *brassage*, *mixage* followed. However, there was not a mix at all. From 2009 on, a *rapid integration mechanism* was installed. This was even worse than *mixage* as no criteria were required for entering the army. As such, track of soldiers was lost. (Brass, R.; personal communication; 20 May 2010)

<sup>19</sup> Until today the exact number of civilian casualties in Kiwanja remains vague: Although the UN Joint Human Rights Office (UN JHRO) gathered evidence on the execution of 67 persons by the CNDP, the actual number of victims would have been higher. According to the NGO Human Rights Watch, that published a report based on more than 100 interviews with the victims' family members, at least 150 civilians were killed. (HRW, December 2008; MONUC UN JHRO, September 2009)

<sup>20</sup> The Mai-Mai are traditional local defence militias. The term 'Mai-Mai' is used as a common denominator for all self-defence groups that operate in the Kivus and beyond. (Hilgert & Spittaels, 2008, p.14)

MONUC's failure to protect the population in Kiwanja was profoundly investigated by the NGO Human Rights Watch (HRW) and by the UN Joint Human Rights Office (UN JHRO). Both organizations published a thorough report in which different causes for the mission's failure were identified:

In "Killings in Kiwanja: the UN's inability to protect civilians", HRW (December 2008) cites competing priorities (1), FARDC hostility towards MONUC (2) and logistical & technical problems (3) as the most significant causes for MONUC's failure to protect civilians in Kiwanja. Firstly, at the time of the incidents MONUC was confronted with competing priorities, as the mission was facing the dilemma to choose whether to prioritize the defence of a small community residing in Kiwanja or to protect the larger area around Goma. Moreover, with only a limited number of peacekeepers present around Kiwanja MONUC was largely tied up in securing a few humanitarian workers, a journalist and a group of MILOBs. Secondly, FARDC elements obstructed MONUC's actions and acted openly hostile towards the peacekeepers: Due to its mandate MONUC was required to provide both support to the FARDC and monitor ceasefire lines between the FARDC and the CNDP. When FARDC elements withdrew, MONUC was left behind to protect civilians from the CNDP. Congolese soldiers that remained in the area endangered the population and peacekeepers who were not engaged in the fighting by planting themselves near MONUC posts. Consequently, civilians and UN troops ended up in a fire fight and were used as a living shield. Moreover, a senior FARDC officer acted openly hostile towards the mission by provoking the population and his troops to such an extent that UN vehicles and personnel were pelted with stones and shot at. The protests prevented MONUC to carry out its duties and consequently led to a reduction in the number of patrols in the region of Kiwanja. Thirdly, peacekeepers struggled to protect civilians because they were facing several logistical and technical constraints: The absence of a full-time French/Swahili speaking interpreter resulted in communication issues with the local population. Moreover, MONUC peacekeepers at the Kiwanja COB were in transition with Uruguayan troops preparing to replace Indian peacekeepers. (HRW, 2008, p.2; p.22-24, p.28)

According to the MONUC Joint Human Rights Office (JHRO) (2009, p.3-4, p.19-20) it remains unclear whether the military personnel in Kiwanja had the understanding/knowledge or capacity to stop the arbitrary executions: Due to language/cultural barriers and a lack of effective communication with the population, the information flow between peacekeepers and civilians remained limited. Consequently, peacekeepers would not have been aware of the nature and scope of the events taking place in their proximity, making a prompt response to the CNDP attack impossible. The JHRO notes that protection is a relatively new role for UN peacekeepers, who are not yet properly trained for this new type of activity. Moreover, clear criteria regarding civilian protection remain inexistent and implementation methods are still in a developmental stage.

Besides the United Nations' and Human Rights Watch's theories about MONUC's failure to protect Goma and Kiwanja, it is also likely that MONUC peacekeepers hesitated to use force out of fear of breaching the impartiality principle as the CNDP was a party to the Goma Agreements. (Stearns, 8 September 2010, CongoSiasa Blogspot: <http://congosiasa.blogspot.com/>)

### **2.3.2 Putting protection first: Security Council Resolution 1856 (December 2008)**

As a result of the Goma crisis, Resolution 1856 (December 2008) was adopted, under which the Security Council authorized MONUC to address the Kivu conflict and civilian protection as its highest priority. (Apart from DDRRR and support for the SSR, which remained the MONUC's two other main responsibilities.) Resolution 1856 differs from previous resolutions as it clearly states that the Protection of Civilians MUST be given priority over any other task. (Anonymous source, personal communication by email, 1/04/2009)

The briefing note on Resolution 1856, an internal MONUC document, emphasizes that the resolution should be seen as a whole. It does not only apply to MONUC, but to ALL the parties with a role to play in achieving peace in the DRC, especially the government, which has a primary responsibility for ensuring the protection of its population. The briefing note clearly states that MONUC can and will not serve as a substitute for the Congolese authorities. (Ib.)

Regarding the use of force, the briefing note mentions the following:

"1856 is not a resolution about making war: it is about creating conditions for and supporting peace efforts. (...) Chapter VII does not just refer to the use of force, but to a range of measures aimed at maintaining or restoring peace and ensuring that the Council's decisions are respected. It authorizes the use of force, but does not prescribe it. (...) But the Resolution does not give MONUC the responsibility, the authority or the capacity to impose peace."

However, Resolution 1856 repeats that MONUC is to "deter any attempt at the use of force to threaten the Goma and Nairobi processes from any armed group (...), including cordon and search tactics and undertaking all necessary operations to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in that area". Contrary to the briefing note, Resolution 1856 clearly states that MONUC is allowed to

undertake preventive operations. The differences between the resolution and the briefing note demonstrate the existence of divergent views within the UN system with regard to the use of force.

### **2.3.3 Joint MONUC/FARDC military operations against the FDLR and the MONUC conditionality policy (2009-2010)<sup>21</sup>**

Although CNDP leader Laurent Nkunda was arrested in January 2009 and most of his adepts joined the integration process, the CNDP remains active through the continuation of a parallel administration and tax system in North Kivu. Moreover, many ex-CNDP elements who committed human rights violations were integrated into the FARDC and still present a major threat to the population. Except for the CNDP, many other foreign and indigenous militia and rebel groups continue to spoil the peace process. During 2009 and 2010 two joint FARDC/MONUC military operations<sup>22</sup>, Kimia II and Amani Leo, were established to eliminate the Democratic Forces for the Liberation of Rwanda (FDLR). Joint FARDC/MONUC military operations contradict MONUC's mandate in the sense that, while the mission's first priority is civilian protection, it is to cooperate with the Congolese army which is considered as a massive human rights violator. Although MONUC's duty is limited to logistical support by facilitating the transport of FARDC troops, by providing vital supplies such as ammunition, weapons, food and fuel and by offering occasional fire support under strict conditions, the mission is considered by some civilians as the FARDC's accomplice. (MONUC, 31/12/2009)

#### **Kimia II and the conditionality policy (2009)**

During 2009 and 2010 two joint FARDC/MONUC military operations took place. In 2009 Kimia II was established, aimed at eliminating the FDLR threat. Upon conclusion of the operation, MONUC assessed that FDLR strength was reduced by half, from approximately 6,000 to an estimated 3,200 elements.<sup>23</sup> However, Kimia II caused major internal displacement (approximately 500,000 IDPs) and many civilian casualties. Due to reprisal attacks, many people were killed and sexual violence reached high levels. Moreover, the population faced attacks from undisciplined FARDC elements, a result from the fast-track integration of former militias and rebel groups, especially the CNDP, into the regular army.

Consequently, the Security Council adopted Resolution 1906 in December 2009. The Resolution is innovative in that it determines that MONUC, under the conditionality policy, may suspend support to FARDC brigades violating human rights. This policy regulates the cooperation between MONUC and the FARDC in joint military operations, offering leverage to the UN peace mission in the sense that its support may be withdrawn from those brigades of which senior elements have committed human rights violations. Also, the Council decided that MONUC would only continue to provide support to operations that are jointly planned.

MONUC's conditionality policy can be linked to the DRC government's zero-tolerance policy towards undisciplined FARDC elements, which until today is not seriously implemented: "Prosecutions continue to focus on soldiers and there were no convictions of senior FARDC officers. (...) In this context enforcement of the president's policy with regard to indiscipline within the FARDC remained limited." However, since Resolution 1906 came into life the mission has been able to screen and clear commanders of 18 FARDC battalions, who were designated to participate in joint military operations under Amani Leo (See later). Consequently, MONUC suspended its support to those brigades that were not cleared. (DPKO, 2009a, p.27-28, UN Security Council, March 2010, p.15-16)

#### **Amani Leo (2010)**

In January 2010 a second joint FARDC/MONUC military operation, called "Amani Leo" (Swahili for "peace today"), followed. Like Kimia II, the main objectives were to protect civilians and to eliminate the FDLR threat in the Kivus. Amani Leo was more or less confronted with the same problems as its predecessor. An improvement compared to Kimia II is that MONUC now has more leverage towards the FARDC (UNSC Resolution 1906). As the operation is quite recent, we do not dispose of concrete results yet. (MONUC, 2010)

### **2.3.4 Towards stabilisation and peace consolidation: From MONUC to MONUSCO (May 2010)**

Under Resolution 1925 (May 2010) the Security Council decided that, starting from July 2010, MONUC would be transformed into the United Nations Stabilisation Mission in the Congo (MONUSCO). Due to the evolved political context, MONUSCO will mainly focus on stabilization and peace consolidation. Nevertheless, civilian protection remains the mission's first priority. MONUSCO will continue to concentrate on DDR(RR) and security sector reform (SSR). Resolution 1925 also takes into account the DRC government's point of view, as the Council authorized the

<sup>21</sup>See also chapter III, 2.3.2

<sup>22</sup> While joint FARDC/MONUC military operations have existed since the transition phase, they were increasingly applied during 2009 and 2010.

<sup>23</sup> 3,751 FDLR elements were repatriated to Rwanda, of which 1,546 combatants, a number which is three times higher than the repatriation rate in 2008. The objective set for Kimia II was to repatriate some 2,500 FDLR in North Kivu and about 3,500 in South Kivu. (MONUC. Public Information Division, 2009a; UN Security Council, March 2010)

withdrawal of a maximum of 2,000 troops in those zones where security conditions allowed it. Indeed, starting from 30 June MONUC troops have been leaving Kisangani. Last but not least, Resolution 1925 differs from previous resolutions in that it does not clearly state that MONUSCO is to deter attempts of armed groups to breach the peace process. Neither does it mention that the mission is to undertake preventive action to protect civilians or to disrupt the military capability of armed groups.

### **2.3.5 The Kibua-Mpofi crisis (July-August 2010)**

Between July 30 and August 2 a chain of mass rapes took place when thirteen villages along the Kibua-Mpofi axis in the Walikale territory<sup>24</sup> (North Kivu) were attacked by a coalition of two hundred Mai-Mai Cheka<sup>25</sup>, FDLR and undisciplined FARDC elements. According to an investigative report issued by the Joint Human Rights Office (September 2010) at least 303 civilians were brutally gang raped during several days. Moreover, ten days later, up to 130 rapes were reported in neighbouring South Kivu, which proves that it did not concern an isolated event. Although MONUSCO<sup>26</sup> had a base at approximately 30 kilometres away, peacekeepers did not intervene. Neither did the FARDC that had been redeployed in the area two months prior to the event. On 2 August a MONUSCO patrol passed through one of the affected villages, but no villager came forward about the rapes that were still taking place. It is possible that the incidents were not mentioned in fear for reprisals or due to cultural stigmatization. (CNN, 8 September 2010; MONUSCO JHRO, September 2010; UN Security Council, October 2010, p.2)

The key question remains why MONUSCO peacekeepers did not intervene while they were located at only 30 kilometres from the attacked area. Moreover, as the Organization acknowledged that it had access to crucial information prior to the attacks, it is unclear why no preventive action was undertaken. Indeed, United Nations officials received an email on July 30, reporting the rape of one woman in the area. On the basis of this information another email comprising information about FDLR movement was sent by the Office for the Coordination of Humanitarian Affairs (OCHA). However, no preventive action to secure the area was undertaken in the course of events. UN Special Representative (SR) for sexual violence in conflict, Margot Wallström acknowledged that “the sad reality is that incidents of rape have become so commonplace that they do not trigger MONUSCO’s most urgent interventions”. (CNN, 8 September 2010; MacFarquhar, 7 September 2010)

Secondly, while the UN could have undertaken preventive measures to ensure the population’s security, some conditions were out of MONUSCO’s reach: As attackers were blocking the road, villagers were prevented from reaching outside communication. Consequently, peacekeepers were not informed and could not respond to the attacks. (CNN, 8 September 2010)

Thirdly, the MONUSCO company operating base (COB) in Kibua was struggling with several constraints: The COB only had one Congolese interpreter at its disposal and the 80 peacekeepers were deployed without any special training on civilian protection and were unfamiliar with the terrain and armed groups involved. Moreover, they were also facing operational limitations such as a lack of telephone coverage, obstructing communication with the population in the area. Furthermore, interviews with civilians pointed out that there was a climate of distrust between the population and the peacekeepers, possibly due to their recent deployment as a result of the UN rotation system. Besides this, rumour has it that the peacekeepers would have been securing commercial transport in the area. (MONUSCO JHRO, September 2010, p.10-11)

In response to the mass rapes, MONUSCO increased its usual routine activities and launched operation “Shop Window” in early September, involving 750 peacekeepers supported by robust resources. Completed mid September, the operation resulted in the surrender of 27 Mai-Mai Cheka elements, the arrest of three Mai-Mai elements and one FDLR member. In October the “Lieutenant Colonel” Mayele, chief of staff of the Mai-Mai Cheka group and brain behind the systematic mass rapes, was arrested following a joint FARDC-MONUSCO operation. (UN Security Council, October 2010, p.3, p.8)

MONUSCO’s response to the mass rapes demonstrated the mission’s reactive attitude when it comes to civilian protection. Moreover, the events prove that communication between peacekeepers and the local population is still an issue. That is why MONUSCO declared that the mission would continue to try to improve its relations with local communities to strengthen information gathering. In addition to installing high-frequency transmitters, MONUSCO is exploring ways of improving radio communication and using mobile phones in zones where civilian protection is a particular concern. Previous to the attacks the mission was already making efforts to boost radio coverage in areas without mobile phone coverage. However, one wonders why these measures were not

<sup>24</sup> The Walikale territory is a mineral-rich area. In the absence of State authority armed groups (Mai-Mai Cheka, FDLR and FARDC elements) control several mines in the area as well as the roads leading to them. These armed groups proclaim themselves defenders of the interests of the local communities in the Walikale territory. However, since government operations were established in 2009, reprisal attacks were regularly launched against the same communities, of which the inhabitants are accused of being traitors.

<sup>25</sup> Mai-Mai Cheka are a local defence militia, mainly active in North Kivu. They are said to benefit from taxation rackets and put pressure on mining companies working in the Bisie mine. [20 November 2010, CongoSiasa Blogspot: <http://congosiassa.blogspot.com/>]

<sup>26</sup> We refer to MONUSCO instead of MONUC as the mission’s name changed in May 2010. (Resolution 1925)

taken sooner. Although the mission leadership acknowledged that a mistake was made, it was also stressed that MONUSCO continues to struggle with resource constraints and that an increase of means will be necessary to be successful in the future. (UN Security Council, October 2010, p.8)

### 3. Conclusion

Apart from the period between 2005 and 2007, MONUC tended to adopt a reactive attitude towards the Protection of Civilians. There are different explanations for MONUC's defensive strategy:

Firstly, as successive protection crises pointed out, MONUC is facing an important capability gap: While deployed in a challenging conflict environment and confronted with severe human and material resource constraints, the mission is provided with a complex multidimensional mandate covering more than forty tasks, including civilian protection, DDRRR and restoring state authority.

Secondly, the UN tends to tone down the Protection of Civilians if it feels aggressive action might offend parties to the peace process. However, peacekeepers have the moral duty to intervene when civilians are under imminent threat of physical violence.

Thirdly, although MONUC's mandate has become more robust throughout the years and while the Protection of Civilians became the mission's top priority, MONUC's mandate remains ambiguous when it comes to civilian protection. The mandate language continues to be vague as it is still not clear what it means, for instance, to protect civilians under imminent threat of physical violence or what it takes to undertake preventive action to deter possible spoilers. Although the Protection Cluster<sup>27</sup> was created to provide guidelines for MONUC peacekeepers in South Kivu, they largely remain in the dark when it comes to civilian protection and rely on their own intuition in the field. Moreover, according to HRW (2009, p.152) "there is no formal training on the guidelines, no mechanism for monitoring and evaluation on whether and how these guidelines are followed, and nothing in the Memorandum of Understanding (MoU), rules of engagement, or force directives instructing troops to follow these guidelines". Furthermore, there seems to be a contradiction between theory (mandate language) and practice (actions in the field): While the mandate until recently<sup>28</sup> stated that MONUC could undertake preventive action to deter possible spoilers, peacekeepers only acted proactively between 2005 and 2007.

Fourthly, as communication between MONUC and the local population is problematic, the information flow between both groups remains limited, to the extent that threats cannot be prevented and civilians cannot be protected. However, although the 2008 Kiwanja massacre clearly exposed MONUC's weaknesses when it comes to communication, no lessons were learned as was demonstrated with the Kibua-Mpofi crisis.

While the mission's capacity to address civilian protection effectively is clearly limited because of the reasons mentioned above, the past proved that successful Protection of Civilians depends to a major extent on the international community's resolve to use force. Indeed, between 2005 and 2007, when the elections were at stake, aggressive field operations to deter possible spoilers were encouraged. However, when MONUC succeeded in conducting the 2006 elections and a legitimate government was installed in January 2007, civilian protection became the DRC government's primary responsibility. As a result, MONUC's role became limited to supporting the Congolese authorities. Nevertheless, the Protection of Civilians became the mission's top priority in December 2008. (Resolution 1856)

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<sup>27</sup> Established in 2006 and covering South Kivu, the Protection Cluster is co-chaired by MONUC, UNHCR, the Working Group on the Protection of Civilians and involves the participation of many other significant actors including UN agencies UNICEF & OCHA, International NGOs and the International Committee of the Red Cross (ICRC). The Cluster represents a forum where the international community is able to discuss the protection context in the province. After the 2005 UN World Summit the Protection Cluster was established as a means of operationalising the Responsibility to Protect (R2P), to provide a response to protection needs, and to identify gaps in civilian protection. In 2009 the Cluster published "Protection in Practice: A Practical Protection Handbook for Peacekeepers", in which some guidelines for civilian protection were set out. For more information we refer to this brochure, which can be found on the website of Internal Displacement [30 July 2011, Internal Displacement: <http://www.internal-displacement.org/>].

<sup>28</sup> When MONUC transformed to MONUSCO under Security Council Resolution 1925 (May 2010), the resolution no longer stated that the mission could undertake preventive action to deter possible spoilers.

# III. Field study: identification of MONUC/MONUSCO protection challenges

## 1. Methodology

This chapter is based on interviews with Congolese civil society members and 17 MONUC/MONUSCO staff members on the issue of UN civilian protection in the Kivus. Most of the interviews took place in May 2010 in Goma (North Kivu) and Bukavu (South Kivu). Respondents that were interviewed before or after May 2010 were either questioned by phone or e-mail. (For more details: See annex 6a and 6b.)

Our Congolese respondents generally represented local civil society.<sup>29</sup> The majority was employed by local NGOs and lived in the provinces' capitals, Goma and Bukavu. As our field research was limited because of financial and security constraints, it was not possible to talk to civilians in more remote areas, who are confronted with violence on a daily basis.

The MONUC staff members we interviewed are/were working at the UN Headquarters (HQ) in Goma or Bukavu and regularly participate(d) in field missions in more remote areas.<sup>30</sup> While limited availability made it difficult to approach MONUC personnel, we succeeded in interviewing staff members of various ranks (including seniors) and departments<sup>31</sup>. The majority were civilians working for the Civil Affairs Section (CAS), Stabilisation Unit, Security Sector Reform Unit, Joint Human Rights Office (JHRO) and Public Information Division (PID). The military staff we interviewed was mainly responsible for public information and intelligence gathering and analysis. Because of time constraints we did not manage to talk to peacekeepers of the North and South Kivu Brigade. A table with selective information about both groups of respondents can be found in annex 6c.

The questionnaires used during the field research can be found in annex 7.

## 2. Challenges related to civilian protection

The interviews in the field highlighted five major challenges that should be addressed in order to improve civilian protection. We can briefly conclude that MONUC operations are limited by constraints inherent to the UN system (1), a lack of willingness and preparedness on the peacekeepers' side (2), strategy and communication challenges (3&4) and external challenges (5), being the conflict environment and partnership with the DRC government.

As we expected, our two groups of respondents did not attribute equal importance to these challenges: MONUC staff tended to emphasize the difficult circumstances in which the mission is to operate and stressed that MONUC is deployed in a complex conflict environment while facing severe constraints (in particular heavy UN hierarchy & bureaucracy, severe resource limitations and a lack of clarity and guidance regarding civilian protection). Moreover, MONUC staff states that the mission has to cooperate with a government that does not assume any responsibility when it comes to civilian protection. Regarding strategy, they stressed that joint FARDC/MONUC operations against the FDLR are currently confronted with ethical and political constraints, while underscoring the mission's innovative spirit with regard to the development of different protection mechanisms in the field.

Our Congolese respondents considered the lack of willingness and preparedness on the peacekeepers' behalf and the weak communication between MONUC and the population the two biggest challenges when it comes to civilian protection. They regarded ongoing joint FARDC/MONUC military actions as a vicious circle of violence and concluded that the conflict can only be resolved in a political and diplomatic way. Especially the regional (link with Rwanda) and economical (exploitation of and traffic in natural resources as a means to finance the conflict) conflict dimensions were emphasized. Last but not least, both groups agreed that it is first and foremost the DRC government's responsibility to protect civilians, but claimed that the authorities fail to address this issue.

<sup>29</sup> For reasons of security, our Congolese interlocutors remain anonymous in this paper.

<sup>30</sup> At their own request, names of MONUC staff will not be mentioned in this paper. Several staff emphasized that the interviews represent their personal opinion and not necessarily the UN/MONUC point of view.

<sup>31</sup> See annex 3: MONUC Organizational Chart

## 2.1 Constraints inherent to the UN system

Constraints inherent to the UN system were particularly subject to frustrations of MONUC staff members, since they are confronted with them on a daily basis. A first range of protection challenges are constraints inherent to the UN system. While typical for the Organization, these limitations have a larger influence on MONUC, since the mission's mandate is broader and more complex than that of any other UN peace mission.

### 2.1.1 UN bureaucracy & hierarchy

A UN peace operation is characterized by a heavy top-down structure with complex procedures. Every action requires approval, which often leads to immobility. Consequently, immediate reactions in the field do not exist and room for spontaneity and personal initiatives is limited. As a result, MONUC peacekeepers usually do not act to prevent, but to repair the damage. However, it is said that some contingents invoke the heavy bureaucracy and hierarchy as an excuse for inaction. Possible remedies are the development of a rapid reaction mechanism in order to provide direct support to the population under threat, or the transfer of more senior management from Kinshasa to the East, so that time delays can be shortened.

### 2.1.2 UN military structure

The UN military structure is another challenge. Currently, there is no integrated chain of command or mixed structure, nor are there common procedures. Different national contingents are deployed under one Force Commander, who has the command over all the contingents. The difficulty, however, is that each contingent reports to its contingent commander, who is first accountable to his own government, before obeying the Force Commander.

Troops are sent by nations and are not entirely considered as part of the UN system. Since Member States to a certain extent consider the soldiers they deliver as their own troops<sup>32</sup>, national interests have a strong influence on the contingents' performance during military operations. Protection duties are probably hampered by the fact that Member States do not wish to confront public opinion with soldiers in body bags. Indeed, contingents are pressured by their governments to avoid loss of life (which implies avoiding risks).

Nevertheless, UN Member States should be aware of local circumstances and risks when they agree to send out their troops in the field. While it appears that a peace operation depends to a certain extent on the will of troop contributing countries, the creation of a real multinational force with an integrated chain of command could solve this problem. However, this should be part of a global UN reform.

### 2.1.3 Human resource constraints<sup>33</sup>

As the UN does not dispose of a permanent army, it depends on the goodwill of Member States for delivering the necessary troops. However, the truth is that few developed countries are willing to deploy their soldiers to the DRC. Indeed, of MONUC's 17,000 peacekeepers, about 4,300 are from India (North Kivu), 3,500 from Pakistan (South Kivu) and 1,300 from Bangladesh (Special Forces). The current Force Commander, Lieutenant General Chander Prakash, is Indian and is said to speak little French. (Axe, 20 December 2010)

A majority of our Congolese respondents reckoned that the UN should review the composition of MONUC troops, since most peacekeepers are supplied by third world countries, with sometimes rather poor human rights records of their own. Moreover, as each Member State is responsible for training and preparing its troops, third world countries would not have the same level of education and motivation as Western troops. To avoid stereotyping, it should be added that with many respondents the Pakistani South Kivu Brigade enjoyed a very good reputation in terms of discipline and competence.

Besides increased engagement from developed countries another plausible solution to the current human resources constraints would be to install a more standardized recruitment system: As there is none now, people with different educational standards are recruited. Furthermore, the human resources system is deficient due to constant troop rotations: Personnel constantly moves and leaves, particularly on the military side. Every time new peacekeepers need to adapt and familiarize with the conflict context. Moreover, it takes six months to a year to recruit someone new. In short, getting the right people on board at the right time is a major issue.

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<sup>32</sup> A recent example illustrates this. On 18 August 2010, three Indian peacekeepers were killed and six were wounded in Kirumba, near a COB of the Indian battalion. During debriefing discussions, the Indian Force Commander Chander Prakash typically sent away his other international staff officers to talk 'in private' with the involved Indian peacekeepers.

<sup>33</sup> For more information read David Axe's article "Why South Asia Loves Peacekeeping", that appeared in The Diplomat of 20 December 2010. [10 January 2010, The Diplomat: <http://the-diplomat.com/2010/12/20/why-south-asia-loves-peacekeeping/>].

#### 2.1.4 Material resource constraints

MONUC staff members pointed out that it is doubtful whether the mission has the means to make up for the populations' high expectations: Currently a force of only 17,112<sup>34</sup> military personnel is expected to secure the DRC. According to Refugees International (2010) only 5,000 of them are deployed in South Kivu. (South Kivu alone is twice as big as neighbourhood country Rwanda). Operating in this vast area lacking infrastructure (no roads, no telephone coverage, ...), MONUC is facing severe material resource constraints, as it lacks means such as helicopters and interpreters, which are vital when it comes to protecting civilians. (Helicopters are essential to be able to reach remote and inaccessible areas, constituting important "must protect" zones. Due to the language/cultural barrier between peacekeepers and civilians there is a considerable need for interpreters. (See 2.4)) As a result, MONUC's mandate would, according to some, be impossible to execute. Also, some respondents cited cases of irrational spending<sup>35</sup>.

#### 2.1.5 Lack of clarity and guidance regarding civilian protection<sup>36</sup>

Both our Congolese respondents and MONUC staff experienced a lack of clarity regarding civilian protection. Within MONUC two types of interpretations seem to exist regarding the mandate: Some respondents are convinced that the MONUC Chapter VII mandate only allows peacekeepers to use force in self-defence, in the defence of UN staff and UN infrastructure (force protection) and in the defence of civilians. According to this 'reactive' or 'defensive' interpretation, peacekeepers would only be allowed to use force in response to a threat. Consequently, some crimes may already have taken place before peacekeepers manage to react. Other respondents are convinced that the mandate permits peacekeepers to adopt a proactive attitude, using force in order to prevent threats.<sup>37</sup>

The lack of clarity is said to make MONUC peacekeepers reluctant to explore the mandate's potential. This can be illustrated with the following example: In a previous joint MONUC/FARDC military operation against the FDLR the Indian peacekeepers' main question was if they could offer fire support if the FARDC were attacked by militia. In 2008 such a situation resulted in the withdrawal of MONUC peacekeepers together with the FARDC, leaving the civilian population behind. (The mandate states that MONUC might offer "occasional fire support", but what does "occasional" mean?)

As lack of clarity and guidance clearly stands in the way of effective civilian protection, the Protection Cluster issued "Protection in Practice", a practical protection handbook, containing several protection guidelines for MONUC peacekeepers. Various do's and don'ts are provided for different types of situation, for instance when facing (mass) violence targeting civilians, when securing IDPs/ civilians fleeing or when civilians/IDPs are gathering around MONUC bases. However, the provided guidelines remain unclear and none of our respondents cited "Protection in Practice" as an important improvement towards civilian protection. (Protection Cluster, 2009)

#### 2.2 Lack of willingness and preparedness to protect<sup>38</sup>

The bulk of Congolese respondents claimed that MONUC peacekeepers lack willingness and preparedness when it comes to protecting civilians. MONUC peacekeepers would not be prepared to face that risk. According to a confidential MONUC document (anonymous source, personal communication by email, 28 March 2009) peacekeepers tend to adopt a hesitant attitude towards the use of force. The Rules of Engagement (RoE) are said to be narrowly interpreted, thereby excluding any violence, except in the case of self-defence or force protection. A more lenient interpretation is that peacekeepers avoid collateral damage. Also, Senior Field HQ personnel cited "a sharp decline in firing engagements by contingents since 2006, indicating an apparent growing aversion to the use of force, while this period has seen considerable action on the part of illegal armed groups which threatened the populations and caused massive IDP movements in the Kivus".

MONUC peacekeepers would lack motivation. As the majority of the troops are supplied by third world countries, money would be one of the key motives to apply for a UN peace mission. Indeed, the UN pays these troops more than their own government would do. While financial motives are undeniable, this should be nuanced: Funds allocated to peacekeeping troops partly go to the administration of the countries that deploy troops, representing

<sup>34</sup> On 31 October 2010 MONUC deployed 19,008 total uniformed personnel, consisting of: 17,112 military personnel, 715 military observers, 1,181 police (including formed units), 954 international civilian personnel, 2,776 local civilian staff and United Nations Volunteers. Note: Statistics for international and local civilians are as of 31 July 2010. [27 January 2011, MONUSCO: <http://www.un.org/en/peacekeeping/missions/monusco/facts.shtml>]

<sup>35</sup> Congolese respondents provided examples of the wasteful use of helicopters and 4x4s. They also mentioned a hydroelectric plant in Kiwanja (Rutshuru, North Kivu) which works day and night, wasting an enormous amount of fuel.

<sup>36</sup> See Chapter 1, 5.1) The use of force: Still a taboo and Chapter 2, 3) Conclusion

<sup>37</sup> As was stated in previous UN Security Council Resolutions 1565, 1856 and 1906, MONUC was allowed to take preventive action against spoilers, at least in theory. However, since MONUC was transformed into MONUSCO in May 2010 under UN Security Council Resolution 1925, this was not mentioned anymore.

<sup>38</sup> For more information read David Axe's article "Why South Asia Loves Peacekeeping", which appeared in The Diplomat on 20 December 2010. [10 January 2010, The Diplomat: <http://the-diplomat.com/2010/12/20/why-south-asia-loves-peacekeeping/>]



extra revenue. Some countries provide troops without proper equipment which adds to a lack of motivation when peacekeepers engage in a conflict perceived as not their own.

There are cases of MONUC personnel being involved in various scandals: In 2004 it came to the surface that MONUC military and civilian staff members had committed serious acts of sexual exploitation and abuse, resulting in a public scandal.<sup>39</sup> In 2007 international newspapers reported that Indian peacekeepers in Goma had swapped arms for minerals with rebel movement CNDP.<sup>40</sup> In fall 2008, when Goma was under attack, the behaviour of the Indian battalion was considered as a breach of the impartiality principle: The UN troops' mere observation of the CNDP's march towards Goma - without stopping them - made the population resent the peacekeepers. And while there is no evidence to confirm this controversial rumour, MONUC convoys were alleged to have been transporting CNDP rebels in and out of Goma when the city was under attack during that same year.

However, we should be careful with generalizations and stereotypes. With more than 17,000 peacekeepers in the field it is undeniable that some individuals may lack motivation or misbehave, but this should not be generalized. Most peacekeepers would be willing and prepared to protect civilians and face risks. Although some of them are not properly trained, they are no criminals. The examples of sexual exploitation/violence and traffic in arms and natural resources remain marginal cases.

## 2.3 Strategy challenges

### 2.3.1 Protection Mechanisms

MONUC protection mechanisms were mostly mentioned by MONUC staff members, probably due to the fact that they are more familiar with them. The fact that Congolese respondents rarely talked about protection activities is telling: The communication between the mission and civilians is clearly weak. (See 2.4) Although MONUC lacks a mission-wide protection strategy like other UN peace operations, staff members claimed that MONUC is definitely innovative and learning on the tactical level: New protection mechanisms are constantly developed and due to their success some of them were standardized. Others are rather used ad-hoc. In general, MONUC tries to increase civilian protection in three ways: By operational activities of the North & South Kivu Brigade and by deploying joint protection teams (JPTs) and community liaison interpreters (CLIs).

#### Operational activities

There are three types of operational bases, being temporary operating bases (TOBs), mobile operating bases (MOBs) and company operating bases (COBs). These bases are deployed for different time periods and are staffed by varying numbers of personnel. Both TOBs and MOBs are non-permanent bases. (However, TOBs can become permanent.) COBs are semi-permanent bases. MOBs constitute the smallest bases (maximum 100 men), COBs are slightly bigger (75-200 men) and TOBs are the biggest. This network of mobile bases provides direct protection to civilians and can be deployed to areas of high emerging risk at relatively short notice.<sup>41</sup> Operational bases have an important dissuasive effect: Rebels are scared away and generally do not dare to attack civilians. According to a MONUC staff member, who spoke with the population, people return to their villages when operational bases are deployed in their neighbourhood. If operational bases are given up, people often retreat into the bush. There has recently been an increase of both permanent and non permanent operational bases.

MONUC peacekeepers regularly carry out land or air patrols with the latter reaching otherwise inaccessible villages. Besides patrols, MONUC provides escorts allowing civilians to carry out their daily activities, such as working in their fields. Without these escorts the risk to be abducted, raped or killed increases severely. However, patrols and escorts are limited in space and time. They are concentrated around population centres and important road axes and are mostly deployed during daytime.

The majority of our Congolese respondents complained that MONUC is absent in the most problematic areas, such as remote inaccessible villages and mining areas (such as Bisie)<sup>42</sup>, where the bulk of the attacks take place. However according to a technical assessment mission of the United Nations, the deployment of the MONUC military component corresponds to 88 % of the "must protect" areas in North Kivu.<sup>43</sup> Nevertheless, MONUC is trying to fill the void by increasing its number of operational bases, but due to a lack of infrastructure and resources it remains difficult to deploy peacekeepers in those zones.

<sup>39</sup> The Security Council condemned the criminal acts and the Secretary-General declared a "zero tolerance" policy. A number of ad hoc investigations were conducted, leading to the establishment of the Office for Addressing Sexual Exploitation and Abuse (OASEA) in 2005, which was transformed into the Conduct and Discipline Unit (CDU) in 2007. [May 2010, MONUSCO: [www.monusco.unmissions.org](http://www.monusco.unmissions.org)]

<sup>40</sup> For more information read the article "Casques blues aidaient les FDLR" by La Libre Belgique (18 July 2007).

<sup>41</sup> MONUC Public information division, 2009a

<sup>42</sup> A respondent referred to the Bisihe mineral quarter in Walikale, North Kivu, to illustrate the current deployment issues. Recently, Bisihe was for the second time attacked by a coalition of FDLR and Mai-Mai Cheka.

<sup>43</sup> UN Security Council, March 2010, p.16

A plausible solution would be an increase of the number of permanent bases in the area, but because of a lack of troops and financial resources this would currently be impossible. Nevertheless, both the presence of operational bases and regular patrols and escorts demonstrate that there where MONUC is present, there is security. This can be demonstrated by different cases in the field.<sup>44</sup>

### **Joint Protection Teams (JPTs)**

Joint Protection Teams are no new phenomenon. They have existed for some years, though rather as an ad-hoc mechanism introduced by MONUC. However, under UN Security Council Resolution 1856 JPTs became standardized. A JPT consists of staff members with different backgrounds and expertise from within various MONUC departments, namely Civil Affairs (CAS), Child Protection (CP), Human Rights (HR), Political Affairs (PAS) and Public Information (PID).

JPTs are temporarily deployed within MONUC operating bases, working where possible alongside DDRRR staff. Through communication with the population about security issues, the objective is to enhance MONUC's capacity to protect civilians. The information gathered by JPTs is presented in threat matrices of the CAS. These matrices are based on cartography and used to map the different communities and ethnicities in the area. Thanks to the information gathered by JPTs, MONUC is capable of uncovering possible high risk areas, making it easier to prevent threats and plan operations in advance. The obtained information is also used for making recommendations, for instance, for the deployment of new operational bases in high risk areas or for the provision of vital resources, such as helicopters. (See annex 4: Terms of reference for JPTs)

However, JPTs are said to have certain restrictions. Firstly, it is only possible to deploy them around operational bases and not in more inaccessible areas, which are amongst the most heavily targeted. Secondly, JPTs face resource constraints as they lack land vehicles, helicopters and gasoline. Thirdly, the teams struggle with organizational constraints as their deployment takes much effort. Consequently, they are said to usually arrive too late on the spot. Last but not least, the current procedure should be questioned, as it would not suffice to gain the population's trust and learn more about their security concerns: It would be impossible to establish genuine contact with civilians in only a few days (the average length of a mission is five days). That is why the mechanism would be too superficial and why it would be better to install small permanent bases.

### **Community Liaison Interpreters (CLIs)**

Community Liaison Interpreters are locals trained by the UN and provided with telephones and radios to contact MONUC peacekeepers if they notice a threat. The CLIs' objective is to improve the weak communication between MONUC and the population, as most of the troops do not speak French or Swahili. (See 2.4 Communication challenge) The mechanism has one major weakness. In Congolese villages everyone tends to know one another, making it quite easy for rebels to locate the CLIs and harm them. CLIs are a recent phenomenon. Between December 2009 and March 2010, 49 interpreters have been deployed to MONUC COBs and TOBs. (UN Security Council, March 2010, p.16) After only a few months communication is improving.

### **Other initiatives related to civilian protection**

Other initiatives regarding civilian protection are Quick Impact Projects (QIPS), the Rapid Response and Early Warning Cell (RREWC) and VIWIN. Carried out by peacekeepers in coordination with Civil Affairs, QIPS are related to civilian protection as they lead to the (re)construction of communities and (re)creational facilities. Examples are infrastructure works to make remote villages accessible, placement of sidewalks to secure pedestrians, establishment of nutrition centres, construction of playfields and mosques and orphan support.

According to the MONUC website the aim of the Rapid Reaction and Early Warning Cell (RREWC) is to put the information on protection needs of civilians, threats and abuses, as well as information on human rights violators, available to MONUC leadership, allowing them to effectively address urgent protection needs. The RREWC includes experts from diverse departments, such as Human Rights, Child Protection, Civil Affairs and Joint Mission Analysis Cell (JMAC).

<sup>44</sup> This can be illustrated with two examples: (1) Rebel leader Kyatenda and his group in early June 2010 attacked Matili and killed a number of FARDC soldiers, causing people to flee towards Shabunda. Consequently, the Pakistani COB in Shabunda established an MOB and conducted regular patrols to show its presence. MONUC military observers also increased their number of patrols in the area. As the population started to pour into Shabunda centre, they camped close to the COB in order to feel more secure. The local administration also took refuge at the COB when feeling insecure. When talking to civil society members in early August, the presence of MONUC personnel was highlighted as something positive and it appeared that people felt more secure because of it. (2) At the time of the attacks on Fizi Centre in April-May 2010, MONUC did not have a military presence in the town, which allowed the Mai-Mai Yakutumba, a local self-defence militia, to attack and force the population to flee. They also attacked the National Police (PNC) and set them running, leaving only the FARDC in place to ensure the protection of civilians. But, because the FARDC in Fizi centre are known to be one of the main security problems, people fled. However, after the attacks MONUC personnel functioned as a guarantor for the return to security and people started to return to their homes again. The establishment of a TOB in and around Fizi centre also improved people's sense of security. This became evident when talking to members of civil society and the local administration in July 2010. They mentioned the presence of the Pakistani TOB and the increased patrolling as something that made them feel more protected.

The MONUC Joint Human Rights Office (JHRO) in Bukavu has helped establishing the Protection Network of Victims, Witnesses and Human Rights Defenders (VIWIN) to alert the authorities in case civilians are threatened. Victims are internally relocated to make sure they stay safe and are accompanied to court. The protection network cooperates with the different MONUC departments.

### **2.3.2 Joint FARDC/MONUC military operations against the FDLR<sup>45</sup>**

As we already mentioned, MONUC offers logistical support for joint FARDC/MONUC military operations by facilitating the transport of FARDC troops and providing them with vital supplies such as ammunition, weapons, food and fuel. Occasionally MONUC might offer fire support, though only under strict conditions. There are many challenges regarding the joint FARDC/MONUC military operations. These are mainly ethical and political issues.

Both respondent groups questioned the ethical side of the joint military operations. MONUC's mandate is contradictory, as the mission is both authorized to provide support to the Congolese army AND to prioritize civilian protection. Indeed, elements of the FARDC can be considered as gross human rights violators. This is partly due to the presence of many ex-rebels who now have to defend the population they had been preying upon until recently. For instance, the mission finds itself within the same camp as the notorious Bosco Ntaganda<sup>46</sup>, ex-chief of staff of the CNDP. By cooperating with the Congolese army MONUC risks becoming its accomplice and face decreasing popular support.

Unlike our Congolese respondents, MONUC staff members emphasized the positive side of joint FARDC/MONUC military operations: Whereas MONUC is obliged to support the FARDC due to the current political context, the cooperation should also be considered as a conscious and tactical decision as MONUC manages to keep an eye on FARDC elements in the field, while the latter are exposed to good practices. Moreover, in the awareness that they are supervised, human rights violations decrease and damage is limited (damage control). For example, when in early 2010 MONUC stopped supporting certain FARDC brigades under the conditionality policy<sup>47</sup> the number of violations by FARDC elements increased again. This proves that MONUC's support and surveillance of the Congolese army has an important impact on human rights violations in the field.

Regarding the results of Kimia II<sup>48</sup>, the opinions of both groups differed strongly. Congolese respondents showed great concern about the operations' outcome. While Kimia II had the objective to neutralize the FDLR threat (and protect civilians), the collateral damage was considerable: There was a large increase in the number of IDPs (approximately 500,000), human rights violations and civilian casualties. Moreover, the operation would have destroyed the positive achievements in civilian protection (voluntary repatriation by Congolese civil society) and the commitment of ex-CNDP elements in Kimia II resulted into the rise of new armed groups within the population (Banyamulenge and Mai-Mai militia).

Contrary to the Congolese, MONUC staff members tended to look at the bigger picture and emphasized that from a military point of view the operations' objective - the neutralization of the FDLR - was accomplished: In many areas the FDLR was beaten back and reduced, and civilians in population centres suffered less. Moreover, a significant number of FDLR members and their families signed up for voluntarily repatriation during and after Kimia II<sup>49</sup>. Nevertheless, the rebels were dispersed throughout the country, infecting other areas and would not have been chased in mineral rich areas, which tend to be popular strongholds. We can conclude that the UN could have prevented a lot of damage to its image by telling a more balanced story about Kimia II, instead of providing the world with the most optimistic accounts.

Congolese respondents pointed out several strategic flaws. No measures would have been taken in advance to protect civilians; the population would not have been properly informed and consequently was not able to take precautions; MONUC hadn't created a humanitarian corridor. In addition, there would not have been an appropriate follow up of the operations: Possible target areas were quit quickly without leaving behind a small protection unit that could deter possible new attacks. This is surprising, since it is well known that most of the attacks generally take place after the FARDC and MONUC have left the scenery. Rebels then return to take revenge on civilians. MONUC is said to have tried to overcome this issue by constructing police buildings in areas where the

<sup>45</sup> See also Chapter 2, 2.3.3) Joint FARDC/MONUC military operations against the FDLR and the conditionality policy (Resolution 1906)

<sup>46</sup> In August 2006 the International Criminal Court (ICC) issued an arrest warrant for Bosco Ntaganda since the latter committed war crimes in Ituri in 2002 and 2003. As chief of staff of the CNDP, Bosco is alleged to have led his troops against the civilian population, including the killing of about 150 civilians in Kiwanja in November 2008. (...) Nevertheless, in January 2009 Congolese authorities appointed him a deputy commander of military operations conducted by Rwandan and Congolese armies against FDLR rebels." (International Centre for Transitional Justice, n.d.)

<sup>47</sup> See Chapter 2, 2.3.3) Joint FARDC/MONUC military operations: Security Council Resolution 1906 (December 2009)

<sup>48</sup> We do not yet dispose of the results of Amani Leo, as the operation was still ongoing during our field research.

<sup>49</sup> With the conclusion of Kimia II MONUC assessed that the strength of the FDLR was reduced by half, from approximately 6,000 to an estimated 3,200 elements. Regarding DDRRR 3,751 FDLR elements were repatriated to Rwanda, of which 1,546 were combatants, a number which is three times higher than the repatriation rate in 2008. Since the beginning of 2010, MONUC has demobilized and repatriated an average 157 FDLR combatants per month. (UN Security Council, March 2010, p.13)

operations took place. However, Congolese authorities did not provide the necessary police personnel to guard these buildings and/or did not pay their staff to do the job.

## 2.4 Communication challenge<sup>50</sup>

Congolese respondents pointed out that communication with the population is the biggest challenge for MONUC and should be improved. A peace operation simply cannot succeed without clear communication, as was demonstrated by recent protection crises in Kiwanja (October/November 2008) and Kibua/Mpofi (July/August 2010).

Communication is essential due to two reasons:

Firstly, the mission should communicate clearly with civilians about its mandate, role and limitations in order to develop realistic expectations. When communication is weak, perceptions become realities and people start behaving on these perceptions. In such a context rumours have an enormous impact. As there is no appropriate communication about its mandate, MONUC creates false expectations and confusion: Congolese civilians do not know if the peacekeepers have come to observe, to interpose, to fight or to protect. That is why MONUC should do more to sensitize the population concerning its mandate by communicating clearly about the operations it is undertaking. This is especially necessary in insecure and inaccessible zones where civilians are sometimes under the impression that the mission does not differ much from hostile forces. The brochure that MONUC released regarding Resolution 1906 is a step in the right direction.<sup>51</sup> As a plausible solution our Congolese respondents proposed a closer cooperation between MONUC and the population, for example by increasing the number of meetings with civilians. The mission could also conduct polls on a regular basis to uncover the population's expectations.

Secondly, effective communication between peacekeepers and civilians makes sure that information is gathered, which is still the best way to prevent threats and protect the population. Especially since MONUC is operating under very complex circumstances, communication with the population is essential in order to develop situational awareness. However, communication is weak due to a climate of mistrust, which is caused among other things by the language/cultural barrier between peacekeepers and civilians. Indeed, most MONUC peacekeepers do not manage to communicate with the population because they simply do not speak French or Swahili. Since the North and South Kivu Brigade are mainly composed of Indian and Pakistani troops the primary language in the field is English. Consequently, intelligence gathering remains limited: Information often gets distorted or is not disseminated and protection activities are delayed, as was demonstrated in Kiwanja 2008 and near Kibua/Mpofi in 2010.

The mission currently tries to address the challenge as follows: On an ad-hoc basis surveillance networks have been installed and organized to collect information in order to react faster when attacks occur; Community Liaison Interpreters (CLIs) have been appointed to improve the communication between peacekeepers and the population. However, as a result of financial constraints there are not enough interpreters to face current communication difficulties. MONUC has also founded Radio Okapi<sup>52</sup> and the population clearly attaches a lot of importance to the radio station. It is advisable that Okapi would broadcast more information sessions explaining the mission's mandate, role and limitations, and future military operations.

Besides the communication challenge vis-à-vis the population, MONUC also has trouble communicating internally. For example, the operational brigades, Civil Affairs (CAS) and the Joint Military Analysis Cell (JMAC) should try to exchange and handle information in a better way. MONUC staff also struggles to communicate towards the international community, to the extent that staff in Kinshasa and New York would adopt a submissive "mea culpa" attitude. Instead they should try to make the world understand the challenges the mission is facing (not at least the fact that the government in the DRC is not assuming its responsibility). For the staff members in the field offices this attitude is very frustrating.

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<sup>50</sup> See Chapter 2, 3) Conclusion.

<sup>51</sup> In an attempt to improve its communication with the local population the MONUC Public Information Office (PIO) published a brochure, entitled "Comprendre le mandat de la MONUC". This document provides the full text of the original resolution, combined with an explanation of its key elements, which remain civilian protection, DDR(RR), support for the security sector reform (SSR) and more generally the reinforcement of government institutions and the Rule of Law. More importantly, the brochure also tends to address the population's security concerns by providing a response to pending questions, for instance regarding joint FARDC/MONUC military operations. The document constitutes an effort to clarify ambiguities within the mission's mandate. Last but not least, some improvements concerning civilian protection are communicated, such as the deployment of more than 90 temporary operational bases (TOBs) in remote villages and conflict zones in the East; and the development of joint protection teams (JPTs). (UN Security Council, December 2009)

<sup>52</sup> Founded in 2001, Radio Okapi is a national radio network around the country with headquarters in Kinshasa and regional studios in the provinces, co-managed by MONUC and the Swiss NGO Fondation Hirondelle. [December 2010, Radio Okapi: [www.radiookapi.net](http://www.radiookapi.net)]

## 2.5 External challenges

It should be taken into account that MONUC has to operate in extremely difficult circumstances: The conflict environment and partnership with the government represent two major challenges. Moreover, the mission faces severe resource constraints. That is why civilian protection should not be studied in isolation.

### 2.5.1 The conflict environment

Both Congolese respondents and MONUC staff showed awareness regarding the complex conflict environment in which the UN peace mission is deployed. However, while MONUC staff members focussed on difficulties concerning the general conflict context, Congolese respondents emphasized the problematic relationship with Rwanda and the link between the conflict and natural resources when it comes to civilian protection.

A large part of the Kivu territory is inaccessible due to its geography and lack of infrastructure. That is why many villages can only be reached by helicopters, which are very scarce. Moreover, some areas are isolated as they are not connected by a (mobile) network. Since civilians living in those hot zones are less observed, they become popular rebel targets. Furthermore, MONUC has to cope with diverse militia and rebel groups. In North and South Kivu alone more than twenty indigenous armed groups are operating, but also several foreign militia and rebel groups like the FDLR that is currently posing the biggest threat. This implies constant shifts in alliances between these armed groups. Not to mention the fact that when one group is suppressed and the threat is reduced, another disgruntled group arises. As a peaceful organization the UN is implicated in guerrilla warfare, a type of war extremely difficult to win, as the insurgents know the terrain much better than their opponent and tend to mingle with the population.

It should be borne in mind that the eastern Congolese conflict has a regional dimension as it involves different neighbour countries, with essentially Rwanda holding one of the keys to the solution. Therefore the international community should put more pressure on Kigali to put an end to the FDLR threat. In particular the United States should use their influence to pressure Kigali, since it has great influence in the Great Lakes Region.<sup>53</sup> However, as long as Congolese authorities are not willing to start working on Security Sector Reform, armed groups will continue to pose a threat to civilians and the country's natural resources will remain exploited.

The conflict does not only have a political, but also an economical dimension: The Eastern DRC is a mineral rich region, systematically targeted by armed groups as they exploit natural resources and transport them over the Congolese border, generating profit and financing the war, which keeps the conflict going. The majority of Congolese respondents in Bukavu claimed that many civilians in South Kivu (especially in the Shabunda and Fizi territory) are targeted on a daily basis due to their proximity to natural resources. We heard numerous stories of Congolese who were attacked or killed by FDLR elements while transporting tin ore (cassitérite). They were murdered because of their alleged collaboration with the FARDC. In Bukavu we talked to a local chef who told us his personal story:

“On the 1<sup>st</sup> of May 2010 my father was captioned by the FDLR and assassinated with a bayonet. The reason for his death was that he was a “friend” of the joint FARDC/MONUC military operations Amani Leo and Kimia II. In total, there have been 18 deaths in my family. My family members had asked to transport and use tin ore for which they had permission from the authorities, but they were killed on the spot (on the road) because they were “collaborating” with the enemy (FARDC). The soldiers were numerous, but there was no presence of MONUC. In Shabunda the insecurity is beyond limits. In our opinion MONUC should help us. There where MONUC is present, the situation is calmer, but where there is no MONUC presence there are human rights abuses every day.”

What is MONUC currently doing to address this problem? By taking a look at the most recent deployment map (31 March 2010), it appears that there is only a small MONUC presence in Shabunda and Fizi, compared to other South Kivu territories. With only one MOB and some JPTs it is doubtful that MONUC is doing enough to protect civilians. However, possibly more protection mechanisms have been established in the mean time. (See Annex 5c)

It should be noted that Congolese respondents claimed the existence of a secret mining agreement between President Kabila (DRC) and President Kagame (Rwanda), in which many senior officials, like the Congolese Minister of Defence, would not be involved. There would be a link between mining areas and the locations of military operations Kimia II and Amani Leo. Moreover, the FARDC elements engaged in joint military operations with MONUC would not have come to chase the FDLR: An eyewitness declared that when FDLR elements fled into the bush, the Congolese army did not chase them. Instead the FARDC would have a hidden agenda of illegal exploitation and traffic in tin ore (cassitérite) and gold. The funds that should be used for paying the soldiers' salaries would be used to stimulate illegal trade in natural resources.

<sup>53</sup> In January 2009 president Obama ordered Laurent Nkunda's arrest, which entailed the disintegration of the CNDP in the Kivus.

### 2.5.2 Partnership with the DRC government

Both respondent groups believed that civilian protection is first and foremost the responsibility of the government in charge. However, the DRC government refuses to assume any responsibility regarding security sector reform, which is essential when it comes to protection civilians. Indeed, currently an effective national army and police (and in general the Rule of Law) are almost nonexistent due to several reasons. Firstly, in general the government does not pay its soldiers or salaries are retained due to a deficiency in the chain of payments. As a result, soldiers start misbehaving and even desert the army. Secondly, Kinshasa does not provide training or education for FARDC elements. Instead, training and education of a certain number of battalions is financed by the UN and the EU. Thirdly, as there is no effective vetting mechanism, human rights violators are not deprived of their ranks and are rarely punished for their acts. Consequently, impunity reigns. Last but not least, the integration process is deficient: Full integration is inexistent (as the brassage process was never properly terminated)<sup>54</sup>, the integration of ex-rebels into the regular army is stalled because of indecisiveness, nor is there any surveillance of the chain of command.

As DDRRR is the mission's second priority, MONUC's aid in reestablishing the Security Sector was praised. However, the international community should put more pressure on the Congolese government to assume its responsibility. For instance, the authorities should be compelled to stop allocating (top) army positions to human rights violators. However, the DRC government would be reluctant towards MONUC's interference and instead prefers bilateral agreements, which are more difficult to control financially. Consequently, there are several security sector reform initiatives (multilateral and bilateral) lacking appropriate coordination. A plausible solution might be to install a small international mission that would solely focus on the transformation of the FARDC into an effective army.

It is clear that Kinshasa holds the key to civilian protection. However, instead of assuming its responsibility, the government is hiding behind MONUC's shortcomings. Consequently, the population expects the UN peace mission to take charge, as they do not have too high expectations of their own government. Nevertheless, unless the DRC government is not willing to assume responsibility, the peace process will remain stalled.

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<sup>54</sup> The original *brassage* process (integration of ex-rebels into the FARDC) was never properly terminated. As there is no real mix we simply cannot speak of a genuine integration. Moreover, the population wonders on whose side the FARDC is. Many respondents consider the FARDC as a foreign army, since it includes the majority of ex-CNDP rebels, known to be backed by Rwanda. Especially in the Shabunda territory (South-Kivu) the bulk of the FARDC would consist of ex-CNDP elements, who now are to protect those civilians they had been preying on until recently.

## IV. Conclusion

Since 1999 MONUC has been deployed in a guerrilla conflict with a regional dimension. The mission faces an important capability gap as it is operating under serious human and material resource constraints in a vast area lacking infrastructure, where it is confronted with a plethora of national and foreign armed groups. In this complex conflict environment MONUC has to carry out over forty tasks and is compelled to cooperate with the Congolese authorities that do not assume any responsibility. However, as the DRC is a sovereign state, civilian protection is the primary responsibility of the host government and the UN should merely play a facilitating role.

Since the government does not assume its responsibility, the population expects MONUC to take over its duties, which is impossible. Indeed, civilian protection by MONUC alone is an illusion. Thorough security sector reform is key to put an end to the current situation of lawlessness and impunity and in particular to protection related issues such as the activity of foreign rebel groups (such as the FDLR) and the exploitation of and traffic in natural resources. Consequently, as long as the Congolese authorities do not succeed in building a strong security sector every action MONUC undertakes will remain limited to damage control.

The broad international community should put more political pressure on the DRC government. The past has demonstrated that effective action regarding the Protection of Civilians depends to a great extent on the international community's resolve to intervene. (We refer to the 2006 presidential elections and Laurent Nkunda's capture in 2009 when US president Obama pressured Rwanda to arrest the ex-CNDP leader.)

MONUC faces an enormous capability gap and typical UN constraints are subject to many frustrations: heavy UN bureaucracy and hierarchy make spontaneous and quick reactions to threats difficult, with peacekeepers arriving too late on the spot in the worst case. Vagueness concerning the mandate and especially regarding the use of force also severely limits effective civilian protection in the field.

MONUC is perceived by some as showing a lack of willingness and preparedness on the side of the peacekeepers. MONUC troops would be motivated by money and lack the appropriate attitude. However, we should be careful with generalizations and stereotypes: With more than 17,000 peacekeepers in the field it is undeniable that some individuals may lack motivation or misbehave. More important is the fact that the mission's presence was questioned as there would be a remarkable difference between the theory and practice of protecting civilians: MONUC peacekeepers would rarely apply Chapter VII in the sense that they would only intervene and use force if no risks are attached. Instead of merely responding to threats, the UN peace mission should try to prevent them. Indeed, currently MONUC is often only deployed after attacks against civilians have already occurred. It should be noted that the lack of willingness and preparedness to protect can be linked to the lack of clear guidelines and training regarding the Protection of Civilians. Moreover, severe resource constraints might also lead to a more reactive attitude in the field.

MONUC is also challenged when it comes to strategy. However, it should be acknowledged that the mission's presence provides an important indirect, dissuasive effect. Indeed, in general rebels will not harm civilians when peacekeepers are around, out of fear of being tried by the international community. Also, when in danger, the population tends to flee towards UN bases in the neighbourhood. When MONUC withdraws, civilians often retreat into the jungle, which proves the vital importance of the mission's presence. This partially refutes the argument that deterrence through presence would not work.

While MONUC has not developed a mission-wide protection strategy, different protection mechanisms have been elaborated throughout the years, such as a network of operating bases (MOBs, TOBs and COBs); joint protection teams (JPTs) and community liaison interpreters (CLIs). Some of these mechanisms, such as the JPTs, were standardized because of their success. Consequently, MONUC can be considered as an innovative and learning organization and constitutes an example for other UN peace missions around the globe. However, protection operations remain limited because of geographical/infrastructural and resource constraints.

An essential part of the mission's strategy is the operational support provided to the FARDC: Joint FARDC/MONUC military operations such as Kimia II and Amani Leo offer a good illustration of the ethical and political constraints MONUC is currently facing. The operations' ethical side could be questioned, as MONUC risks becoming the FARDC's accomplice by providing logistical support to an army that is to a great extent composed of human rights violators. However, as the DRC is a sovereign country, there would be no feasible alternative. This illustrates the situation's complexity and more specifically the conflict between ethics and reality.

While the overall military objective of Kimia II was accomplished (the FDLR was beaten back in many areas), the operation caused a lot of collateral damage and an enormous increase of IDPs. That is why Congolese respondents emphasized that the conflict cannot be solved in a military way alone (weapons have never solved anything) and why operations like Kimia II and Amani Leo would only constitute a vicious circle of violence. Instead, they proposed

a political and diplomatic solution by imposing a peaceful dialogue between Kinshasa and Kigali. Moreover, the international community should enforce an Inter-Rwandan dialogue to facilitate a peaceful return of the FDLR.

Although MONUC is doing a lot to protect civilians, communication with and towards the population remains the mission's main weakness: Civilians did not seem properly informed about the mission's mandate, role and limitations and rarely talked about field protection mechanisms. Consequently, MONUC has difficulty managing public expectations, which is disastrous, since a peace mission largely depends on popular support. Even more important is the fact that there is a climate of mistrust between MONUC and the population, resulting from the language/cultural barrier, as this prevents the information flow between both groups. This automatically leads to poor information gathering. As a result, threats cannot always be prevented and at worst peacekeepers arrive too late on the spot, as was demonstrated by the 2008 Kiwanja massacre and the 2010 mass rapes near Kibua-Mpofi. However, MONUC made several attempts to improve communication, such as the deployment of CLIs.

Although the mission has been heavily criticized, the security situation has certainly improved thanks to MONUC's support. There has been some progress, but also certain failures, as recently noted in Kiwanja and Kibua-Mpofi. Indeed, there were situations in which MONUC could have acted more appropriately, but the mission would in general perform much better than perceived. Moreover, the bulk of our Congolese respondents assured they did not want the mission to retreat in June 2011 (as the government proposed in March 2010). MONUC should only withdraw, after the security sector is reformed thoroughly and stable governmental institutions are installed, which remain key to resolving the conflict.

To conclude, this paper demonstrates that the Protection of Civilians (POC) remains a major challenge for UN peacekeeping and that global UN reform is vital with regard to internal organizational and operational constraints. Moreover, the example of MONUC incorporates the capability gap modern UN peace operations are facing in the face of growing global demand and displays the need for feasible mandates. It also shows the importance of lessons learned when it comes to civilian protection and more importantly regarding their translation into concrete actions. Last but not least, our case study proves that the international community's resolve to undertake action can make a difference in the field.



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# Annexes

## Annex 1: Chronology of events

**1994-** The Rwandan genocide which takes place from April till June 1994 causes the violent deaths of 800,000 Tutsi and moderate Hutu. Two million Hutu, amongst them the Interahamwe, Hutu extremists, majorly responsible for the instigation of the Rwandan genocide, are chased by the RPF, flee to neighbor countries. Many of them flee to Zaire. The Tutsi-led RPF (Rwandese Patriotic Front) takes over power.

**1995-** During the autumn of 1995 this leads to widespread violence in North Kivu. I

### **1996-1998: The First Congo War**

**1996-** The Banyamulenge in South Kivu, ethnic Tutsi, become increasingly targeted. This will eventually lead to the so called Banyamulenge insurgency in September 1996. In reality this insurgency is set up and abused by Rwanda to destroy the Hutu Refugees camps and those who shelter within them. The Banyamulenge insurgency heralded the start of the *First Congo War*, which would last until 1998. In October 1996 the Alliance of Democratic Forces for the Liberation of the Congo (AFDL), led by Laurent Kabila and backed by Rwanda, is created. In North and South Kivu Rwandese Refugees camps suffer from attacks. Uganda is also involved.

**1997 -** During the spring the Rwandese Patriotic Army (RPA) is involved in a major massacre on Rwandan Refugees in Zaire. In May rebels belonging to the AFDL take Kinshasa, the capital of Zaire, forcing President Mobutu Sese Seko into exile. On May the 29th Laurent-Désiré Kabila is sworn in as the president of the Democratic Republic of the Congo.

### **1998-2003: The Second Congo War**

**1998 -** In July "Rwandan and other foreign troops" are ordered to leave the DRC. On the 2<sup>nd</sup> of August a new Congolese rebellion takes off in the East. This rebellion is contrived by Rwanda and heralds the start of the Second Congo War (1998-2003). Take-over of Goma, Bukavu and Uvira. On the 3rd and 4th August 1998 Congolese Tutsi officers and Rwandan soldiers, backed by Rwanda, a former ally of the AFDL, take up arms against President Laurent-Désiré Kabila. The DRC accuses Rwanda of being the instigator of the armed rebellion in the East. Between August 16 and 19 the rebellion forms a politico-military coalition, the Rassemblement Congolais pour la Démocratie (RCD, Congolese Rally for Democracy), led by Ernest Wamba dia Wamba. The armies of six African nations enter the conflict on DRC soil, as Rwanda, Uganda and Burundi back the Congolese rebels while Angola, Namibia and Zimbabwe - as well as Chad which will soon withdraw from the conflict - support LD Kabila, who is also helped by exiled soldiers from the ex-Rwandan armed forces (ex-FAR) and other Congolese militias, including the Mai-Mai. Start of the First African World War.

**1999-** On July the 10<sup>th</sup> a ceasefire is signed in Lusaka, Zambia, between the six countries involved in the conflict: Democratic Republic of the Congo, Angola, Namibia, Zimbabwe, Rwanda and Uganda. But the ceasefire is widely disregarded and so fighting and massacres continue. In Ituri massive violence breaks out, which would continue until 2003. On September the 30<sup>th</sup>, with *Resolution 1279*, the UN Security Council agrees to the creation of the United Nations Mission in the Democratic Republic of the Congo (MONUC) with an initial strength of 500 military observers. The mission's deployment takes off in October.

**2000-** On February the 24<sup>th</sup> 2000 under *Resolution 1291* the Security Council approves the deployment of 5,537 peacekeepers to monitor the implementation of the 10 July 1999 ceasefire. MONUC is provided a chapter VII mandate. However, until after the 2003 Ituri crisis MONUC remains deployed under a limited mandate. On the June the 16<sup>th</sup> *Resolution 1304* calls for the withdrawal of all foreign forces from the Congolese territory, without specifying any deadline.

**2001-** On January the 16<sup>th</sup> Laurent-Désiré Kabila, also known as Kabila Senior, is killed in Kinshasa by one of his officers. On January the 26<sup>th</sup> Joseph Kabila, son of the deceased, takes over as Head of State. In March 2001 MONUC deploys its first contingent to the East.

**2002-** On February the 25<sup>th</sup> the Inter Congolese Dialogue officially opens in Sun City, South Africa. The objective is to elaborate an agreement for a transitional government ahead of elections. A partial power-sharing accord is reached, but the RCD-Goma and several opposition groups refuse to sign. In May the Dialogue is violently interrupted by the Kisangani murders, in which 160 civilians are killed. The RDC-Goma (amongst it Laurent Nkunda), one of the parties to the peace agreement, is involved in the killings. In July foreign forces (Rwanda and Uganda) start their withdrawal. In December the Dialogue resumes in Pretoria, under the mediation of the UN and South Africa. The

Lusaka Ceasefire Agreement of July 1999 is complimented with a global political agreement that foresees a power sharing formula for a two-year transition. Under this agreement, Joseph Kabila will remain President with four Vice-Presidents in a government composed of members from the negotiations' four main components, namely, the government, the two main rebel groups (MLC and RCD-Goma), the unarmed opposition and civil society. The two-year transition period is set to culminate with general elections. The signing of the Global and All Inclusive Agreement (AGI) follows.

**2003-** April the 1st marks the closure of the Inter Congolese Dialogue in Sun City, South Africa, with the formal approval of the Global and All Inclusive Agreement. On April the 7th President Joseph Kabila is sworn in under the new Constitution. In May the latest foreign troops are withdrawn from the Congo. However, Kampala maintains soldiers in several troubled spots of Ituri. On the 30th of May the UN Security Council adopts Resolution 1484 by which it agrees to the creation of an emergency international force to secure Bunia, the regional capital of Ituri. Codenamed Artemis, the force, deployed by the European Union under French command, is composed of 1850 troops from 9 countries, mainly France. The operation begins on 6 June 2003 and ends on 1 September 2003. During the same summer the 1+4 Presidency, the transitional government and parliament is installed as part of the AGI. Led by President Joseph Kabila assisted by four Vice-Presidents (4+1), the Government of national unity, where all the components of the Inter Congolese Dialogue (government, MLC, RCD-Goma, civil society and political opposition) are represented, is in charge of preparing free elections in two years' time. On July the 28th the Security Council authorizes under Resolution 1493 increases the military strength of MONUC to 10,800 personnel. The Council also authorizes MONUC to use all necessary means to fulfill its mandate in the Ituri district and, as it deems within its capabilities, in North and South Kivu. It also specifically authorizes MONUC to take the necessary measures in the areas of deployment of its armed units. In other words, MONUC inherits Artemis' robust mandate. On September the 1st MONUC takes over from ARTEMIS in Ituri..

**2004-** Between 26 May 2004 and 9 June 2004 the Bukavu offensive takes place. In the Bukavu region, in South-Kivu province, violent clashes erupt between the Armed Forces of the DR Congo (FARDC) and two groups of dissident soldiers led by two rebel officers, General Laurent Nkunda and Colonel Jules Mutebusi, both members of the Banyamulenge community, or Congolese Tutsis. The dissidents take control of Bukavu on 2 June, after chasing the regular army out of the provincial capital of South Kivu. The dissidents' takeover of Bukavu sparks a wave of violent demonstrations and lootings in the country's main towns, including Kinshasa and Kisangani, against MONUC installations. The violence leaves 12 people dead nationwide. On June, 9th, the dissident troops withdraw from Bukavu, under pressure from MONUC and international mediators. In October 2004 the Security Council revised MONUC's mandate and authorized the increase of MONUC's strength by 5,900 personnel as well as the deployment of some robust resources under Resolution 1565. 2004 also marks the year of the first joined operations with MONUC supporting the FARDC.

**2005-** On February the 25th a MONUC convoy is attacked near Bunia, in Ituri, by militiamen from the Lendu ethnic-dominated Front des Nationalistes Integrationistes (FNI, Nationalist Integrationist Front), causing the death of nine Bangladeshi peacekeepers. The peacekeepers were here to protect a Refugees camp where 8,000 civilians had been sheltering from several weeks of exactions by the rebels. As a result, humanitarian aid is suspended and the Congolese government deploys 3000 additional troops in Ituri. 2006 - On January the 18th rebels attack and temporarily occupy several locations nearby Rutshuru, North-Kivu. On January the 23rd eight Guatemalan peacekeepers die in a clash with Ugandan rebels in the east of DR Congo. For many years, the east of former Zaire has been a troubled zone occupied by foreign rebel groups, mainly Ugandan and Rwandan, in addition to Burundian as well as other Congolese tribal militias. On July the 30th the first round of the presidential elections points out the following results: Kabila: 44,81%, Bemba: 20,03%, Gizenga: 13,06%. Between the 20th and the 22nd of August the results of the first round are announced, which is the beginning of three days of fighting in the streets of Kinshasa between Kabila's and Bemba's troops. The 29th of October the outcome of the second round of the presidential elections is made public: Kabila: 58,05%, Bemba: 41,95%. On November the 27th Kabila is declared winner of the elections. Kabila takes the oath as president on December the 6th.

**2007** -The year 2007 takes off with a crisis near Sake. On February the 5<sup>th</sup> the new government is formed by Prime Minister Antoine Gizenga. In March 2007 the Secretary-General of the United Nations declares in his 23rd report that MONUC's role will be limited to a supporting role in the future, since the DRC has a legitimate government from now on. In November the Nairobi agreements are set up, which aim at addressing the problem of the FDLR. Concerning the Nairobi process there is also far little positive to say: The deadline of March 15, 2008, the day on which the FDLR officially had to withdraw, was exceeded. The Nairobi process is linked to the later Goma process: Both processes should eventually lead to the elimination of domestic and foreign rebels. In December 2007 the Security Council, under *Resolution 1794*, requests MONUC to attach the highest priority to addressing the crisis in the Kivus in all its dimensions, in particular through the protection of civilians.

**2008** - In January 2008 the Goma conference *peace, security and development in the Kivus* leads to the signing of two *actes d'engagement* for North and South Kivu by the representatives of 22 Congolese rebel groups, including the CNDP. The Congolese armed groups agreed that they would accept a cease-fire monitored by MONUC and that they would undergo brassage. Partly, the Goma peace conference resulted from the failed attempt of the Congolese army to defeat Nkunda's rebels, which turned out as a fiasco in the autumn of 2008. The Goma conference led to a process, called the Amani process. However, the Actes d'engagement were not respected and the fighting resumed in August 2008, leading to a major crisis around Goma and the Kiwanja massacres in October/November 2008. As a consequence, the Council decides under *Resolution 1856* to authorize the continuation of up to 19,815 military personnel. The Council further requests to attach the highest priority to addressing the crisis in the Kivus, in particular the protection of civilians, and to concentrate progressively during 2009 its action in the eastern part of the DRC.

**2009** - Early January CNDP-leader Laurent Nkunda is arrested under the impulse of the United States. On 20 January 2009 a joint military operation of the Rwandan Defence Forces (RDF) and FARDC, "Umoja Wetu" (Swahili for "our unity"), took place in the Kivus. Umoja Wetu can be considered as a turning point, as MONUC - with the exception of a limited number of military staff members - was not involved in the planning and did not participate. When the operation was concluded in late February more than 6,000 Rwandan returnees were generated, of which 1,476 were combatants. However, the operation only temporarily chased the FDLR away from their strongholds and did not stop them to brutally retaliate against civilians they accuse of collaborating with Umoja Wetu. In March, the 23 March Agreements are agreed upon. These agreements arrange for the CNDP and Congolese militia and rebel groups to be integrated into the national army. After Umoja Wetu the joint military operation "Kimia II" of MONUC and FARDC takes off. The operation's objective is to eliminate the FDLR threat. As a result of Kimia II, the MONUC conditionality policy is installed in December under *Resolution 1906*.

**2010** - In January the joint military operation "Amani Leo" (Peace Today), which succeeds Kimia II, takes off. The objective remains the same. In March a press release displays the government's point of view on a potential MONUC withdrawal. The government writes it wants MONUC to retreat by June 2011. Later on, Kinshasa will reconsider its point of view. On May the 28<sup>th</sup> MONUC is transformed into the stabilization mission MONUSCO under *Resolution 1925*. In June the first 2,000 troops are withdrawn from Kisangani. Between July the 30<sup>th</sup> and August the 3<sup>rd</sup> mass rapes are committed in North Kivu, in thirteen villages on the Kibua-Mpofi axis. Although MONUSCO had a basis near the area, they could not prevent the rapes. Consequently, MONUSCO launched operation "Shop window" in September.

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## **Annex 2: Definition of the terms “mandate” and “Rules of Engagement” (RoE)**

The mandate and the Rules of Engagement are two essential components of a UN peacekeeping mission.

The mandate of a peacekeeping operation determines to what extent peacekeepers should adopt an active attitude on the field. One should make an important difference between a chapter VI or VII mandate. Under a chapter VI mandate the use of force is severely limited. Chapter VII mandates require more robust interventions. There are also gradations in chapter VII mandates: there are stronger and weaker chapter VII mandates. (Mattelaer, 2006, p.23)

When we talk about the mandate, we also refer to the goals expressed in it. These goals must be clear, appropriate and feasible. A mandate is always based on a conflict diagnosis. In other words, a successful mandate is determined by a good diagnosis. Poor diagnosis can lead to a vague mandate with vague objectives. Disagreement within the Security Council can also lead to an unclear mandate with various interpretations. A too liberal interpretation of a mandate can have catastrophic consequences. (Van der Lijn, 2005, p. 281-282)

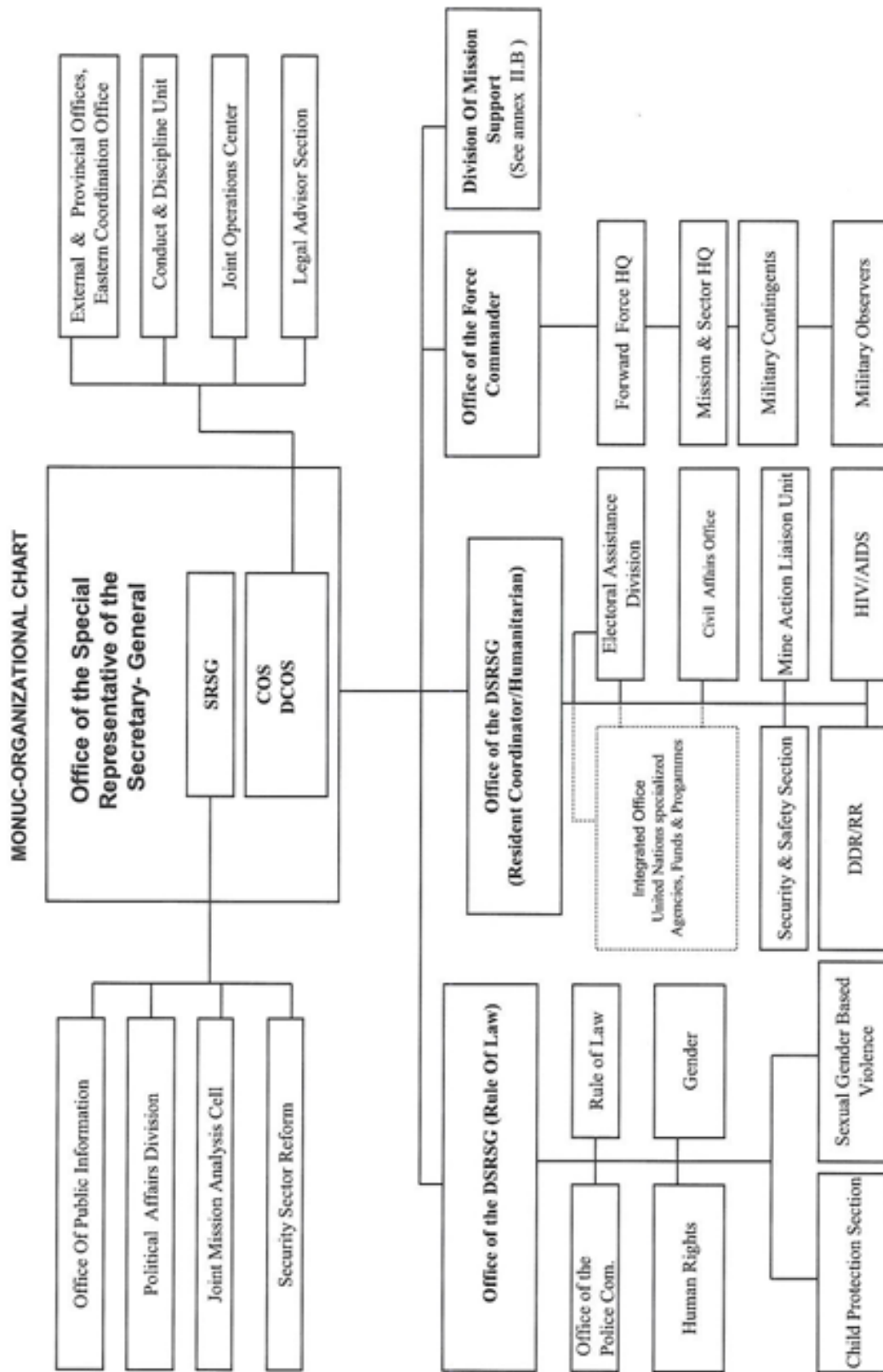
In addition, problems arise when the situation on the ground does not match the given mandate or if there are not enough resources to carry out the mandate. The reason why the mandate is not always adapted to the situation on the ground often has to do with the large gap between the political and military component in United Nations peacekeeping. One claims that the political level, responsible for the planning of operations, is not aware of the situation on the ground. (Mattelaer, 2006, p.23-24)

The Rules of Engagement (RoE) determine in what circumstances violence is ought to be used. Unclear Rules of Engagement may lead to an ambiguous mandate, such as UNAMIR in Rwanda. While UNAMIR's mandate officially allowed the peacekeepers to use all means necessary to prevent crimes against humanity, the United Nations called for a limited interpretation of the RoE. In practice they were only allowed to use force in case of self defence. (Mattelaer, 2006, p.23)

The mandate and the RoE should not only be robust enough, the troops and especially their leaders must have the will to carry out the given mandate. Otherwise a chapter VII peacekeeping operation risks becoming an observation mission. (Cammaert, 2008, p.70)



# Annex 3: MONUC Organizational chart



Source: Anonymous source, personal communication by e-mail, 31 May 2010

# Annex 4: Terms of Reference for Joint Protection Teams

## 1. Rationale

The temporary deployment of “joint-protection teams” (CAS, HR, PAS, CP, PID) within MONUC operating bases, working where possible alongside DDRRR staff, is intended to address our renewed mandate to protect civilians (see UNSC 1856.)

## 2. Objectives

Teams will deploy in accordance with priorities recommended by the Task Force and approved by senior management, in order to enhance MONUC’s capacity to protect civilians by:

- i) Working with our military commanders in order to address protection needs, including protection against sexual violence
- ii) Supporting surrender to DDRRR of FDLR combatants
- iii) Promoting respect for International Humanitarian law by all parties
- iv) Setting up networks to increase communication with local people
- v) Offering protection advice where necessary
- vi) Analyzing political and social dynamics for protection planning purposes
- vii) Anticipating needs and ensuring appropriate measures are taken, within the capacities of both civil and military components of MONUC.

## 3. Responsibilities

SOPs (Standing Operating Procedures) have been prepared for JPTs to set out methods of work. These will, as with these Terms of Reference, be refined in the light of experience.

**a) Civil Affairs** officers will normally take the lead and in particular be responsible for:

- i) Mapping of key civilian and military actors and the political, social and economic context, wherever a JPT is deployed
- ii) Analysis of protection needs and risks, with particular attention to SGBV
- iii) Liaising with both military, humanitarian and local leaders in order to prepare contingency protection plans
- iv) Developing context-specific civil and military protection responses according to threats identified: e.g. planning patrols with COBs in priority areas at times suggested by the community; setting-up alert mechanisms; or counteracting any meetings held near IDP settlements for the purpose of manipulating or intimidating civilians.
- v) Assuring regular information sharing on protection issues between MONUC military, local authorities and communities.
- vi) Advocating complementary humanitarian or protection activities where needs are identified.
- vii) Monitoring of impact.

**b) Child Protection Section** officers will in particular be responsible for:

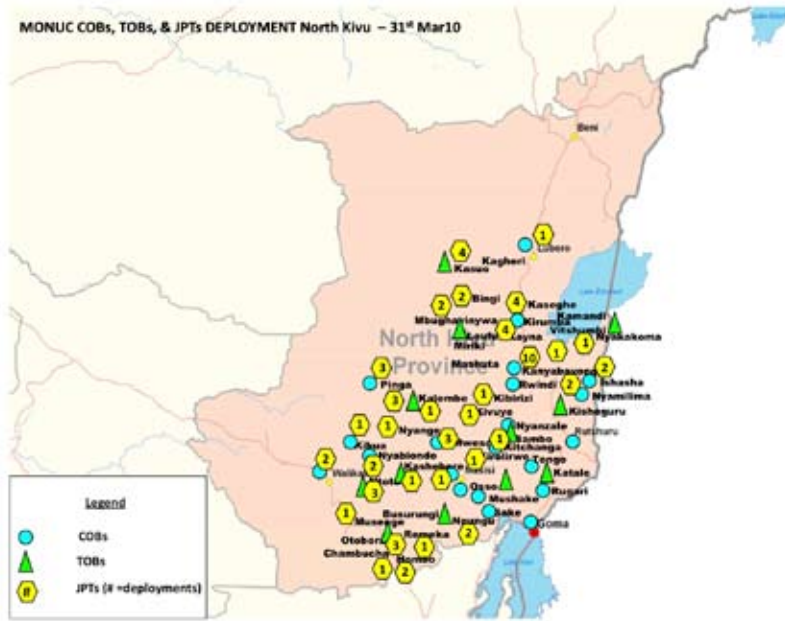
- i) Identifying children at higher risk, particularly of sexual violence
- ii) Recommending preventive measures for special cases such as child soldiers
- iii) Collecting information on allegations of child rights violations
- iv) Taking the lead in advocating the protection of children by those in conflict, the release of children in armed groups and the prevention of recruitment or abuses such as sexual violence, killing, maiming and denial of assistance
- v) Monitoring of impact.

**c) Human Rights Division** Officers will in particular be responsible for:

- i) Identifying HR threats to civilians and recommending preventative measures
- ii) Monitoring, investigating and reporting any HR violations or allegations thereof, so that action may be taken by HQ
- iii) Ensuring a phone number, periodic “clinic” or referral system is available for victims to report human rights violations and to receive legal advice
- iv) Consulting humanitarian, military and local authorities and activists on the application of any best local practices
- v) Identifying patterns and threats of sexual violence, with communities
- vi) Recommending measures to prevent or mitigate such threats
- vii) Following up on cases of sexual violence by referral to specialists

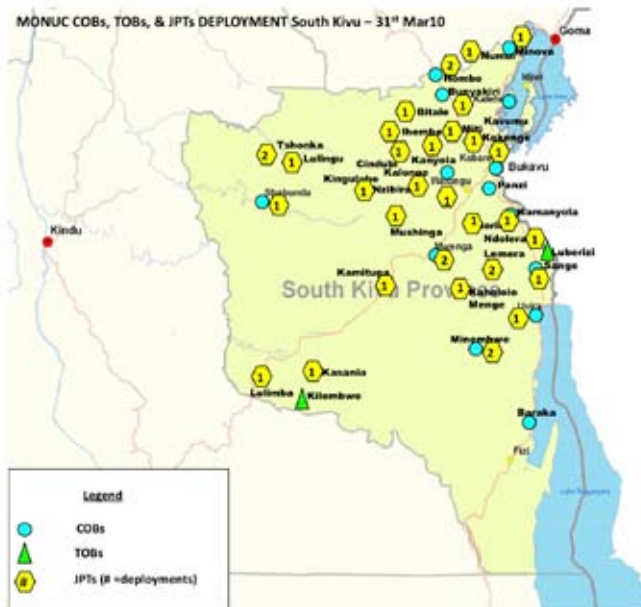


**5b) Deployment of operating bases & joint protection teams in North Kivu (March 2010)**



Source: MONUSCO Website. [1 April 2010, MONUSCO: <http://monusco.unmissions.org/>]

**5c) Deployment of operational bases & joint protection teams in South Kivu (March 2010)**



Source: MONUSCO Website. [1 April 2010, MONUSCO: <http://monusco.unmissions.org/>]

## Annex 6: Interview information OF Information/figures regarding the interviews

### Annex 6a: Total number of direct interviews and interviews by phone or e-mail

	Congolese	MONUC staff	experts	TOTAL
face-to-face	16	14	8	38
phone	5	0	1	6
e-mail	3	7	7	17
<b>TOTAL number of interviewees</b>	<b>24</b>	<b>21</b>	<b>16</b>	<b>61</b>

### Annex 6b: Total number of direct interviews and interviews by phone or e-mail used in this paper

	Congolese	MONUC staff	TOTAL
face-to-face	16	10	26
phone	5	0	5
e-mail	2	7	9
<b>TOTAL number of interviewees</b>	<b>23</b>	<b>17</b>	<b>40</b>

### Annex 6c: Table with selective information about respondents

USED INTERVIEWS		
CONGOLESE	(civil society)	
X	CEPAS, Kinshasa	phone
X	CENADEP, Kinshasa	phone
X	Pole Institue, Goma	phone
X	ASSODIP, Goma	phone & F2F
X	OIM, Goma	phone
X	member of the ethnic group Banyamulenge, Uvira	phone
X	lawyer, university professor , deputy, Goma	F2F
X	CREDDHO ASBL, Goma	F2F
X	law student , Goma	F2F
X	Groupe Jérémie, Bukavu	phone & F2F
X	Groupe Jérémie, Bukavu	F2F
X	Justice pour tous et Réseau de protection des victimes, témoins et défenseurs des droits humains, Bukavu	F2F
X	senior in UDPS, Bukavu	F2F
X	COJESKI-RDC et Justice pour tous, Bukavu	F2F
X	Chef de localité, territoire Shabunda	F2F
X	Journaliste AFEM, Bukavu	F2F
X	Journaliste Radio Mandealeo & AFEM, Bukavu	F2F
X	CENADEP, Bukavu	email & F2F
X	RIO, Bukavu	F2F
X	RECOSO, Bukavu	F2F
X	counselor for the Assemblée Provinciale, Bukavu	F2F
X	APEDI, Goma	email
X	Save the children, Goma	email
<b>23</b>	<b>TOTAL per group</b>	

<b>(EX) MONUC STAFF</b>		
X	SSR liaison officer, Goma, 2010	F2F
X	Human rights officer, stabilisation support unit, Goma, 2010	F2F
X	Senior in stabilisation unit, Goma	F2F
X	Journalist for Radio Okapi, Bukavu, 2010	F2F
X	Senior in Civil affairs section, Bukavu, 2010	F2F
X	Joint Human Rights Officer, Bukavu, 2010	F2F
X	Joint Human Rights assistant, Bukavu, 2010	F2F
X	Public information Officer, Bukavu (civilian), 2010	email
X	Stabilisation unit, Bukavu, 2010	email
X	military staff officer, G2 analysis unit, Goma 2009	email
X	military officer, G2 analysis unit (intelligence), Goma 2009	F2F
X	Public Information Officer, Goma, 2007-2008 (military)	F2F
X	Senior military analyst, HQ Division, Goma, 2007	F2F
X	Public Information Officer, Goma, 2009 (military)	email
X	UNOPS CDOC, editor at data center for IDP population, Goma, 2010	email
X	PIO Officer, Goma 2010 (civilian)	email
X	civilian observer, joint monitoring team, UNPOL, Bukavu 2010	email
<b>17</b>	<b>TOTAL per group</b>	

<b>40</b>	<b>TOTAL interviewees</b>
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## **Annex 7: First questionnaire and final questionnaire (French and English)**

### **First questionnaire (French)**

1. En général : La MONUC est-elle efficace ou pas ? Pourquoi ?
2. Quelles sont les (plus grandes) faiblesses de la MONUC ?
3. Quelles sont les causes de ces faiblesses ?
4. Solutions pour ces faiblesses ?
5. Quelles sont les points positifs de la mission ?
6. Votre opinion sur la protection de la population par la MONUC ?
7. Peut-on mieux protéger les gens ? Comment ?
8. Est-ce que la MONUC est impartiale ? Doit-elle être impartiale ?
9. Comment évaluez-vous les dernières opérations de la MONUC et des FARDC ? (Kimia II et Amani Leo)
10. Le gouvernement prend-il sa responsabilité et permet-il à la MONUC de s'acquitter de sa tâche ?
11. Votre opinion sur les FARDC ?
12. Est-ce que la communauté internationale assume sa responsabilité ?
13. Votre conclusion générale concernant l'efficacité de la MONUC ?

### **First questionnaire (English)**

1. In general: Is MONUC effective or not? Why?
2. What are the (biggest) weaknesses of MONUC?
3. What are the causes of these weaknesses?
4. Solutions to these weaknesses?
5. What are the positive points of the mission?
6. Your opinion on the protection of the population by MONUC?
7. Can we protect people in a better way? How?
8. Is MONUC impartial? Should the mission be impartial?
9. How do you assess the recent joined operations of MONUC and FARDC? (Kimia II and Amani Leo)
10. Does the government assume its responsibility and does it allow MONUC to carry out its task?
11. Your opinion about the FARDC?
12. Does the international community assume its responsibility?
13. Your overall conclusion regarding the effectiveness of MONUC?

### **Final questionnaire (French)**

- 1) En général, estimez-vous que la protection par la MONUC est efficace?
- 2) a) Pouvez-vous identifier les faiblesses/les défis ? (s'il y a des faiblesses selon vous)
- 2) b) Pouvez-vous l'illustrer avec un exemple ? (avez-vous des sources précises?)
- 3) a) Pouvez-vous identifier les points positifs/les réalisations concernant la protection civile?
- 3) b) Pouvez-vous l'illustrer avec des exemples ? (sources précises?)
- 4) Selon vous, quelles causes ou quelles difficultés sont à la base de la protection insuffisante (si vous estimez que la protection civile par la MONUC est insuffisante) ?
- 5) Y-a-t'il des solutions pour offrir une meilleure protection à la population?
- 6) Le chapitre VII est-il bien compris et utilisé?
- 7) Est-ce que le gouvernement congolais et la communauté internationale (pas la MONUC même) assument leur responsabilité ?
- 8) Quelle est votre conclusion générale?

### **Final questionnaire (English)**

- 1) In general, do you consider that protection by MONUC is working?
- 2) a) Can you identify weaknesses / challenges? (If there are weaknesses in your opinion)
- 2) b) Can you illustrate this with an example? (Do you have specific sources?)
- 3) a) Can you identify the positive aspects / achievements concerning civilian protection?
- 3) b) Can you illustrate this with an example? (Specific sources?)
- 4) In your opinion, what causes or what difficulties are at the basis of insufficient protection (if you believe that civilian protection by MONUC is insufficient)?
- 5) Are there ways to improve civilian protection?
- 6) Is Chapter VII well understood and used? What does it mean according to you?
- 7) Do the Congolese government and the international community (not only MONUC) take their responsibility?
- 8) What is your overall conclusion?