



The United Nations' role in protecting women from sexual violence in Eastern Democratic Republic of Congo



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Executive summary

It has been almost fifteen years since the brutal conflict in the Democratic Republic of Congo (DRC) started, and has been causing tremendous suffering for the Congolese civilians ever since; leaving millions of people dead, and causing another hundreds of thousands of people to flee their homes, while breaches of humanitarian and human rights still prevail as of today. Women have been particularly targeted during this war, despite the signing of several peace agreements. Various reports have been mentioning an estimated number of 200,000 raped women; however, a recent study by the American Journal of Public Health (May 2011) mentioned that more than 400,000 women were raped each year since the beginning of the conflict (As cited in Reuters, May 2011, 400,000-plus women raped in Congo yearly: study).

On the 28th of May 2010, the United Nations Security Council, under resolution 1925, adopted a new mandate for its Mission in the DRC to support the government in protecting civilians from violations of international humanitarian law and human rights abuses, including all forms of sexual and gender-based violence, and emphasizing that protection of civilians must be given priority over other tasks entrusted to the Mission (United Nations Security Council, 2010). Despite this, women are, most of the time, being raped in villages, which are often just a few miles away from the UN peacekeeping mission.

A survey conducted in 2009 by the International Committee of the Red Cross and Ipsos shows that three quarters (76%) of the people interviewed have been affected in some way – either personally or due to the wider consequences of armed conflict (International Committee of the Red Cross, 2009).

Surveys and polls show that the Congolese public feel that nothing is done for them, and that the UN has made a lot of empty promises. For instance, resolution 1888 states that the UN Secretary-General should rapidly “*deploy a team of experts to situations of particular concern with respect to sexual violence in armed conflict... with the consent of the host government, to assist national authorities to strengthen the rule of law*”. This team of experts has not yet been deployed and the victims are once again left to deal on their own. How long should this situation of insecurity go on? Therefore, this final paper will cover the UN’s role in protecting women from sexual violence in Eastern Congo so far.

“No political leader or government should tolerate violence against women in any form whatsoever and regardless of the context or circumstances in which it is perpetrated”.

Ban Ki-Moon, Secretary-General of the United Nations

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Preface

This dissertation is written in order to complete my studies of Public Administration at The Hague School of European Studies in The Hague. It deals with the United Nations' role in protecting women from sexual violence in the Eastern part of the Democratic Republic of the Congo.

Taking the opportunity, I would like to thank my Lord and shepherd for helping me accomplish this work, despite the very difficult times. I am also grateful to everybody who was helpful during the whole process of writing this dissertation: my supervisor, Ms. Van den Haspel, for her help and good advice; Ms. Diemer for her kind support and encouragements; and special thanks to Jacko Brouwer for kindly helping me and Helena Uzelac for all her support. Finally, I would like to thank Paguy Ndotoni, without whom I could not have managed to finish this work. Thank you for your patience, support, understanding and love.

I dedicate this dissertation to my lovely daughter Emmanuelle Ndotoni. Let the achievement of this work make you understand this: "Everything is possible for him who believes" (Mark 9, 23).

Sandy Safali

June, 2011

List of abbreviations

DPA	Department of Political Affairs
DPKO	Department of Peacekeeping Operations
EX-FAR	former Rwandan Army
FARDC	Forces Armées de la République Démocratique du Congo (Congolese Land Forces)
HRW	Human Rights Watch
IDEA	Institute for Democracy and Electoral Assistance
IRIN	Integrated Regional Information Networks
MLC	Movement for the Liberation of Congo
MONUC	United Nations Mission in the Democratic Republic of Congo
MONUSCO	United Nations Stabilisation Mission in the Democratic Republic of Congo
NAP	National Action Plan
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
PBSO	Peace Building Support Office
RCD	Rally for Congo Democracy
RDC	Republic Democratic of Congo
SC	Security Council
SRSG	Special Representative of the Secretary-General
UNAIDS	Joint United Nations Programme on HIV / AIDS
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNSCR	United Nations Security Council Resolution
WHO	World Health Organisation
WFP	United Nations World Food Programme

Introduction

Despite the signing of various peace agreements in the Democratic Republic of Congo (DRC) and the formal end to the war in 2003, the conflict has been on-going and the fighting continues in the Eastern part of the country. Human rights are daily trampled by armed groups, by which their violations are justified to achieve a just cause: the defence of a minority or territorial integrity. However, grandmothers, mothers, aunts, sisters, girls and young female children are daily assaulted, raped, tortured and abducted by the militias. Sexual violence has become a tactic of war, a powerful and effective tool in terrorising and destroying entire communities, forming a dangerous weapon during armed conflicts. Revolted by this, and after hearing of the atrocities from the news, I wanted to know the role of the United Nations with regard to the issue of sexual violence during the Congolese armed conflict.

Despite the United Nations' presence in DRC since 1999, sexual violence against women in DRC has considerably increased. This raised questions whether the UN is doing all that is necessary to protect the vulnerable population in Eastern DRC, especially in North and South Kivu. This is why I elaborated my central question to: *What has the United Nations done in Eastern conflict-torn Democratic Republic of Congo in order to protect women from sexual violence?* In order to answer the central question, the following sub questions are posed: *What is the actual conflict situation in DRC? Who is the United Nations? What is sexual violence? Why can the UN fight against sexual violence on Congolese territory? Did the UN intervene appropriately? Which instruments did the UN used to protect women? What is the mandate of the UN mission in DRC?* The first question will be answered in the first chapter. The following four questions will be answered in the second chapter, and the last two questions in the third chapter. Finally, a conclusion will be given to summarise this dissertation, in an attempt to answer the central question.

In order to obtain the relevant information for the dissertation, research has been mainly conducted through desk research. Secondary sources, online documentaries and broadcasts have provided the further relevant information. Beside these, informative reports, documents and articles from the United Nations, Human Rights and the International Review of the Red Cross were the most valuable source of information.

1. The Democratic Republic of Congo

1.1 Geographical location

Located in the heart of Africa, the nearly landlocked Democratic Republic of Congo (DRC) is the third largest country in Africa. Formerly known as Zaïre, it has an area slightly smaller to a quarter of that of the United States of America. (US Department of State, n.d., “Geography” section). Its population of approximately 71 million inhabitants (in 2010) gives “Congo-Kinshasa”¹ the eighteenth position of the most populous country in the world, the fourth in Africa. Crossed by the equator, with one third of the territory lying north of that line, the DRC is for the most part occupied by the Congo basin and its tributary streams. The DRC is sharing borders with the following nine African countries: the Central African Republic and Sudan in the North; Uganda, Rwanda, Burundi and Tanzania in the East; Zambia and Angola in the South, and the Angolan enclave of Cabinda, the Republic of Congo and forty kilometres of Atlantic coastline in the West.

1.2 Climates

This vast country in the heart of Africa has a wide range of climates and landscapes. While the entire republic generally moves under the average annual temperature – which is mostly high, the country's reputation is that of having a hot and humid weather on the largest of its territory and abundant rainfall in equatorial and tropical rainforest area. The DRC has in general two seasons, to assume a dry one and a rainy one. However, the seasons distribution is not homogeneous across the land neither similar in terms of duration. (US Department of State, n.d., “Geography” section).

1.3 Languages and population

DRC's population speaks over 200 languages (dialects), making the country one of the most multilingual countries across Africa. (Congo-Kinshasa, 2009, “les langues” section, para. 3). French is, however, the official language as recognised by the fourth article of the Congolese constitution. The latter also recognises four national languages, Lingala – the capital's lingua franca, Swahili, Kikongo, and Tshiluba². Although French is recognised as the official language, it, however, remains a second language, for, the French competences of the ones speaking it are very uneven. Those depend on whether French is used in urban or rural area. (Congo-Kinshasa, 2009, “les langues” section, para. 11).

¹ The country is also named Congo-Kinshasa in reference to its capital and also to differentiate it from its neighbor, the Republic of Congo.

² See appendix 2 for the repartition of the languages over DRC

1.4 Provinces

According to the December 2005 Constitution, the Democratic Republic of Congo (DRC) should have been divided in twenty-five new provinces by 2009. As this has yet to be implemented, DRC still counts eleven provinces, including the capital city, Kinshasa, which is given the status of a province. The provinces are granted autonomous powers for managing local resources, and also powers that are exercised in conjunction with the central Government, including control of between 40% and 60% of public funds. The eleven provinces are: Bandundu, Bas-Congo, Equateur, Kasai-Occidental, Kasai-Oriental, Katanga, Kinshasa, Maniema, Nord-Kivu, Orientale, Sud-Kivu. (CIA, 2011, Congo, Democratic Republic of, “administrative division” section).

1.5 Main economic centres

The Democratic Republic of Congo has three flagship cities. Flagship, because these cities include a large number of important activities of the whole Republic: Kinshasa – the administrative body with special status – plays the role of central administrative, economic and cultural development of the Democratic Republic of Congo. This city has a very high concentration of economic activities and services. Lubumbashi, “the capital of copper”, is the largest industrial and commercial centre of this country lying in the middle of Africa while Matadi, port city of the Democratic Republic of Congo, is a true gateway to the outside for the entire country. At the provincial level, all provinces of the Republic are to be perceived as important insofar as the wealth of the Republic is equally distributed. Each province has an important asset for the country, though the province of Bas-Congo (including the port city of Matadi) and Katanga (including Lubumbashi, the capital of copper) significantly contribute to the Congolese economy.

1.5.1 Mineral resources

The DRC has vast resources of copper, significant quantities of the world’s diamonds and the world’s largest reserves of cobalt. (Infrastructure Partnerships for African Development, 2011, “mining” section). The country is estimated to have \$24 trillion worth of untapped mineral deposits of raw mineral ores. It is potentially one of the richest mining countries in Africa. (Mining in the Democratic Republic of Congo, n.d.). The repartition of minerals in the whole country is as follows: diamond mining as well as some copper deposits can be found in the Kasai provinces while the province of Katanga is rich in cobalt, uranium, copper, zinc, germanium and tin granite. The Kivu province, including Maniema, is for its part rich in tin, columbo-tantalite (coltan), uranium as well as gold. And at the border of Rwanda, the Volcanoes region contains lava in

which several new silicates have been discovered. In the Orientale province are located the famous Kilo-Moto gold mines, and in Bas-Congo abounds with Lead ores and zinc. (Kongolo Jean, 2009, *les minerais de la République Démocratique du Congo*, para. 2).

1.6 Political system

The DRC is a semi-presidential republic, a system of government in which both the president and prime minister are active participants in the daily state's administration. The president, Joseph Kabila, who has the title of head of state, is the first institution of his country in the central executive branch, directly followed by the second institution: the government. Also referred to as the cabinet, the government is headed by the actual Prime Minister Adolphe Muzito. The prime minister, appointed by the President from the political party or coalition holding the majority of seats in the National Assembly, is accountable to the Parliament. (enotes, n.d.).

1.6.1 Government

According the Third Republic's constitution, the Congolese government is composed of a cabinet of ministers, deputy-ministers (vice-ministers), and on occasion state-ministers. The number of ministers does vary from one government to the next. The current government, the second of the Third Republic after the resignation of Kizenga for health reasons, is composed of 60 members, including nine women. The exact composition of the government is that of six ministers of state, thirty-four ministers and twenty deputy-ministers. More recently, the brand new position of deputy-minister for non-resident Congolese citizens has been established. (enotes, n.d.).

1.6.2 Presidential elections

The last several years have been marked by progress in moving the DRC towards relative stability and limited democratic rule, even though eastern Congo remains a region impaired by civil strife. Nevertheless, an active engagement of the international community in supporting the transitional process, conflict resolution, and democracy promotion has been noticed.

On July 30, 2006, forty-six years after celebrating its independence from Belgium, the first presidential and parliamentary multi-party elections were held in nearly four decades – elections monitored by regional, local, and international observers. Thirty-three candidates competed in the presidential elections while nearly 9,707 candidates ran for the 500-seat parliament.

The upcoming presidential elections are supposed to take place in December 2011.

1.6.3 Constitution

In August 1964, this former Belgian colony introduced its First Republic through the “Constitution of Luluabourg”, a constitution establishing a federal parliamentary system characterised by a multiparty system. However, it did not take long before the First Republic was dissolved. Indeed, the assassination of Patrice Lumumba in 1961 – a great actor of the country's independence that even became Prime Minister in 1960 – and the resumption of Katanga and South Kasai³ marked the beginning of the ascension of General Joseph-Désiré Mobutu. Mobutu definitely took power in 1965 and established the Constitution of the Second Republic two years later. This constitution, also known as the revolutionary constitution, defined a unitary state with presidential system and provides for the existence of at least two political parties. (Pollet-Panoussis, 2008)

The presently valid constitution – establishing the third Republic – was officially promulgated in February 2006 after gaining approval of 84.31% of voters in a December 2005 referendum. The same constitution was revised in January 2011 by the amendment of eight of its 229 articles. (Pollet-Panoussis, 2008). These amendments are not without consequences and most of them are contested due to their effects on the population and/or the country. As for instance, the amendment of article 71 that might put the electoral process in jeopardy as the DRC has changed its voting system allowing the president to be elected by a simple majority rather than with an absolute majority in one or two rounds.

1.7 Background of the conflict

In 1996-1997, the first war broke out, the war in “Zaire”, where Rwanda, Uganda and Burundi supported “Zairian” Tutsi uprising to overthrow President Mobutu Sese Seko and replace him by Laurent-Désiré Kabila. This conflict began in Kivu by a rebellion of the Banyamulenge⁴ whose nationality called into question by the Congolese government. The Banyarwanda – Hutu or Tutsi – were to Kivu undesirable elements, invaders, outsiders, profiteers, strangers, people who do not belong. They, therefore, deserved to be banned of the country. “Rwandese” even became an insult! (David van Reybrouck, Congo een geschiedenis, 2010, pg. 435). In the late 1997, Kabila began to distance himself with his Rwandan and Ugandan “protectors” which troops stationed in Kivu since his coming to power in May 1997. One year later, he accused them of plundering the mineral and agricultural resources of the East and undermining the territorial integrity of the DRC by occupying the border area of Kivu. He denounced in particular the Rwandan expansionist drive to the area that becomes the flashpoint of a simmering regional conflict. Obviously, the concerned

³ Katanga and Kasai and seceded in the aftermath of independence

⁴ Congolese Tutsis of Rwandan origin who settled in Kivu, eastern DRC

countries refuted these accusations. In 1998-2003, Rwanda, Uganda and Burundi set in motion the great Lakes conflict by supporting a new Tutsi resistance to, this time, remove Kabila from power. The conflict takes on a regional dimension of great complexity because of the involvement of eight African countries, various rebel groups, and looting of DRC's natural resources as well as committing the worst atrocities on the population. (La documentation française, n.d.).

1.8 Evolution of the conflict

July 1998 sees Kabila sacking his ministers of Tutsi origin and ordering the expulsion of Rwandan troops stationed in the DRC since 1997. As a consequence, the alliance with his former comrades in arms was by this permanently broken. Later on that same year, a new rebellion of the disappointed Banyamulenge soldiers bursts in Kivu, this time up against Kabila they had brought to power. The rebellion is supported by Rwanda, Uganda and, to a lesser degree, by Burundi that took the opportunity of the discontentment of the Congolese Tutsis of Rwandan origin to achieve their goals. Soon, the rebellion degenerated into a war without precedent in Africa.

As said earlier, seven African countries were precipitated in the conflict while two coalitions were competing on Congolese soil. On one hand, government troops, the Rwandan Interahamwe militia and former Rwandan army (ex-FAR), the tribal militias, Congolese Mayi-Mayi – supported by Angola, Namibia, Zimbabwe, and Chad, who soon decided to stop supporting the militia –, on the other hand, the Congolese rebel factions challenged each other, supported in turn according to their interests by Rwanda, Uganda and Burundi. By August 1998, fierce battles were taking place not only in the Kivu province, but also extended northeast to southeast and inside the DRC. The rebel Rally for Congolese Democracy (RCD) took Kisangani, the third largest city, but failed in their attempt to reach Kinshasa, the capital. The positions of the belligerents then froze, causing a primary partition of the country: North and South Kivu, parts of Maniema, Katanga and Orientale province fell under the military, political and administrative rule of the RCD backed by Rwanda and Uganda; the western part of the country remained under the control of Kabila's government, militarily backed by its allies.

After creating a new rebellion in the Equateur Province, the Movement for the Liberation of Congo (MLC) supported by Uganda and the RCD, splitting into two factions, rebels consolidated the country's division and distributed the north, east and south-eastern DRC, the government controlling only the western half. Despite the beginning of the peace process marked by the cease-fire signed in Lusaka in July 1999 between the seven countries involved and the revolutionary MLC and the two RCD, fighting continued and the politico-military confusion is further complicated with the alliance overthrow between Rwanda and Uganda. The conquest of Kisangani,

capital of Orientale Province and important area of the diamond trade, became the symbol and the issue of their clashes on three occasions: in August 1999, May-June 2000, June 2002. Through the intervention of the UN Mission in the Democratic Republic of Congo (MONUC) and the bilateral agreements signed between DRC-Rwanda and DRC-Uganda, foreign troops officially withdrew from the Congolese ground in late 2002, putting an end to the regional war itself. Nevertheless, fighting did not stop. The conflict, however, changed in nature.

Indeed, Rwanda and Uganda, determined to keep hold on the natural wealth of DRC under the pretext of securing their borders against rebels (among them, armed Hutu groups) from the DRC, continued to fight through interposed Congolese militias they arm to suit their interests. The conflict, therefore, refocused around the DRC's troubled relationship with its neighbouring Rwanda and Uganda. The violence persisted between the rebels supported by Rwanda and Uganda despite the official end of the conflict and with the same deleterious effects for the population, particularly in Ituri and Kivu, and destabilizing the African Great Lakes. (La documentation française, n.d.).

The casualty and outcome of the conflicts as stipulated by Human Rights Watch stands to be 5.4 million citizens, ranking it the world's deadliest conflict since World War II. Countless acts of torture have been committed; hundreds of thousands of people fleeing the war have been forced from their homes to neighbouring countries or other regions and many of them died of malnutrition because of their inability to receive humanitarian assistance. But above all, in an area labelled "the worst place in the world to be a woman", women's condition has worsened further. In the first seven months of 2009, health centres across North and South Kivu registered approximately 7,000 cases of sexual violence against women and girls, almost twice as much as in 2008. (Human Rights, 2009, para. 8). This is not a war in which civilians, women in particular, are the unfortunate victims of "collateral damage" *"but a war in which they have been relentlessly and ruthlessly targeted"*.

2. The UN and Sexual Violence

2.1 The United Nations

Established on the 26th of June after World War II in the determination of preventing conflicts and encouraging belligerent parties to use the discussion table rather than arms, the United Nations (UN) was founded to replace the League of Nations⁵. This international organization aims to maintain international peace and security, to develop friendly relations amongst nations and to promote social progress, better living standards and human rights. Those goals are set forth in the first chapter of its constituting instrument: the United Nations Charter. The Charter's first paragraph is of great importance to us all, for it states the organization's purpose with regard to the maintenance of international peace and security. It states the following:

“To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.” (United Nations Charter, article 1).

Within the UN's activity area, five key elements can be distinguished:

1. Conflict prevention
2. Peacemaking
3. Peacekeeping
4. Enforcement
5. Peacebuilding.

Conflict prevention aims at avoiding violent escalation of a dispute, and has become one of the UN most important aims. Its preventive actions involve a broad group of UN entities working across different disciplines as for instance human rights and the rule of law, poverty-eradication, elections and democratic institution building, as well as the control of small arms. While through its worldwide peacekeeping missions the UN help conflict-torn countries creating conditions for lasting peace, it uses diplomatic means to bring conflicting parties to an agreement under its peacemaking activity. The Charter's sixth chapter entitles the Security Council (SC) to use enforcement tools such as sanctions and authorizing military actions in order to maintain or restore international peace. (The UN today, 2008, p. 82-83). Regarding peacebuilding, the charter refers to

⁵ The League of Nations was the first permanent international security organization whose principal mission was world peace maintenance.

“efforts to assist countries and regions in their transitions from war to peace, including activities and programs to support and strengthen these transitions.” (The UN today, p. 84).

After the immobility period during the Cold War, the United Nations has substantially increased its activities in the peacekeeping field. Worldwide many peacekeeping operations have been executed, especially in Africa, to cope with a series of wars that have erupted within the nation states. The implementation of these operations has, in many cases, mitigated tensions and avoided escalation of violence. Conversely and sadly enough, they have also revealed their limitations of what can be achieved through a UN intervention.

2.1.2 UN Structure

Six principal UN organs are established through the Charter. They can be distinguished as the following:

1. The General Assembly
2. The Security Council
3. The Economic and Social Council
4. The Trusteeship Council
5. The International Court of Justice
6. The Secretariat

Nevertheless, the UN family is much larger as it comprises of fifteen agencies and several programs and bodies. (The UN today, p. 6). Since its creation, the UN has intervened in more than forty conflicts over the world, mostly through the Security Council's actions. The latter, as main and most powerful UN organ has the responsibility to deal with peace and security issues.

The Security Council (SC) counts fifteen members of which five⁶ have the right of veto and ten are elected by the General Assembly for a two-year term. (The UN today, p. 8). Each member state is entitled with one vote. While decisions on procedural matters require an affirmative vote of at least nine of the fifteen members, nine votes and the absence of a negative vote by any of the five permanent members are required for decisions on substantive matters. (The UN today, p. 8). In contrast with other UN organs, the SC alone has the power to take binding decisions for UN members under chapter six of the Charter.

6 The Five members with veto rights are: France, The United Kingdom, The Russian Federation, China and the United States.

2.1.3 UN mandate in the Democratic Republic of the Congo (DRC)

United Nations Security Council Resolution 142, unanimously adopted on the 7th of July 1960, recommended the General Assembly to admit the DRC (at that time Republic of the Congo) as member of the United Nations. Since this date, the Democratic Republic of Congo is a member of the UN and has, therefore, committed itself to accept and carry out the decisions of the Security Council under article 25 of the Charter.

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter. (Article 25, UN Charter).

When all diplomatic means have been exhausted and when traditional protection systems – based on state responsibility and international co-operation – has failed, the United Nations, through the Security Council, is entitled with the responsibility to protect. (International Review of the Red Cross, 2010, p. 207). In the case of the Democratic Republic of the Congo, time has shown that diplomatic means have been unable to stop the war since it has been going on for fifteen years now. It is because of this purpose of protecting international peace and maintaining security that the UN's presence on Congolese soil since 1999 can be justified.

2.2 Sexual Violence

2.2.1 Definition of sexual violence

Human Rights Watch in its report on sexual violence in Sierra Leone defines sexual violence as a term describing “any violence, physical or psychological, carried out through sexual means or by targeting sexuality.” (Human Rights Watch, 2003, We'll kill you if you cry, p. 2). This very same definition of sexual violence is given in the Akyesu judgment case⁷, which goes further by recognizing that rape as well as sexual violence “constitute genocide in the same way as any other act as long as they were committed with the specific intent to destroy, in whole or in part, a particular group targeted as such.” (Siebeck, 2009, p. 162). In addition, sexual violence also includes rape, which, according to the World Health Organization (2002), can be defined as “physically forced or otherwise coerced penetration – even slight – of the vulva or anus, using a penis or other body parts, or an object.” (p. 149). What is more, article 7 of the

⁷ Akyesu was a former mayor of the Taba commune in Rwanda. Accusations on his person were that of allowing policemen and others under his authority to rape and torture Tutsi women who had sought his protection during the Rwandan genocide in 1994.

Rome Statute describes rape as a crime against humanity when “*committed as part of a widespread or systematic attack against any civilian population*”.

Sexual violence involving female “survivors” and male perpetrators mostly occurs in emergency situations such as non-international and international armed conflicts. While going on with the normal way of life after being violated is undoubtedly difficult, it requires strong personal capacities. As a result, the term survivor, instead of victims, is preferably used. (As cited by Stichting Vluchteling The Hague, 2010, p. 9)

With regard to the conflict in DRC, it has with the years evolved from an international conflict to an internal conflict. International, for two or more states were opposed; and internal as governmental forces and non-governmental armed groups are currently opposed to each other. (How is the term “armed conflict” defined in international humanitarian law?, 2008, para 2).

2.2.2 The fate of women in the conflict

The woman is, in many cultures, regarded as the family’s as well as her husband’s pride. She is the one taking care of the household and, in particular in DRC, she is the one working hard to provide for her family. (PeaceWomen, 2010, Gender Inequality and Social Institutions in the D.R. Congo, para. 1&3). Besides, she must also take care of her husband. Shortly, she is essential and indispensable in a family. However, in the DRC, the woman is a second class citizen, even defined as such by Congolese law and social norms; making women subordinate to men. (Human Right Watch, 2001). Unfortunately, as being subordinated, she has become a “battlefield” for all armed groups. Whether there are ethnic armed forces groups, DRC government soldiers or soldiers of Rwanda, women are the perfect victims for bringing the population in imbalance. The imbalance is physical, mental as well as economic for affecting the society’s pillar is equal to affecting the whole community as well as men’s pride. The latter refers to the fact that men are being unable to protect their wives, mothers and daughters.

Since the conflict began in the eastern region of the DRC, women and girls have become victims of diverse inhuman cruelty. They are, as can be read in several reports, the “combat zone”. The war is taking place through the Congolese women’s bodies. This is not new, for sexual violence against women has always existed in many conflicts. Women are suffering of all kinds of sexual violence, such as collective or individual rape, with or without the use of external objects. Some women are humiliated in public places by being raped, or in the most cases, they are being raped in front of their family. Sadly enough, it also happens that rapists force incest upon families.

These inhuman and barbaric acts spare no woman: elderly women as well as very young girls have often been admitted to the Panzi Hospital⁸, not far from Bukavu. Nestor Yombo of the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported the case of a three-year-old girl who succumbed to her injuries shortly after being raped along with her mother and three sisters (as cited in the Integrated Regional Information Networks (IRIN), 2009). Despite the cease-fire signed by the various groups, the conflict is still going on today, and women still suffer from inhumane atrocities inflicted by combatants active in the Eastern provinces.

2.2.3 Sexual violence as a weapon of war

Since the beginning of the war, sexual violence has affected thousands of victims in Eastern Congo. Nevertheless, actual rape figures constitute a big challenge for researchers, as stated by Andrew Philip of Amnesty International (2008). The United Nations mentions that sexual violence remains *“under-reported and under-addresses due the stigma associated with rape, piecemeal services for survivors, weak protection mechanisms, and inadequate rule of law and judicial responses.”* (As cited in UN action against sexual violence in conflict: progress report 2009-2010, p. 1). Out of shame, fear for ostracism and reprisals, most of the victims do not report acts of sexual violence. Due to this, figures cannot be named with certitude. On one hand, the UN representative in DRC estimates that 60,000 women were raped during the XX year civil war (as cited by Stichting Vluchteling The Hague, 2010, p. 14) while on the other hand, others sources including the Canadian television broadcast (March 11, 2011) report that 300, 000 women were raped in the last fifteen years. Is this enormous difference explained by the fact that the exact figures have been covered up in order to make the situation look less bad than it actually is?

Conflicting parties in Eastern Congo deliberately use sexual violence to frighten communities, to intimidate and humiliate the population, as well as to break the social structures and resistance. Sexual violence as a weapon of war does not only focus on women, but also on men's honour, suggesting them not being able to protect their wives. (Stichting Vluchteling, pp. 9). In times of conflict, rape is in its most extreme form an ethnic cleansing instrument as it was the case the former Yugoslavia (as cited by Stichting Vluchteling, p. 10). Nowadays, some Congolese speculate about it being the case in their country. (BildManufaktur GmbH, 2011). They base their speculations on the fact that Hutu rebels are decimating whole villages so they can populate it with Hutu inhabitants. For instance, in the Walungu village nearby Bukavu where Ntakoba Gira and others villagers are testifying on this. They claim the militias came in the night, killed and raped who they wanted and promised to come back until the whole village would have been decimated.

⁸ The Panzi hospital was established in 1999 in response to the atrocities being committed on the population of Bukavu during the 1996 war. It has been expanded and currently have specialized services in the treatment victims of sexual violence.

(BildManufaktur GmbH, 2011). Rape or the threat of rape can be used to prevent civilians from returning to their homes. As mentioned by the International Review of the Red Cross (2010), *“systematic rapes are often accompanied by forced marriage and pregnancy, with the intent of changing the ethnic make-up of the population.”* Due to this all, sexual violence is now seen as a weapon of war.

In South Kivu and in the whole eastern part of DRC, women were killed in extremely brutal ways. Many of them were raped before they were killed, whereas others who survived had to suffer the same rape treatment during their detention. Catherine Schuler Deschryver of the German Technical Cooperation at the Panzi Hospital in Bukavu (2010) argues that most rapes were carried out with extreme cruelty and brutality: amputated breasts, genitals that are cut off, shooting in the vagina, use of bayonets, use of hot plastic objects, etc. Rape in this form of multifaceted violence against women is thus used as a weapon of war by all belligerent parties, in an effort to gain and retain control over civilians and the territories they occupy. Women, therefore, constitute real dehumanization businesses carried out to a very large scale. What is more, the UN reports that sexual violence is often *“a conscious strategy deployed on a large scale by armed groups to humiliate opponents, destroy individuals and shred societies.”* (As cited in UN action against sexual violence in conflict: progress report 2009-2010, p. 1).

2.2.4 Consequences for the victims

Ntakoba Gira, a 30-years victim and mother of two children, declared having been raped more than once while she was pregnant of her four-month-old baby. Her husband was brutally killed in front of her, and she was taken as slave. When she could escape, one year later, she declared she was suffering from diverse pains in her whole body. *“I keep forgetting everything, everything is turning inside my head and sometimes I feel I am going mad”*, she told a social worker. (BildManufaktur GmbH, 2011). Sexual violence seriously affects victims physically and psychologically. Survivors often carry this psychological and emotional damage with them their whole life with as consequences depression and suicidal tendency. Moreover, for sexual violence survivors, stigmatization as well as social taboo to address the subject makes the process even more difficult, it can often even increase the symptoms. Brutal gang rape in DRC shows the severity of sexual violence as a weapon. As a result, women suffer severe genital injuries which make them incontinent. They have to undergo major chirurgical reparations if they are even able

to reach the nearby hospitals, according to Dr. Mukwege⁹. Undoubtedly, this highly traumatizing experience may greatly add to women's stigmatization and it may contribute to women becoming victims of social ostracism.

What is more, sexual violence survivors have an increased risk of sexually transmitted diseases that can lead to infertility. As reported by the UN representative in DRC (as cited by Stichting Vluchteling, 2010), it is estimated that 60,000 women were raped during the civil war and that at least 22 per cent of them have contracted sexually transmitted diseases including HIV / AIDS. In such a culture as the Congolese where, besides honour, fertility also constitutes an important aspect of female identity, survivors cannot find marriage partners and men often abandon their wives. Survivors are then not only repudiated by their husbands, but also by the community. As a result, they lack protection and still risk being raped again. Many rape survivors keep their ordeal/experience a secret, to ensure they are not rejected. However, even if they remain married, this gives them no safety guarantee. Indeed, if (or when) their husband will hear about the rape, he may very well react aggressively. In effect ending repudiating is wife. (Sexueel geweld als oorlogswapen, 2010, p. 15). Since women have no source of income, they are left with nothing. Referring to the report published by Human Rights Watch, Collette Braeckman (2002) mentions the 'war within the war' for, driven by extreme poverty, women continue to go the field to cultivate, in the forest to make charcoal or to the market in order to sell their products, even if such activities may expose them to sexual violence. (As cited in *De la garantie des droits fondamentaux en République Démocratique du Congo. Cas de la province du Sud-Kivu*, n.d., para 6).

Consequently, women who have been violated during the conflict may suffer from an enormous post-war traumatism. And due to widespread problems, such as the lack of income, housing and nutrition, one can conclude that the families deal with major emotional tensions firstly affecting the woman's position within her marriage and secondly making her family vulnerable. This due to the fact that the whole family depends on the woman who, after being raped can no longer take care of it. The family then finds itself in a vulnerable position.

⁹ Dr. Denis Mukwege is a Congolese gynecologist and founder of the Panzi General Hospital of Bukavu. The doctor received in 2008 a peace prize for his work to help women victims of rape and crime of war. The Panzi centre receives around 10 women rape victims each day, with more than a quarter of the patients requiring surgery after their ordeal.

3. The UN instruments for tackling sexual violence

The previous chapter has shown that sexual violence is being used as a weapon of war to humiliate and destroy. Civilians, especially women, have been intentionally targeted in the past fifteen years of war on Congolese eastern soil. While international laws prohibit the targeting of civilians as well as the use of sexual violence as a weapon of war, sexual violence during conflict can constitute a crime against humanity, war crime, act of genocide or form of torture. (As cited in UN Action against Sexual Violence in Conflict: progress report 2009-2010, p. 5). Therefore, the United Nations, as main international figure, has committed itself to protect those civilians under its international peace and security maintenance mission.

In order to delimitate the research, only five instruments will be discussed in this chapter, to know:

1. UN Security Council Resolutions
2. UN Special Representative for Sexual Violence in Conflict
3. UN Action against sexual violence in conflict
4. UN mapping exercise
5. UN peacekeeping mission

3.1 The United Nations Security Council Resolutions

Under the UN Charter, and as main and most powerful UN organ, the Security Council (SC) has primarily responsibility to deal with peace and security issues. It is, besides, entitled with the function of implementing international law through the authority conferred on it by the same Charter. As stated by Tachou-Sipowo (2010), Members States governments appointed the SC as the last resort for victims of armed conflicts announcing that they were:

Prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case and in co-operation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. (As cited in Tachou-Sipowo, 2010, The Security Council on women in war: between peacebuilding and humanitarian protection, p. 207).

As diplomatic means have been exhausted and because traditional systems for protecting the individual were not successful in DRC (Tachou-Sipowo, p. 207), the SC is thus entitled with the responsibility to protect the Congolese civilians. It goes without saying that this should happen in respect with the State's sovereignty.

In order to improve the international community's response to the sexual violence women are facing during and after conflicts, the SC has issued the following thematic resolutions: (1) resolution 1325, (2) resolution 1820 and (3) resolution 1888. Important to know is that, whenever made under chapter VII¹⁰ of the UN Charter, Security Council (SC) resolutions are legally binding (EurasiaMUN, 2011, para. 3).

3.1.1 UN Security Council Resolution 1325

UN Security Council Resolution (UNSCR) 1325 on women, peace and security was unanimously adopted on the 31st of October 2000. This resolution is considered as ground-breaking for it is the very first time that the SC examines the impact of war on women's situation as well as women's role in preventing and resolving conflicts. The resolution calls on all conflicting parties to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. For these purposes, resolution 1325 recommends an increased representation of women at all levels of decision-making in the institutions and mechanisms at national, regional and international prevention, management and resolution of disputes and resolution conflicts and peace processes (UNSCR 1325). Furthermore, the resolution recommends financial, technical and logistical support by Member States for training on the protection, rights and needs of women and all actions to parity to be increased. In addition, the SC recommends the mainstreaming of a gender perspective in peacekeeping, construction and management of refugee camps in the post-conflict process along with negotiation and implementation of peace agreements. (Organisation Internationale de la Francophonie, 2011, para.3). What is more, there should be an end to the impunity of those responsible for all forms of violence against women and girls in situations of armed conflict. Also, UNSCR 1325 provides that Member States must take steps to protect women's and girls' rights in armed conflict, to involve more women at all levels of decision-making and ensure gender equality in all development operations and peacekeeping.

¹⁰ Chapter VII (Action with Respect to Threats to the peace, Breaches of the Peace, and Acts of Aggression) sets out the UN Security Council's powers to maintain peace. It allows the Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to take military and nonmilitary action to "restore international peace and security".

3.1.1.1 Challenges

“I have to admit we can be far from happy about the implementation of 1325, which was acknowledging the role of women in peacekeeping as agents of changes. They are still heavily under-represented in the political decision-making area and in peace negotiations and far from being recognized in every peace agreement.” Margot Wallström (UN News Centre, 2010, Interview with Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict).

Ten years after the adoption of the landmark UNSCR 1325, its level of implementation has not been completely positive according to Tachou-Sipowo (2010) and Ute Scheub (2010). While Tachou-Sipowo points out *“the Council’s concerns on women’s under-representation at all stages of peace process as well as the persistence of obstacles to their participation”*¹¹ (p. 215), Ute Scheub stresses *“the low level of implementation of it.”* (A review of ten years of UNSCR 1325 – German women’s Security Council, 2010, p. 16). The resolution faces several challenges concerning an increased representation of women at all decision-making levels in institutions, for instance in the UN, and concerning women’s representation in peace processes. But since this paper deals with the UN’s role in protecting women from sexual violence in the conflict-torn DRC, only the latter will be elaborated. Those challenges will be demonstrated hereunder.

With regards to women’s participation in peace processes, a study by UNIFEM (2009) mentions that in twenty-two of them held in different countries¹² since 1992, merely 7.5% of the negotiators were women, while they represented less than 3% of the signatories among fourteen peace talks. (As cited in A review of ten years of UNSCR 1325 – German women’s Security Council, p. 16).

When referring to the UN Peacekeeping Department, Scheub (2010) notes the rather few women amount among the ca. 115,000 staff. Their representation was that of approximately 4% of the UN peacekeeping forces, 8% of UN police officers and 30% of the civilian staff in 2009 (p.16). Sadly enough, and despite the promise of including female gender advisors in all peace missions, only thirteen women were occupying this position in 2008, as Scheub further mentions. (p.16). For the case of the Democratic Republic of Congo, Ute Scheub mentions the Swedish Officer Charlotte Isaksson who worked there as gender advisor in 2006. Although she helped increase the efficiency of the military deployment as the author says, *“the mission in DR Congo is equally an example of poor or failed practice”* (p. 19). He here refers to the military mission’s lack of sustained impact as well as the on-going conflict in the eastern part. Indeed, despite the passing of UNSCR 1820 in

¹¹ Violence and intimidation, insecurity, lack of rule of law, cultural discrimination and stigmatization, lack of access to education, marginalization and lack of funds for efforts to rehabilitate women (Tachou-Sipowo, 2010).

¹² Afghanistan, Bosnia, Burundi, Congo, Darfur, Kosovo, Uganda and other places

2009, sexual violence has been on-going in the Eastern part of DRC and even increased as stated by the Working Group on Women, Peace and Security. (As cited in A review of ten years of UNSCR 1325 – German women’s Security Council, p.18). Although UNSCR 1325 recommended an end to the impunity of those responsible for all forms of violence against women and girls in situations of armed conflict, Congolese women continue to be victims of acts of sexualized violence, while perpetrators are not brought to trial. One can note here the failure of both the Congolese government and the United Nations.

Despite former UN Secretary-General Kofi Annan’s specific call for all 192 UN Member States to develop a National Action Plan (NAP) for the implementation of UNSCR 1325, only twenty-five¹³ of them (13%) have heeded this call (PeaceWomen, n.d., para.7), while several other countries are preparing their NAP. For its part, DRC recently adopted its NAP on resolution 1325: in June 2010, ten years after the adoption of this landmark resolution. Unless the fact that UNSCR 1325 urged the Security Council, the UN Secretary-General, UN Member States, and all other parties to take action to increase women’s participation in formal peace processes, Congolese women were and still are under-represented in the political sphere as well as in peace processes negotiations. While they are represented at only 8.4% in the Congolese Lower House (Women in National Parliaments, 2011), they were practically excluded from the negotiations leading up to the 1999 Lusaka Peace agreement. (As cited by Doris Mpoumou, 2004, Women’s Participation in Peace Negotiations: Discourse in the Democratic Republic of the Congo. “Timid participation at the peace table” section, para. 2). Again according to Mpoumou (2004), only one woman participated at the Inter-Congolese Dialogue preparatory meeting in Sun City, South Africa against forty of the 340 delegates at the March-April 2002 diplomatic negotiations in Sun City (para. 2). So, it took the DRC ten years to implement this landmark resolution, which is just too long. Especially, as it appears, that within those ten years, as well as after, no real progress has been made. The UN claims to work in respect with the Congolese will, however, fact is that this collaboration is lacking sufficient and effective political will.

3.1.2 UN Security Council resolution 1820

Unanimously adopted by the Security Council on 19th of June 2008 to address the issue of widespread sexual violence in conflict, United Nations Security Council Resolution 1820 (UNSCR 1820) confronts sexual violence in conflict and post-conflict situations. As a follow-up on UNSCR 1325 on women, peace, and security, this resolution recognizes women and girls as being particularly targeted by the use of sexual violence and calls for further development regarding

¹³ Austria, Belgium, Bosnia and Herzegovina, Canada, Chile, Denmark, DRC, Estonia, Finland, France, Ghana, Iceland, Ivory Coast, Liberia, Nepal, the Netherlands, Norway, the Philippines, Rwanda, Sierra Leone, Spain, Sweden, Switzerland, Uganda, UK.

sexual violence in armed conflict. (UNSCR 1820, para. 5). While resolution 1820 further recognizes the relationship between the widespread and/or systematic use of sexual violence as an instrument of conflict and the maintenance of international peace and security, it also commits the Security Council (SC) to considering appropriate steps in order to stop sexual violence and punish their perpetrators (US Department of State, n.d., para.1). In addition, it demanded the “immediate and complete cessation by all parties to armed conflicts of all acts of sexual violence against civilians.” (As cited in UN Action against Sexual Violence in Conflict: progress report 2009-2010, p. 5). Resolution 1820 specifically calls for women’s protection from sexual violence to be strengthened as well as women’s participation locally and, advocacy aimed at ending conflict-related sexual violence. It, furthermore, calls for support to sexual violence victims, countering impunity and strengthening accountability, and increasing women’s representation and integrating gender perspectives in peace operations. (UN Women, n.d., UN Security Council Resolution 1820).

3.1.2.1 Weaknesses

According to the International Women’s Tribune Centre (2009), UNSCR 1820 does contain “*many instances of loophole language*” (for instance “where necessary”/ “where appropriate”). (As cited in United Nations Security Council Resolution 1820: A Preliminary Assessment of the Challenges and Opportunities, 2009, p. 22). This language can provide “*escape clauses for political actors*”, raising the question whether or not this resolution will be able to generate the kind of response needed to stop the type of violations described herein. (Nations Security Council Resolution 1820: A Preliminary Assessment of the Challenges and Opportunities, p. 22). This is a very relevant question. Indeed, women victims of sexualized violence, and those in DRC in particular, are waiting for strong and concrete solutions to their problems. The issue of sexual violence is undoubtedly present, for thousands of women are being raped. However, when a resolution is providing them solutions, how can these be made concrete, when they are so unclearly and vaguely described? This means that it depends on the politicians and their will to really take action or not, which obviously can suit the politicians better than the victimized population. For instance, the first point of UNSCR 1820 states the following:

Stresses that sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security, affirms in this regard that effective steps to prevent and respond to such acts of sexual violence can significantly contribute to the maintenance of international peace and security, and expresses its readiness, when considering situations on the agenda of the Council, to, where necessary, adopt appropriate steps to address widespread or systematic sexual violence; ...

The resolution, as unclearly formulated as it is, witnesses the lack of political will to do something for the victims of sexual violence.

Furthermore, the preliminary assessment of the challenges and opportunities of UNSCR 1820 (2009) notes the latter's limited focus (p.23). Indeed, while the primary focus of this resolution lies on crimes committed during conflict, it ignores the fact that sexual violence can exacerbate tensions before conflict erupts (p.23). In addition, the report mentions the fact that the resolution has failed in explicitly recognizing that "*sexual violence can continue and even increase in the immediate aftermath of conflict as civilians and demobilizing combatants exploit the absence of effective law and order.*" (p. 23). So, the Resolution states, that when the conflict has come to an end, the sexual violence automatically 'stops', so to say, when the conflict ends there is also no weapon of war anymore. This may be logical in theory, but it is so much more different on the ground. This is the critical point: if the sexual violence afterwards gets worse, as stated in the example above (Resolution 1325), it becomes politically insignificant because of the resolution's statement.

3.1.3 UN Security Council Resolution 1888

While examining the UN efforts in addressing the issue of gender-based violence in DRC, especially sexual violence, UNSCR 1888 cannot be left out as it is a follow-on resolution to advance the implementation of UNSCR 1820. Passed on the 30th of September 2009, resolution 1888 specifically mandates peacekeeping missions to protect women and children from sexual violence in conflict while calling for the deployment of a team of experts to "*situations of particular concern in terms of sexual violence... to strengthen the rule of law.*" (UNelections.org, 2009, para.4). Also, specific provisions for the prevention of rape and other sexual violence against women during the peacekeeping have been included, as well as the appointment of "women-protection advisers" (WPA)¹⁴. In addition, the resolution recognizes women's important role in "rebuilding the society."

What is more, UNSCR 1888 calls for the appointment of a Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict. The SRSG on sexual violence in conflict would be responsible of "leading, coordinating, and advocating efforts to end conflict-related sexual violence against women and children." (UNelections.org, para.3). He or she will also bring more attention and action on this critical issue primarily through the inter-agency initiative "United Nations Action against Sexual Violence in Conflict." (UNSCR 1888, para 26).

¹⁴ WPA should render technical assistance and improved coordination efforts to address recovery needs of women and girls in post conflict situations

3.1.3.1 Challenges

Main challenge for resolution 1888, as for the above mentioned previous ones, is the poor implementation on the ground. Without proper implementation, a resolution is no more than strong words on paper. They need to be implemented for the women to stop facing the fate of rape. In an interview with the Institute for Democracy and Electoral Assistance (IDEA), Margot Wallström (2010) even declared the following:

“I would say that we have great UN resolutions - for example Resolution 1325, which is 10 years old now, as well as Resolution 1820 and others more recently - but these resolutions lack ‘teeth’. Their implementation is not good enough, to say the least...” (IDEA, 2010, New IDEA Board Member Margot Wallström says, “UN resolutions lack teeth”, para. 3).

It lacks no empirical evidence that the implementation of the resolution did not succeed. And, even though Margot Wallström recognizes this fact, nowhere is stated what the UN is doing to improve this situation. For instance, it is the responsibility of the nation-state, which willingly agreed upon the Resolution, to implement it accordingly. But if such a nation-state is lacking to do so, the UN has tools (warnings and sanctions) in order to fasten the implementation process, especially since the Resolution is legally binding (as taken up under Chapter VII of the Charter). The Congolese civil society and the Congolese women had to wait ten years before DRC could have a NAP on resolution 1325. Are they supposed to wait ten more years before this one is? There is no shame recognising a failure, recognising that the level of implementation is “not good enough”. However, more important are the following steps to repair the situation. Those are unfortunately screamingly missing from the part of the UN in the case of the Democratic Republic of Congo. To help the victims, the UN has to take up a more active role.

3.2 UN Special Representative for Sexual Violence in Conflict

As mentioned here above, UNSCR 1888 calls for the appointment of a Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict. Currently holding this newly created position – since April 2010 – is the Swedish Margot Wallström. Through her political career, first as Swedish Minister and later as Environment Commissioner and Vice-President of the European Commission, Ms. Wallström has been a long-time advocate of women’s rights and needs (United Nations, 2010, para.2). Within her two-year mandate, the SRSG on Sexual Violence in Conflict task will be that of “leading, coordinating, and advocating efforts to end conflict-related sexual violence against women and children.” (UNelections.org, para.3), as well as bringing more

attention and action on this issue primarily through the inter-agency initiative “United Nations Action Against Sexual Violence in Conflict.” (UNSCR 1888, para 26).

3.2.1 Criticisms

Four months only after her appointment as SRSg for Sexual Violence in Conflict, the Security Council (2010) mentioned in its second Cross-Cutting Report on Women, Peace and Security that Margot Wallström “*clearly failed in that mission to impress upon the actors in the field the relevance or utility of her role.*” (Cross-Cutting Report No. 2, Women Peace and Security, 2010, “DRC Case Study: An Opportunity for Action?” section, para. 11). The Council was referring to the 2010 Walikale¹⁵ mass rape in which, over a four-day period from July 30 through August 2, approximately 303 victims have been raped. According to Ms. Wallström’s press statement on August 31st, “*the events were never communicated to her office and she first learned of them from the media.*” (As cited in Cross-Cutting Report No. 2 on Women, Peace and Security, 2010, DRC Case Study: An Opportunity for Action?” section, par. 11).

Undoubtedly, resolutions improperly implemented are mere paper words, but so is to install a Representative who is passive. Congolese women need an active UN Representative, one that can help them with active and concrete solutions. Ms Wallström’s statement, saying she did not know of the rapes until she heard it from the media, suggests a major failure of this council-mandated Representative. For, as her function suggests it was her duty to know. Ms Wallström started her mandate in April 2010, where she had one of her first field trips in DRC, underlining it as one of her top priorities. Yet she was unaware of the Walikale mass rape. If DRC was such a high priority, was she not supposed to know it as one of the firsts? This, again, clearly suggests a major failure from this UN official with a specific mandate on sexual violence.

3.3 UN Action against Sexual Violence

United Nations Action against Sexual Violence in Conflict (UN Action) is an international body within the United Nations system aiming at ending sexual violence in conflict. To achieve this goal, UN Action unites the work of thirteen UN system entities¹⁶ since March 2007. Through this, the UN tries to “*to improve coordination and accountability, amplify programming and advocacy, and support national efforts to prevent conflict-related sexual violence and respond effectively to the needs of survivors.*” (UN Action against Sexual Violence in Conflict: progress report 2009-2010, p. 6). In 2009, the SC recognized UN Action network as primary mechanism for improving the coherence of UN efforts (p. 8).

¹⁵ Walikale is a territory within the North Kivu province, rich of cassiterite.

¹⁶ DPA, DPKO, OCHA, OHCHR, PBSO, UNAIDS, UNDP, UNFPA, UNHCR, UNICEF, UNIFEM, WFP and WHO.

3.3.1 Focus of UN Action

UN Action's activities are structured around three pillars: Country Level Action, in which it provides strategic support to Integrated UN Missions and UN country teams in designing Comprehensive Strategies to combat conflict-related sexual violence, as well as strengthening capacity; Advocating for Action, including action to raise public awareness and generate political will as part of the UN Action's broader *Stop Rape Now* Campaign; and (3) Learning by Doing, including the development of tools to "*improve monitoring and reporting on prevalence, trends and patterns in sexual violence, as well as the effectiveness of the UN's response.*" (UN Action against sexual violence in conflict, p. 7).

3.3.2 Achievements

While UN Action does face the major challenge of few countries currently having a comprehensive strategic framework to guide the UN's response to sexual violence, it, however, managed to achieve some positive points on their agenda.

UN Action engaged in March 2009 a consultant to conduct an independent assessment of UN Action's strategic support to the UN Mission in DRC. The assessment concluded that the Comprehensive Strategy on Combating Sexual Violence in DRC¹⁷, along with its four pillar structure¹⁸ is providing "*an ambitious but comprehensive platform for UN system Action.*" (UN Action against sexual violence in conflict, p. 9).

In addition, UN Action's efforts to give sexual violence a place on the international peace and security agenda have not been unfruitful. Indeed, they have raised awareness on the fact that sexual violence is much more than a gender issue. It is also "*a tactic of war as well as illicit means of attaining military, political and economic ends.*" (p. 13).

3.3.3 Challenges for 2010-2011

Key challenges for UN Action during the period of 2010-2011 include ensuring: (a) translation of strategic planning into effective protection, prevention and response interventions on the ground, (b) that advocacy is not dissociated from the UN system's capacity to respond, and (c) SRSG political leverage maximization. (UN Action against sexual violence in conflict, p. 20). These key

¹⁷ Produced by the Office of the UN Senior Adviser and Coordinator for Sexual Violence, it puts forward a common framework for action for all those working to combat sexual violence in DRC.

¹⁸ Multi-sectoral response, security sector reform, prevention and protection, combating impunity, cross-cutting element of data and reporting.

challenges are seen from a general perspective, and as such are not solely applicable for Congo. What should further be noted is that not all key challenges are applicable to the case of Congo.

3.4 UN mapping report

Published on October 1, 2010, and prepared by the Office of the United Nations High Commissioner for Human Rights, the UN mapping report describes the most and serious human rights and international law violations in DRC between March 1993 and June 2003. (Human Rights watch, 2010, DR Congo: Q & A on the United Nations Human Rights Mapping Report, para. 1). Conducted by a team of approximately twenty international and Congolese human rights experts in a period of twelve months, the report is, according to Human Rights Watch (2010), “*a solid, detailed document, based on extensive and credible research.*” (Human Rights Watch, 2010, para. 1). The report did focus on 617 of the most serious incident across DRC during the above mentioned period. As a result, it provides us with details of grave cases of, among others, sexual violence. Of much of the violence as the report states, women and children were the main victims. (As cited in Human Rights Watch, 2010, para.2).

3.4.1 The mapping report and sexual violence

As previously stated, women and girls were found to be the main victims of much of the violence during the period of 1993 to 2003. The report’s findings on sexual violence are as follows:

“Between 1993 and 2003, sexual violence was a daily reality from which Congolese women gained no respite. Whether schoolgirls or mothers, engaged, married or widowed; simple farmers or wives of political leaders, former army members or civil servants; opposition party activists, humanitarian workers or members of non-governmental organisations, they were all subjected, regardless of social class or age, and for a variety of reasons, to the most diverse forms of sexual violence.” (UN mapping report, 2010, p. 328).

3.4.2 Congolese government’s reaction to the mapping report

In June 2010, the UN submitted a draft of the mapping report to the Congolese government. In reaction to this, the latter provided detailed comments which were incorporated into the final version. In its statement of October 1st, the Congolese government stated that it “*the victims deserve justice and they deserve that their voices are heard...*” (As cited in Human Rights Watch, 2010, para. 1). It further stated to be “*determined to do whatever could be done in order to bring justice for the crimes and some degree of reparations for the victims*”. However, those promises

have failed to happen accordingly. Even though the government stated this, it has done nothing concrete in order to bring justice for the committed crimes nor to offer (proper) reparations for the victims.

It goes without saying that the grave breaches of international law in the period of 1993-2003 require a strong and adequate response from the UN and its Members States as well as from the Congolese government. Not to be left out are the governments whose armed forces have been engaged in the described atrocities. However, and as stated by Human Rights Watch (2010), such a response has, until now, sadly lacking. (Human Rights watch, 2010, DR Congo: Q & A on the United Nations Human Rights Mapping Report).

3.5 UN peacekeeping mission

Established in 1999, the United Nations Mission in the Democratic Republic of Congo (MONUC) is one of the largest and most costly peacekeeping missions in the world. Early 2010, MONUC had over 20,000 military and police personnel with nearly 4,000 civilian staff. The approved budget from 1st of July 2009 to 30th of June 2010 was of \$1,350.00 million. (MONUC, n.d., Briefing materials, p. 16). MONUC's mission had a SC authorization until the 1st of July 2010, after the Congolese government indicated its will to see a drowning down of UN's operations by the time of the country's fiftieth anniversary. (Security Council report, 2010, DRC Case Study: An Opportunity for Action?" section, para. 3). In response to the Congolese government's wishes, the SC adopting resolution 1925 in May 2010, announced that MONUC was renamed the UN Organisation Stabilisation Mission in DRC (MONUSCO) in accordance with the new phase the country had reached. Top priority of the actual peacekeeping mission, UN MONUSCO – as it was for MONUC – is the protection of civilians.

In this chapter, the author has chosen to discuss MONUC and not MONUSCO due to the fact that it has been established for a longer period than the second one. However, the short case study will deal with the latter one.

3.5.1 Mandate

MONUC's mandate was defined by (several) Security Council resolutions. The last one, UNSCR 1856 (2008), highlighted four major points of focus: (a) civilians protection – as the most important point; (b) Disarmament, demobilisation, monitoring of resources of foreign and Congolese armed groups – implying persuading armed group to put down their weapons and either

reintegrate the society or build up a life as civilian; (c) coordination of operations with the Congolese national army (the FARDC) as MONUC was not entitled to directly fight against armed groups itself; and (d) DRC's territorial security, mainly consisting of the observing and monitoring of the government, the FARDC and the armed groups. (I. Van Osch and J. Soeters, 2010, *Fragile support: MONUC's reputation and legitimacy in the Democratic Republic of Congo*, p. 83). In addition, resolution 1565 (2004) stipulated that the protection of civilians should receive the highest priority, especially in the Kivus. Also, during 2009, the peacekeeping mission should progressively concentrate its action in the eastern part of DRC.

3.5.1.2 Challenges

Over a decade since it was set up, MONUC has constantly faced many challenges. For instance, MONUC's mandate has been adjusted several times along with the number of its troops and financial resources. In addition, its mandate implementation constituted a major point of discussion as van Osch and Soeters (2010) mention (*Fragile support: MONUC's reputation and legitimacy in the Democratic Republic of Congo*, p. 82). The main official objective of MONUC's mandate has always been the protection of civilians, however, *"the interpretation hereof and the extend of force allowed has not always been clear"*, according to Holt and Berkman. (As cited in *Fragile support: MONUC's reputation and legitimacy in the Democratic Republic of Congo*, p. 82). This has also been a point of strong criticism, as stated by P.M. Dupont (P.M. Dupont, *Accountability for the Conduct of UN-Mandated Forces under International Human Rights Law: a Case Study Concerning Sexual Abuse of the UN Mission in the Democratic Republic of Congo*, 2006, p. 265). This means that the use of force has not always been clear. MONUC is only allowed to do this in collaboration with the Congolese army, but not from itself. This is different from the perception of the Congolese civilians, for they think and feel not sufficiently protected by the peacekeeping mission. However, it should be noted that the peacekeeping mission did not completely fail, for it helped the Congolese in many positive ways, for instance by facilitating the first democratic presidential elections in forty years (2006), and by the restoration of the judiciary system in Ituri¹⁹. Nevertheless, in relation with sexual violence, a major failure persists. The priority of the mission is to protect civilians, in particular the women. Sadly enough, it failed to do so, as will be demonstrated in the short case study below.

Furthermore, in 2004, acts of sexual exploitation and abuse by some peacekeepers in Bunia²⁰ have been reported. (As cited in P.M. Dupont, p. 267). In that same year, the United Nations received a

¹⁹ Ituri is in the North East of the DRC and was formerly part of Province Orientale. It has its capital at Bunia, and has borders with Uganda and the DRC provinces of North Kivu and Orientale.

²⁰ Bunia is located in the Ituri District in North East DRC

total of 96 allegations – of which 19 civilians and 77 military – against personnel. (P.M. Dupont, p. 266). This further damaged MONUC's image, especially in the eyes of the already conflict-torn Congolese society. Because they obviously violated the same human rights they were supposed to protect.

3.5.1.3 Short case study

On 30 July 2010, a 200 to 400 armed tribal militia group, from FDLR and the Mai Mai went into thirteen different villages in Walikale, a North Kivu Province, and committed a tremendous mass rape. Just within three days, these men raped at least 303 victims. This event and case study clearly shows how the Security Council, and its mechanisms, has been unable to prevent such atrocities from happening. Firstly, MONUSCO was a peacekeeping established by the UNSC in order to protect the Congolese civilians, and especially the Congolese women from sexual violence. However, in its deployment, MONUSCO has failed in preventing, stopping or even investigating the abuse perpetrated on the women. What is even worse, there are indications that MONUSCO was aware of the presence of FDLR and its plans to attack these villages in Walikale. In addition, the mission has failed to bring these atrocities out to the public, until several weeks after they occurred. MONUSCO, however, claimed to have notified it first on August 12th, while the report was released in the weekend of 21-22 of August. And on August 23rd the Council was officially informed through the UN media spokesman.

4. Conclusion

The first chapter provides the reader with essential background information on the Democratic Republic of Congo (DRC) and the on-going conflict. DRC is a semi-presidential republic, a system of government in which both the president and prime minister are active participants in the daily state's administration. It has been demonstrated that this vast country torn by war since 1998 has also been in political instability since its independence from Belgium. In 2006, after more than forty years, the first independent elections have been held. Joseph Kabila then officially became president after he was appointed to take over his assassinated father, Laurent-Désiré Kabila. Started in August 1998, the Second Congo War, which is the largest war in modern African history, directly involved eight African neighboring countries. Although the war officially came to an end in July 2003, the conflict has been on-going, causing the death of 5.4 million people by 2008. A recent study published in the American Journal of Public Health (2011) stated that more than 400,000 women are raped in DRC each year. (As cited in Hogg, May 2011, 400,000-plus women raped in Congo yearly: study). The country has proven to be rich in languages as well as in minerals, of which the population has, however, not been able to benefit from.

In the second chapter, one gets to know more on sexual violence during war and how it affects women. Besides, it also gives essential background on what kind of organization the United Nations (UN) is, as well as the reason why it is involved in combating sexual violence in DRC. Sexual violence during war is mostly used as a powerful weapon to frighten communities, intimidate and humiliate the population, as well as breaking the social structures. Out of fear for reprisals and ostracism, most women do not report acts of sexual violence, leading to a situation where the act remains under-reported. The scale of sexual violence being perpetrated in DRC, as humanitarian sources have reported, is unparalleled in any known conflict. As a result of it, the United Nations (UN), acting with respect to the national sovereignty, and under its international Peace and Security maintenance, has committed itself to fight against sexual violence on Congolese territory. Therefore, this international organisation has used several tools, of which five have been discussed in the third chapter.

The central question of this dissertation “*What has the United Nations done in order to protect women from sexual violence in the conflict-torn Eastern Congo?*” has been explored and analysed throughout the third chapter. Five UN instruments have been analysed and of each is attempted to shortly analyse the faced challenges, possible criticisms and achievements with regard to sexual violence. So have three SC resolutions been analysed (1325, 1820, 1888), the council-mandated UN Special Representative of the Secretary-General (SRSG) for Sexual Violence in Conflict, the

United Nations against Sexual Violence in conflict (UN Action), the UN mapping exercise and the UN peacekeeping mission in DRC.

UN resolutions should be the Security Council's strongest instrument in condemning a special issue, sexual violence in our case. It appeared that they face several challenges, mostly due to their low level and lack of implementation, as well as a lack of political will. Indeed, the lack of implementation, or the very slow level of it, has proven to seriously handicap the process of combating sexual violence at national level. Also, the language used in it is not always as clear as it should, which could possibly lead to the resolutions not achieving the goals set in it. Further, one could have read through this chapter how these resolutions weaknesses show a lack of political will to really help the victims on the ground, this despite them being legally binding as taken under Chapter VII of the UN Charter. One could conclude that without proper implementation, UN SC resolutions will be no more than words on paper.

The failure of the newly appointed SRSB for Sexual Violence in Conflict has been demonstrated, despite her powerful mandate. The latter does imply she was supposed to know of rape cases in DRC, which she announced was one of her top priorities. Yet, she failed in that her office – and her – did not know of the Walikale mass rape that took place a few kilometres away from a MONUC camp. Those were officially publicised by the UN days after the mass rapes took place. This suggests that the SRSB on Sexual Violence in Conflict did not respond to the expectations of her mandate, and to those the Congolese war-torn community had of her. Women's situation in DRC undoubtedly requires more than a passive UN official in order to bring real solutions.

UN Action appeared to be an international system within the UN, aiming at ending sexual violence in conflict. As it has been demonstrated in the previous chapter, this body has managed to achieve some positive points for the Congolese victims. As for instance when it raised awareness on sexual violence being a tactic of war as well as illicit means of attaining military, political and economic ends. Since its establishment, UN Action has been a real advocacy channel for the victims of sexual violence over the world and in DRC in particular.

Although the findings of the UN mapping report stated that women were found to be the main victims of much of the violence during the ten years-period from 1993 to 2003, it certainly lacked following steps from both the United Nations and the Congolese government. The latter said to be determined to bring justice for the victims and some degree of reparation. Nevertheless, this promise has not yet bore its fruits.

Notwithstanding that the UN peacekeeping mission in DRC has managed to achieve some positive points in this conflict-torn country, the contrary is no less applicable. As the case study was able to demonstrate, the UN mission was unable to completely achieve its main task: protecting the civilians, especially women victims of sexualized violence. What is more, the peacekeeping mission has itself been involved in acts of sexual exploitation and abuse by some peacekeepers, while it was seen as a safe guardian of the very same human rights it violated. Furthermore, MONUC was unable to properly implement its mandate due to the complexity of the situation on the ground. Besides, the use of force has always been a controversial point in MONUC's mandate, while one could ask how this mission was entitled to protect women from sexual violence if it was itself not allowed to use force.

In conclusion, I would like to say that notable efforts have been made to protect the victims of sexual violence, nevertheless, those efforts have not always responded to the actual situation on the ground. DRC, a country as large as devastated, poses real challenges for the United Nations. Despite the UN's presence on Congolese territory since 1999, sexual violence against women has considerably increased. Therefore, it is clear that the United Nations has failed in that mission of protecting female civilians in the Eastern parts of the Democratic Republic of Congo.

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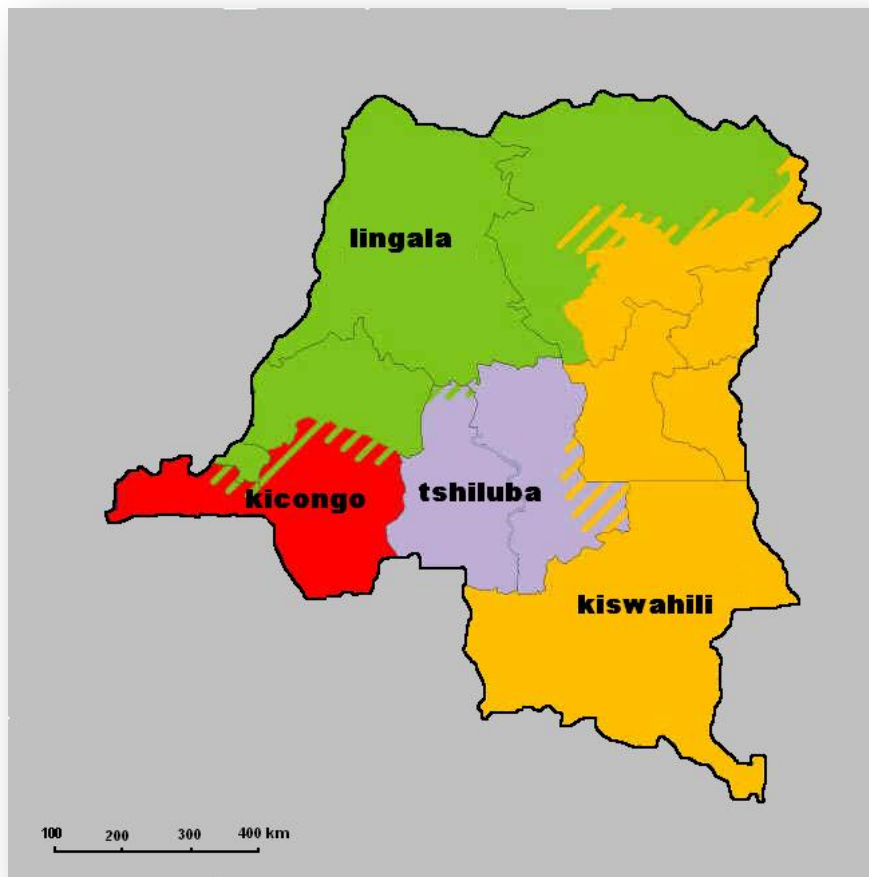
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Appendix 1: Democratic Republic of Congo's political map



Appendix 2: Democratic Republic of Congo's linguistic map

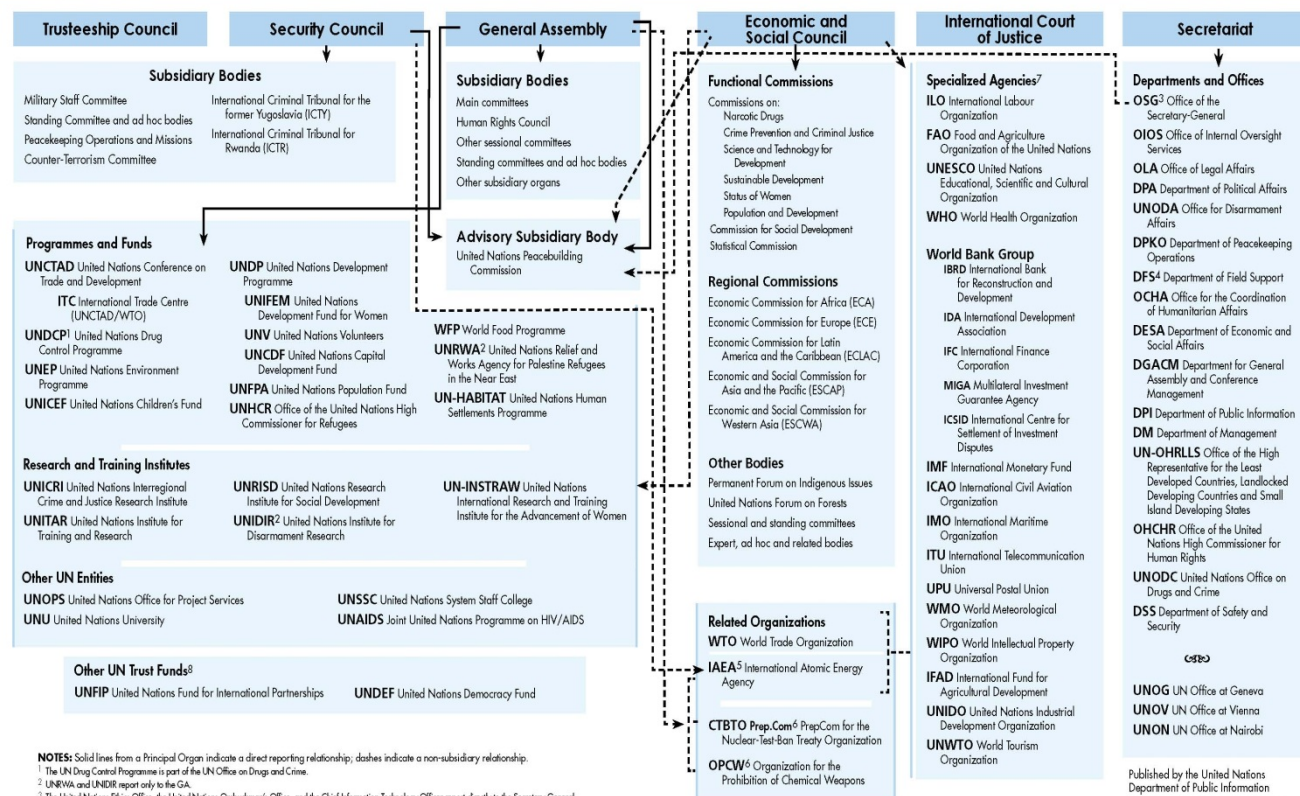


Appendix 3: Chart of the United Nations' principal organs



The United Nations System

Principal Organs



NOTES: Solid lines from a Principal Organ indicate a direct reporting relationship; dashes indicate a non-subsidiary relationship.

¹ The UN Drug Control Programme is part of the UN Office on Drugs and Crime.

² UNRWA and UNIDIR report only to the GA.

³ The United Nations Ethics Office, the United Nations Ombudsman's Office, and the Chief Information Technology Officer report directly to the Secretary-General.

⁴ In an exceptional arrangement, the Under-Secretary-General for Field Support reports directly to the Under-Secretary-General for Peacekeeping Operations.

⁵ IAEA reports to the Security Council and the General Assembly (GA).

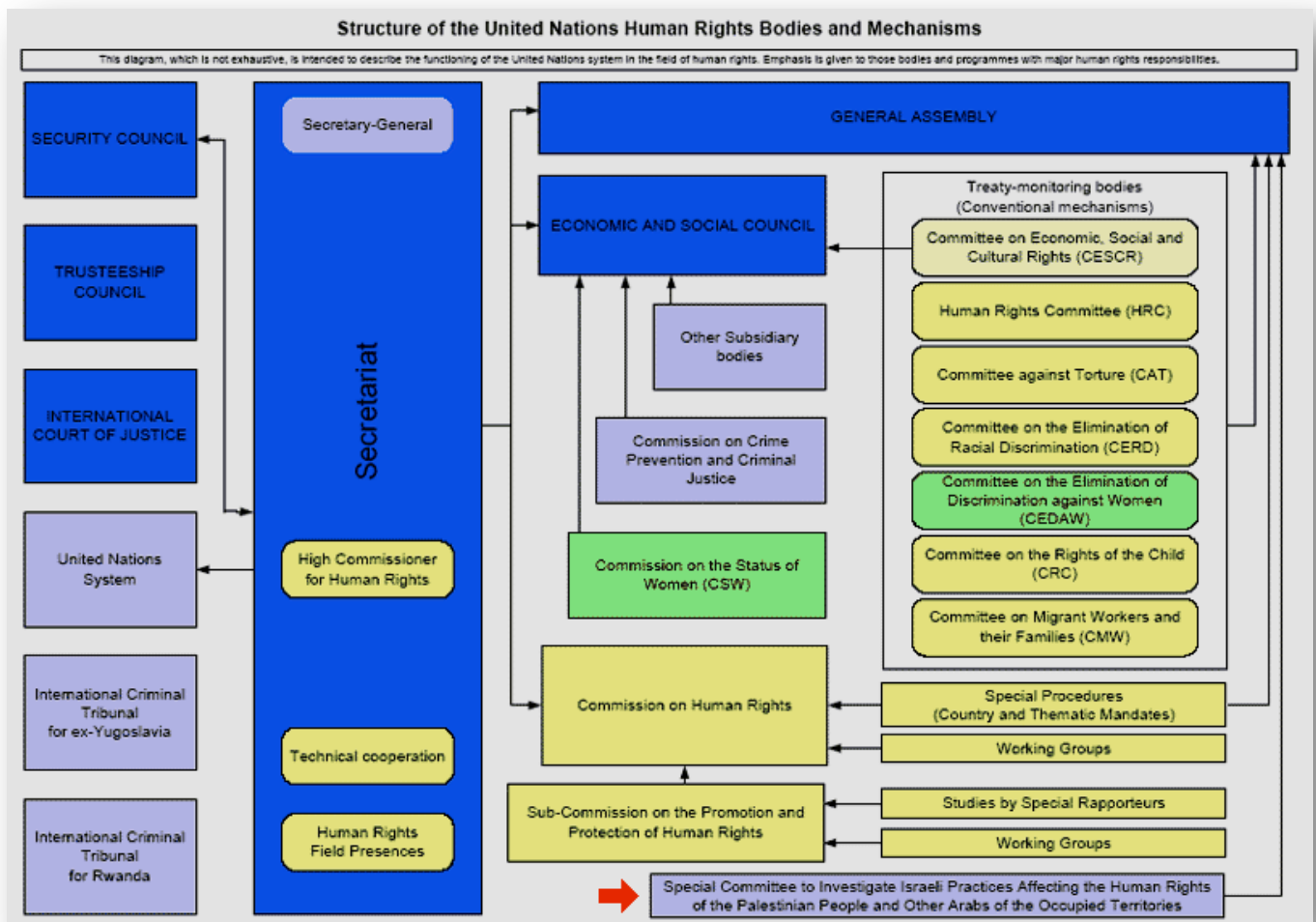
⁶ The CTBT Prep.Com and OPCW report to the GA.

⁷ Specialized agencies are autonomous organizations working with the UN and each other through the coordinating machinery of the ECOSOC at the intergovernmental level, and through the Chief Executives Board for coordination (CEB) at the inter-secretariat level.

⁸ UNFIP is an autonomous trust fund operating under the leadership of the United Nations Deputy Secretary-General. UNDEF's advisory board recommends funding proposals for approval by the Secretary-General.

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Appendix 4: Structure of the United Nations Human Rights Bodies and mechanisms



Appendix 4: Chapter 1 of the UN Charter

CHAPTER I: PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Appendix 4: Chapter VII of the UN Charter

CHAPTER VII: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include 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 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.
2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.
3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.
4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.
2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special

economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

