Children and armed conflict: the Democratic Republic of Congo

While having the potential to be one of the richest countries in Africa, DRC remained at the bottom of the list of countries in terms of the Human Development Index due in part to weak State structures, corruption and governance problems and to decades of violence that continue to affect the east. Foreign and local armed groups in the east struggle for power, natural resources, or on the basis of ethnic lines.

The conflict

Following the genocide in Rwanda against the Tutsi and moderate Hutu, in which estimated 800,000 Tutsis were killed, over 2 million Rwandan Hutu fled the Tutsi rebellion into the DRC, then called the Republic of Zaire, and sought refuge in camps, mostly in the two Congolese Kivu provinces in the east.

In November 1996, Rwanda and Uganda as well as a Congolese rebellion led by Laurent-Désiré Kabila brutally dismantled the refugee camps to officially chase down the remaining suspected perpetrators of the genocide hiding there. The UN High Commissioner for Refugees (UNHCR) estimates that only 7 per cent of these refugees were involved in the genocide. These elements later contributed to creating the Democratic Forces for the Liberation of Rwanda (FDLR) armed group, which remained on Congolese territory.

Engulfing the region

The coalition of Ugandan and Rwandan armies along with Kabila progressed towards Kinshasa and defeated Mobutu Sese Seko and the Congolese army in May 1997. Laurent-Désiré Kabila became president and renamed the country the Democratic Republic of Congo (DRC).

Later, in 1998, Kabila requested that the Rwandan and Ugandan armies leave the Congolese territory; he received military support from neighbouring countries including Angola, Zimbabwe and Namibia. The ensuing conflict led to the death of an estimated five million people from 1998 to 2003, mostly from disease and other health related problems.

Laurent-Désiré Kabila was assassinated in 2001 and his son Joseph was appointed president. The first democratic elections were held in 2006 from which Joseph Kabila emerged as victor. During that period, the National Congress for the Defence of the People (CNDP), a Tutsi-led militia group commanded by Laurent Nkunda claiming to defend the interests of the Tutsis in Congo, became more active in pursuing the FDLR in the east.

Despite the signing of a peace agreement between the Congolese government and 22 armed groups in January 2008, fighting between the armed forces of the DRC (FARDC), the FDLR, the CNDP and other armed militias continued. But from 2009, the Rwandan and Congolese governments started cooperating in order to fight the FDLR still present in eastern Congo. A peace agreement between the DRC authorities and the CNDP in March 2009 resulted in the integration of this armed group into the FARDC, but its main leaders, including Bosco Ntaganda, maintained a parallel chain of command within the Congolese armed forces. Even though the new partnership between DRC and Rwanda weakened the FDLR, they continued to operate in eastern Congo and are still active to this day.

In the Northeast, another foreign armed group, the Ugandan Lord’s Resistance Army (LRA), has been active for many years and continues to cause terror and unrest killing hundreds and displacing
thousands of villagers in the DRC and other countries in Africa (mainly Sudan and the Central African Republic). Read more about the LRA.

Human Rights Watch reported that 1400 civilians were killed between January and September 2009; 7500 were raped and 900,000 new internally displaced persons reported in North and South Kivu as a result of the military offensives by the FARDC and the FDLR. A UN report made public in December 2008, revealed Rwandan support to the CNDP as well as extensive collaboration between the FDLR and Congolese military officers.

Recent events
Since April 2012, with the emergence of the M23 armed group, mostly composed of ex-CNDP members of the FARDC who defected from the army, the security situation throughout eastern Congo has considerably deteriorated particularly in North Kivu owing to fighting between this group and the FARDC. The new wave of fighting forced hundreds of thousands of civilians to flee their home between April and July 2012.

On 15 November 2012, following three months of de facto ceasefire between the M23 and FARDC, fighting broke out some 25 km in the North of Goma, around Kibumba. Both the UN and FARDC were overrun and the M23 took Goma on 20 November. The M23 further seized control of other towns in the West of Goma. Following intensive negotiations within the framework of the International Conference for the Great Lakes Region (ICGLR) in Kampala, there have been signs of the M23 pulling out since 27 November. However, due to internal tensions between the political and military wings of the M23, the situation remains volatile and whether the M23 will pull out completely of Goma remains yet to be seen. The recent fighting forced some 140,000 civilians to flee.

While the attention of the international community has been lately primarily focusing on the M23 armed group, many other militias or rebel groups proliferated due to the mobilisation of resources by the Congolese government and the UN towards the M23.

Children and armed conflict

In 2005, the UN described eastern Congo as "the world’s worst humanitarian crisis". More than 5 million people died in the conflict from 1998 to 2003, 2.7 million of them were children. More than 200,000 women and girls have been victims of rape or other acts of sexual violence.

All armed groups operating in the DRC have recruited boys and girls and have used them in hostilities including as fighters, messengers, spies, cooks, or to carry ammunition. In April 2011, Child Soldiers International reported:

"Tens of thousands of children have been released from the armed forces and from armed groups including during the integration of armed groups into the national army [in 2009]. However, many under-18s were absorbed into the army during integration processes and, while child recruitment levels by the army are lower than in previous years, effective mechanisms to prevent underage recruitment are still lacking."

This explains why child recruitment is ongoing and peaks in times of heightened armed conflict as has been the case since April 2012. In August 2012, the United Nations Organisation Stabilisation
Mission in the Democratic Republic of the Congo (MONUSCO) reported about 150 incidents of child recruitment by the M23, Mai Mai\(^1\) groups, the FDLR and the LRA since the beginning of 2012.

The report of the UN Group of Experts on the DRC, published in November 2012, indicates that “since its inception in May 2012, M23 has recruited more than 250 children in the [DRC] and Rwanda.”

These violations are fuelled by near total impunity at domestic level. According to the report of the Secretary-General to the Security Council on Children and Armed Conflict (April 2012), "three years after the adoption of the Child Protection Law in January 2009 and the criminalisation of child recruitment, no perpetrators of recruitment and use of children were prosecuted and convicted, despite the fact that many of them - including at the senior level - were clearly identified."

The government of DRC and the UN signed an action plan in October 2012 that includes a series of commitments from both parties to end the recruitment and use of children by Congolese armed forces and security services DRC as well as to end sexual violence against children by members of these forces.

Children affected by armed conflict in 2011\(^2\):

- 10 cases of killing and 14 cases of maiming of children were documented;
- 108 cases of rape (committed by all parties, the majority of documented cases were perpetrated by government security forces);
- 53 incidents of attacks against schools and health centres in the Kivus and Oriental Provinces;
- 1244 children were demobilised.


Persistent violations against children:

- Sexual violence against children
- Trafficking of children

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\(^1\) The term Mai-Mai is a generic term that refers to any community-led militia formed with the intention of defending their territory against other armed groups. The term does not describe any particular movement, affiliation or political objective, but groups which can be led by tribal elders, warlords, village heads or politically-motivated resistance fighters. Many were formed to resist the invasion of Rwandan forces and Rwandan-affiliated Congolese rebel groups. However, others have formed simply to exploit the war for their own means, such as by banditry, looting or cattle rustling. See http://www.insightonconflict.org/conflicts/dr-congo/conflict-profile/key-people-and-parties/

\(^2\) Children and armed conflict: report of the Secretary-General, UN General Assembly, A/66/782–S/2012/261, 26 April 2012.
• Sexual exploitation of children
• Children recruited to be soldiers and a failure to reintegrate former child soldiers
• Arbitrary and summary executions
• Forced disappearances
• Children accused of witchcraft
• Threats against human rights defenders and their families
• Displaced children

Read the full list here.

The International Criminal Court

In April 2004, the government of the DRC requested the International Criminal Court (ICC) to open investigations into the situation in the country for potential crimes committed since the entry into force of the Rome Statute on 1 July 2002 (read more about the ICC and the Rome Statute).

Seven arrest warrants have been issued to date for war crimes and crimes against humanity.

The case of Thomas Lubanga Dyilo

• The first arrest warrant was issued for the leader of the Union of Congolese Patriots (UPC), Thomas Lubanga. He was arrested and transferred to the ICC in the Hague.

The prosecutors charged Lubanga with three war crimes:

1) enlisting children under the age of 15;
2) conscripting children under the age of 15;
3) using children under the age of 15 to participate actively in hostilities.

In the ICC’s first ever verdict in March 2012, Thomas Lubanga was found guilty of all three counts and, on 10 July of the same year, he was sentenced to 14 years of imprisonment.

Children as young as 11 were recruited from their homes and schools to take part in brutal ethnic fighting in 2002 and 2003. They were taken to military training camps and beaten and drugged; girls were used as sex slaves.

On 7 August 2012, the ICC issued a decision on reparation to the victims. Although the Court did not order material or symbolic reparations, it stressed the right of victims of war crimes, crimes against humanity, and genocide to receive reparations, and it spelled out principles to guide the process of issuing reparations to victims in the DRC.

As Lubanga was not charged for wider crimes committed against the civilian population but only for crimes relating to the recruitment and use of children, the victims mostly belong to the same ethnic group as Lubanga. This created controversy among civilians of other ethnic groups who suffered from other crimes committed by the UPC.
• Arrest warrants listing counts of war crimes and of crimes against humanity were issued in October 2007 for warlords Germain Katanga and, in February 2008, Mathieu Ngudjolo Chui.

• An arrest warrant was issued against Bosco Ntaganda, alleged former Deputy Chief of the General Staff of the Forces Patriotiques pour la Libération du Congo (FPLC) and second in command of Lubanga in 2003. He was charged with three war crimes: enlisting children under the age of 15; conscripting children under the age of 15; and using children under the age of 15 to participate actively in hostilities. In July 2012, the Court issued another arrest warrant for Ntaganda with additional charges including counts of crimes against humanity and war crimes.

• Callixte Mbarushimana, executive secretary of the FDLR, was arrested pursuant to an ICC arrest warrant for alleged war crimes and crimes against humanity in the Kivu provinces. But the Pre-Trial Chamber (PTC) and the Appeals Chambers did not confirm the charges against him after the majority of judges in the PTC found that there was insufficient evidence to move the case to trial.

• In July 2012, a warrant of arrest was issued against Sylvestre Mudacumara, Supreme Commander of the FDLR. Mudacumara is accused of nine counts of war crimes.

Sources

Eastern Congo Initiative, history of the conflict.
International Crisis Group Conflict History – DR Congo (History of the conflict in the DRC).
International Rescue Committee.
Human Rights Watch, "'You Will Be Punished': Attacks on Civilians in Eastern Congo".
Child Soldiers International, the Democratic Republic of Congo.
The office of the special representative of the Secretary-General on children and armed conflict.
Coalition for International Criminal Court.