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ABBREVIATIONS

AU	African Union
CIVCOM	Committee for Civilian Aspects of Crisis Management
CMC	Crisis Management Concept
CONOPS	Concept of Operations
CPA	Comprehensive Peace Agreement
CSDP	Common Security and Defence Policy
DDR	Disarmament, Demobilisation, and Re-integration
DHoM	Deputy Head of Mission / Chief of Staff
EEAS	European External Action Service
EDF	European Development Fund
ESDP	European Security and Defence Policy
EUSR	European Union Special Representative
<u>FARDC</u>	Forces Armées de la République Démocratique du Congo
FD	Former Detainees
GAIA	All-inclusive Peace Agreement
HoM	Head of Mission
ICC	International Criminal Court
IDP	Internally Displaced Person
IGAD	Inter-Governmental Authority on Development (formerly IGADD, Inter-Governmental Authority on Drought and Desertification)
LRA	Lord's Resistance Army
OPLAN	Operational Plan
PSC	Political and Security Committee

UN	United Nations
MONUC	United Nations Mission in Congo
MONUSCO	United Nations Mission in South Sudan



EXECUTIVE SUMMARY

This IECEU project deliverable 3.1, The Democratic Republic of Congo (DRC) Review, assesses the existing literature and academic and policy research on the contemporary security situation in the DRC, as well as the responses to this situation. Deliverable 3.1 therefore functions as a foundation for the analysis in deliverable 3.5. to arrive at a better assessment of the internal and external impact on the EU's CSDP and ESDP missions to the overall security of the DRC. The first EU mission, Operation Artemis, was deployed in the Ituri provincial capital of Bunia in 2003 with the aim of stabilizing a deteriorating security situation. The force was deployed parallel to the existing UN PSO mission in the DRC, and after six months became part of the international community's overall assistance to the country. In 2005 the EU launched both a EUPOL and a EUSEC mission, which were supposed to help train the Congolese police and military institutions as part of the SSR and state-building project initiated after the signing of the two peace agreements. The EUPOL project was ended in 2014, EUSEC in 2016.

The EU has therefore been involved in a wide range of post-conflict state-building initiatives as part of larger efforts to address the vast range of causes of conflict in the DRC. As documented in the review, conflict and wars in the DRC go back beyond 1996, have had different expressions, been internationalized and linked to regional security dynamics, and exemplify the debate on the role and importance of natural resources in conflict and the impact of international responses to this type of conflict. The security situation in the DRC is better today than it was five years ago, though in North Kivu alone there are still more than twenty non-state armed groups, and the debate over political secession surrounding President Kabila has moved conflict in the country into a new and potentially very dangerous phase.

1 INTRODUCTION

The EU's direct engagement in DR. Congo (DRC) dates back to the Sun City Peace Agreement of 2002 and should be seen as part of an integrated and multifaceted engagement with the DRC. For the European Commission, peace, security and stabilization have been given the highest priority in relations with the DRC. The Commission, in cooperation with individual member states and the international community more generally, has been heavily engaged in attempts to restore peace and stability in the DRC as whole, but especially in the volatile east of the country. The EU has been and continues to be one of the most important international donors in the eastern DRC through its humanitarian assistance and its rehabilitation and capacity building programs. In recent years, the EU has increased its support to the region in the shape of European-driven initiatives, as well as in close collaboration with the United Nations.¹

The DRC government has made improving governance part of its governance contract with the EU, this being seen as a prerequisite to bring the country back to stability after so many years of war and instability. One of key priority areas has had to do with reform of the security sector² as part of the state (re-)building project. The governance contract has been included to the Government's Priority Actions Program (PAP). Since 2003 the Commission has been heavily involved in the SSR program, including the justice sector and, since 2005, reform programs for the police (EUPOL) and the armed forces (EUSEC), also providing significant contributions to the national elections in 2006 and 2011. However, the closure of the EUPOL project in 2014 and EUSEC in 2016 also shows that the priority the EU has given to the DRC has been reduced, and the majority of EU funding on Peace and Security is now going to other areas of Africa, including the CAR, Mali (Sahel) and Somalia. This also puts the EU in line with its member states, where an increased focus has been placed on the security risks stemming from migration, conflict and radicalization in areas closer to the EU border.

In this review, the focus is on the causes of the conflict in the DRC, which in turn will be used to inform and assess the strategic thinking and political reasoning behind the EU's engagement and intervention in the DRC, discussed in Deliverable 3.5 – DRC Case Study.

¹ EEAS homepage http://eeas.europa.eu/congo_kinshasa/index_en.htm (accessed 28/8-16). Since 2003 the EU has spent more than 300 m. Euros in the eastern DRC.

² In reality it is reform of the security system, because the reform program has been much wider than merely the security sector.

This review draws upon findings from fieldwork experience in the DRC since 2004, most recently in July 2016, with some focus on the EU as part of the international donor involvement in the DRC. It is planned to conduct focused fieldwork in January 2017, though the current political tensions in the DRC may force these plans change.

From a methodological standpoint, this review combines qualitative desk research strategies, including a comprehensive literature and document review, with a large amount of data from qualitative semi-structured interviews conducted in 2004, 2008, 2010 and 2016, thus providing an excellent opportunity for comparison. The fieldwork data will be used more comprehensively in the next phase of the study in deliverable 3.5 (WP3) and are to be fully utilized in the coming phase of the project.

The first part of this deliverable seeks to analyse the political context in which the missions were deployed. The size of DRC and the complexity of its conflicts and history means that only selected and relevant dimensions of post-independence Congolese history will be covered. The first section reviews the early period of Congolese history, including the chaotic transition from Belgian colonial rule to independence and civil war in 1960. The second part of the review covers the disintegration and collapse of the Zairian state and shows how this has affected the contemporary situation. In deliverable 3.5 the four key EU missions in the DRC will be described and evaluated in relation to the EU's general approach to the DRC, showing how the project designs were synchronized with the involvement of other international donors.

2 GENERAL INFORMATION ABOUT THE COUNTRY

General information about the country

Official name: Democratic Republic of Congo

Date of formation: 30. June 1960

Capital: Kinshasa

Population: 79 million (2015)³

Population density: 17.9 capita per square kilometer

Total area: 2,344,858 sq. km

Geography: Central Africa

Neighbors: South Sudan, Uganda, Tanzania, Central African Republic, Rwanda, Burundi, Zambia, Angola, Republic of Congo

Official Language: French (official), Swahili, Lingala, Kikongo, Tshiluba

Religion: Traditional African Religion, Christianity, Islam

Ethnic mix: about 200 ethnic groups (e.g. Nande, Bakongo,)

Government: Presidential Republic (President: Joseph Kabila)

Economy: subsistence economy, dependent on trade in natural resources

Currency: Congolese Francs (CFR)

³ CIA World Factbook Estimate <https://www.cia.gov/library/publications/the-world-factbook/geos/cg.html> (accessed 22 September 2016).

2.1 Conflict mapping

2.1.1 THE HISTORY OF DR. CONGO FROM EARLY CIVIL WAR, FOREIGN OVERLAY AND CLEPTOCRACY TO THE SUN CITY PEACE AGREEMENT

1960-1965: Independence without decolonization – the early years of turmoil

When the DRC⁴ won its independence on 30 June 1960 it was a highly anticipated event, and with President Kasavubu and Prime Minister Patrice Lumumba in charge the nascent DRC seemed to be heading for a prosperous time as an independent state. However, the DRC was dependent on the technical capabilities of the former colonial master, which, as in the case of several other colonial states, had failed to train a domestic elite in the capacity to run a modern state. Belgian and other foreign military officers continued to serve in the armed forces, and the foreign, especially Belgian presence in state institutions was also significant. After the initial collapse of the Armée Nationale Congolais (ANC) after Lumumba took office, foreign officers came to play a key role in the army of President Mobutu. The economy was to a large extent owned and run by Belgian and international economic interests. Since the days of King Leopold's atrocities during the "Red Rubber" terror, the economic structure and distribution of economic influence and control had formed part of the global trade in the DRC's natural resources, most of which went to Europe. This continued economic presence and control have come to define several of the dynamics of the conflicts that have plagued post-independent DRC up until today. The extreme brutality that has at times characterized the modern conflict since 1996 and resulted in the deaths of an estimated five million people can to some extent be seen as part of a coercive pattern also used by King Leopold's mercenary army, to which Joseph Conrad's novel, "The Heart of Darkness", bears vivid testimony. However, it was also this level of brutality that forced the Belgium state to take over responsibility for the Congo in 1908. The Belgian colony was built on the foundations created by King Leopold's reign and was run as a trinity between the Church, the companies and the Belgian authorities. Private industry helped carry out the so-called "native" policy, where ethnic stereotyping was used in recruiting labour, as well as to classify certain ethnic groups as "martial races" which could be recruited to serve in the armed forces. This "native policy" and ethnic stereotyping were therefore used as a means of

⁴ The term "DR Congo" will be used throughout this deliverable in respect of time and historical period; the names "Congo" and "Zaire" have deliberately been left out.

control whereby customary chiefs also became part of the local government system. This helped cement the ethnic divisions that can still be found in the DRC today and that have had enduring consequences for peace and stability in the DRC. It was also the colonial authorities that initiated the forced removals of people from Rwanda to the eastern DRC, as well as voluntary immigration in search of land, both of which have created some of the tensions that have arisen in the eastern DRC around questions such as access and rights to land, the right to citizenship etc. Another structure that had serious ramifications for future developments and the power structure was the alliance created between the colonial authorities, the traditional leaders and a nascent African petty bourgeoisie. It was this petty bourgeoisie that played a key role in the rapid dismantling of the colonial state, but it also failed to establish functional and effective moderate political parties. The partnership between the colonial state and the traditional leaders cemented the role and power of traditional forms of authority in the DRC, which have continued to play a central role in contemporary conflicts in the country, where they have been integrated into the state system. The extension of formal state authority is and has been weak, as well as often abusive, violent, and based on customary chiefs as a source of control. In the absence of strong political parties and effective civil-society organizations, the religious societies, and especially the Christian churches, came to play a key role both as a centre for mobilization and resistance to the central authorities, but also as a means of consolidating the authorities' control on power.

2.1.2 THE POST-INDEPENDENCE HISTORY

“The conflict in the DRC resulted in a process of severe militarisation of Congolese society with the increased presence of the foreign armed groups, the massive recruitment of young people and children, and the creation of self-defence militias, along with an increase in the illicit traffic of light weapons.” (MONUC 2009)

Reviewing the academic literature on the post-1996 conflict in the DRC uncovers a whole range of explanations on the causes, nature and dynamics of these conflicts. This is visible both in explanations of the role of natural resources (minerals and to a lesser extent timber), though with some strands of this literature arguing that this actually has a secondary role in fuelling conflict. Going through the main literature in the field reveals that a range of dominant debates and sources of explanation can be found. Channel Research summarized these themes as follows:

- Ethnic grievances and clashing identities.
- The effects of state collapse, including inter-elite power struggles.
- Conflicts over resources, including land and natural resources.
- Regionalized conflict dynamics, specifically the impact on the DRC of the Burundian civil war, the Rwandan genocide, and the involvement of Uganda.⁵

The themes suggested by Channel Research are, of course, thematically broad, and other issues could easily be included and even expanded. However, these four broad categories are useful tools in framing the analysis of the conflict dynamics in the DRC. They are therefore not presented as analytical categories, but merely as structural categories within which the analysis can be conducted. This will be important in the subsequent case study (D.5), where the impact and effectiveness of the EU CSDP projects in the DRC need to be scrutinized and evaluated.

This review will attempt to present the major debates and arguments in relation to the conflict in the DRC, which will form the basis for the study in the subsequent Case Study Report. Due to the longevity of the conflict in the DRC, the importance of the drivers and variables of the conflict have changed over time. The question of the right to citizenship and of who is actually Congolese and who is “newcomer” to the land, are key issues, including in the current conflict. The start of the CNDP offensive under the leadership of Laurent Nkunda in North Kivu in 2008 and the struggle for control over resources have become the dominant paradigms fuelling the debate on the nature of the conflict in the DRC, as well as playing a dominant role in the criticisms of NGOs and international rights-based groupings. This debate has also been evident in the formulation of programs and initiatives related to the DRC.⁶ Interestingly enough, both historically and in the earlier part of the conflict, the control of resources has also been a key ingredient, but after the CNDP offensive in 2008 this became even more apparent. The MONUC human rights office used a lot of energy in increasing awareness and buy-ins from both local actors and international donors.⁷

⁵ Channel Research p. 396.

⁶ Influential reports on this issue are regularly produced by Global Witness and IPIPp. An excellent assessment was produced by International Alert (2009), « Etude sur le rôle de l'exploitation des ressources naturelles dans l'alimentation et la perpétuation des crises de l'est de la RDC ». Other influential sources include: DFID (2009), “Trading for Peace: An Agenda of Reform”; Tegera (ed.) (2002), *Le coltan et les populations du Nord-Kivu*, Regards Croisés, n° 007, Pole Institute; and the different reports by the UN Panel of Experts (2001, 2002, 2003) and UN Group of Experts (2008, 2009) on the Congolese war economy and arms embargo. On Uganda's stakes in the DRC war economy, see the Porter Commission report (2002) and “The Curse of Gold” (Human Rights Watch, 2005).

⁷ Interview in the MONUC HR office February 2008.

2.1.3 A CONDENSED HISTORY OF THE POST-1996 CONFLICT

The Congolese conflict can be divided into several sub-conflict systems, both involving internal and external parties. What in the literature is often referred to as the Congolese wars (1996–1997; 1998–2003) involved a myriad of external military actors, combined with a layer of domestic conflict. This also meant that the conflict changed character after the official withdrawal of the international forces and changed from a more conventional conflict between external statutory armies to a more complex intrastate conflict map with a wide variety of armed actors. The conflict has been highly damaging to the civil population of the DRC. NGOs estimate that, since the start of the Second Congo War in 1998, as many as 5.4 million people have lost their lives from war-related causes. This figure is a qualified estimate and difficult to verify. However, it does not change the fact that the civilian population in the DRC has paid a high price for the many years of conflict and the lack of either the domestic or the international will to find a way to terminate the conflict and create stability. After the end of the internationalized conflict in 2003, the eastern DRC in particular has been plagued by continued insecurity and instability. However, this insecurity has also changed in character, since the CNDP and later the M23 rebellions potentially constituted a direct threat to the powerbase of the political elite around President Joseph Kabila. The insecurity found today is predominantly more localized and does not present a direct threat to the central state authorities. In 2016 the “casualties” of war are basically being caused by the continued absence of a functioning state presence in parts of the country, which creates instability, and therefore food insecurity, dysfunctional health services, non-existent and malfunctioning infrastructure, increasing transaction times and costs and widespread displacements of population. This has mirrored against the fact that the mild climate and fertile soil in the eastern DRC gives it potential as one of the most fertile agricultural zones in Africa.

2.1.4 STRUCTURAL AND ROOT CAUSES OF THE CONFLICT, AND THE TRIGGER OF EVENTS

In the attempt to identify the causes of the conflict in the DRC, it is useful to distinguish between what can be term its structural and root causes and what triggers events. As mentioned above, the conflicts in the DRC have many intertwined layers that differ in terms of time, shape and origin. At the core of these conflicts was the merger of localized drivers of conflict with national and regional dynamics. The so-called democratization process initiated by President Mobutu Seke Seku in the wake of the Cold War in the early 1990s turned into an escalating de-statization process, that had started early in the Mobutu

presidency in the 1970's. The ending of continued economic support and loans from the Bretton Woods institutions resulted in rapid economic decline and the collapse of the already defragmented and weak Zairean state. Mobutu's attempt to cling on to power by initiating pseudo-political democratization processes increased the political tensions and led to a deterioration of the political and security situation in the country. These tendencies were further exacerbated by questions of access and rights to land, the right to citizenship and localized competition for access to and control over economic resources in the east, south and north of the DRC. These structural causes were then combined with regional and international trigger events like the end of the bipolar world order at the end of the Cold War and the 1994 Rwandan genocide that resulted in an estimated three million Rwandan Hutu refugees re-settling in the east of the DRC, altering an already volatile political and security situation in this region. The refugee camps became the source of military opposition to the new Kagame-led regime in Rwanda, which in turn started hunting for those responsible for the genocide, many of whom had taken refuge in the eastern DRC, and whom President Mobutu assisted and cooperated with, stoking the conflict further. One should add to this the influx of radical Hutu nationalists into the local dynamics of ethnicity, with local Tutsi and Banyamulenge being targeted and drawn into the conflict.

The formal internationalization of the conflict happened in 1996, when a coalition of regional states consisting of Angola, Rwanda, Burundi and Uganda, in alliance with many Congolese anti-Mobutu actors, launched an attack from the east of the country in an attempt to oust the regime of President Mobutu. The parties to the alliance had a whole range of different interests in joining in the attack on Mobutu. Rwanda had had direct security concerns since the Mobutu government had allowed Rwandan Hutu groups to operate against the Rwandan government from Congolese territory. The Angolan government wanted to stop the two domestic rebel groups, the UNITA and the FLEC, from using the Congo as a rear base against it. This was also the case for Burundi and Uganda, which both faced insurgencies using Congo/Zaire as a rear base. Despite attempts by South African President Nelson Mandela to mediate and secure a negotiated settlement, Mobutu's regime and security forces soon collapsed. In May 1997 the alliance took power in Kinshasa, and Laurent-Désiré Kabila was installed as the new president of the Zaire, which he soon re-named the DRC.

President L. Kabila's tenure as president was a big disappointment to both regional and international actors. He merely played lip-service to the promise of democratic and governance reform, and a split emerged between members of the alliance that brought Kabila to power. Uganda and Rwanda were asked to leave the DRC in the summer of 1998, which once again ignited the conflict, which this time grew into a much larger

domestic Congolese, but also regional conflict, pitting former allies against each other. This was very much due to the fact that although the interests of the various parties might have come together in order to oust President Mobutu, after this had been achieved, these interests were no longer compatible: Rwanda and Uganda had their own security concerns in the eastern DRC, whilst Kabila was more concerned with securing his power base in Kinshasa.

The armies of especially Uganda and Rwanda had formed the core of Kabila's army, and by cutting these ties he split the Congolese alliance and was quickly faced with a foreign-backed insurgency. One of the problems that has plagued the DRC ever since has been the shifting of alliances, followed by the rapid integration of often non-statutory militias into a defunct statutory armed force without a common doctrine or training manuals, and run by an officer corps without a homogenous training background or, for the most part, without any formal military training and schooling.⁸ Uganda and Rwanda were instrumental in setting up the new rebel group, the Rassemblement Congolais pour la Démocratie (RCD), which was initially dominated by the Kinyawanda-speaking minority from the east of the country, but initially also included other ethnic groups from that area. This invasion and subsequent insurgency signalled the start of a much larger and more complex war, combined with localized conflicts, which saw the emergence of a whole range of local militias in primarily the east, north and southeast of the country. When the initial RDC attempt to take the capital Kinshasa failed, the conflict was transformed into trench warfare, pitting African powers like Angola, Namibia and Zimbabwe against Uganda, Rwanda and Burundi. By 2000 Zimbabwe had deployed 16,000 soldiers to the DRC in support of the Kabila government, combined with a plethora of local actors, including Kabila's security forces and Mayi-Mayi militias, followed by the RCD, MLC-Bemba and factions of the RCD, often splintering off along ethnic lines. Common to most of the domestic actors was the fact that their objectives, characterized by localized and individually driven interests and concerns, were disconnected from the wider national political and security agendas. Examples of this include the Mayi-Mayi militias, which often evolved from a local, village-level context as sort of vigilante mechanism against a perceived and often real external enemy. These militias often operated within a localized logic, only then to be used as a bargaining chip in the wider system of conflict in creating alliances and securing support.

⁸ During the author's last visit to the DRC, he interviewed the local commander of a FARDC Special Forces Unit, whose primary background was two years of training to be a dentist.

Another example of this kind of dynamic was the RDC-Nyamwesi grouping, a splinter group from the dominant ethnic Nande grouping in North Kivu province. The legitimacy of this group was very much tied to the fate of the Nande, who predominated in trade and commerce in North Kivu. However, this group also illustrates the fragility of the alliances between the groups because the Kiyawanda-speaking core of the RDC-(Goma) group had the security and rights of this minority high on their agenda, which did not necessarily correspond to the interests of the Nande, who generally perceived the Kinyawandas as latecomers in North Kivu province. The point here is that, beneath the veneer of alliances and proclaimed enemies often lie localized interests and conflicts, which do not necessarily fit into a scheme of conflict-resolution. If one conflict is solved, another, underlying conflict might be exposed and unleashed. This has very often proved to be the case in the DRC. In addition, the DRC was also plagued by a whole range of different conflict systems, some interconnected, others not. One example of this was the conflicts in the northeast corner of the DRC, in Ituri Province, where localized conflicts, initially with ethnic connotations, such as the confrontation between the Lema and the Hema, later turned out to be much more complex and often tied to resource extraction, primarily gold and diamonds, which were shipped out of the area by elements of the Ugandan army. The conflict therefore had a local and at times extremely violent dimension, though it was closely connected to Uganda security concerns related to the presence of several rebel movements on Ugandan territory, primarily the LRA and the ADF-NALU, which operated from the DRC.

The complex reality of the Congolese conflict and its potential to escalate into a major regional conflict prompted a whole range of peace mediation initiatives . The Southern African Development Community (SADC), with South Africa playing a crucial role, took the lead in the peace process, which first focused on the external parties to the conflict, and only in the second phase started addressing the internal Congolese challenges. The first peace process was given the name of the Lusaka Peace Agreement and was signed in 1999, mapping out the terms for the withdrawal of foreign armies from the DRC, to be replaced by a UN peacekeeping force. The Lusaka Agreement paved the way for what was to be known as the Sun City process or the Inter-Congolese Dialogue, which attempted to include as many of the internal armed groups as possible, to draw up a plan for a transitional government and the integration of the armed groups into the national army, followed by subsequent elections. However, President Laurent Kabila became an obstacle to the attempt to create momentum in the peace process because he initially blocked the deployment of UN forces and argued that he could win the war with military means. The basic problem was that he did not want to share power, this being the direct cause of his assassination in January 2001 – a assassination that had close links to Angola, one of Kabila's allies.

However, his death and the subsequent takeover of power by his son, Joseph Kabila, created a new momentum and became the necessary turning point for the Inter-Congolese Dialogue. This peace process was led by the South African government with support from the EU and, after difficult negotiations and delays to the signing of the All-Inclusive Peace Agreement in July 2002, resulted in the Sun City Peace Agreement. This agreement led to the initiation of the peace process, the establishment of a government of national unity under the leadership of Joseph Kabila and the integration of the armed groups into new national security institutions. The agreement also meant that Rwanda received assurances that the DRC government would deal effectively with the mainly Rwandan rebel groups, above all the FDLR, which included a number of people responsible for and involved in the 1994 genocide and therefore constituted a direct threat to Rwandan territory. However, one of the problems was that not all rebel factions were signatories to the peace agreement and that, to improve their bargaining position, a whole range of splinter groups emerged at this stage in the conflict, since they wanted to maximize their returns from joining the agreement, as can, of course, be found in many conflicts around the globe. One important element in the continuation of the conflict was the international community, headed by the UN mission, MONUC's, decision to take sides and treat the non-signatories to the conflict as spoilers and calling them the "negative forces". This decision had serious ramifications, since it set a precedent for UN military involvement in the DRC in the years to come, complicating dialogue with these groups, while at the same time the force had to operate alongside the government's security forces, which had a very problematic human rights record.

2.1.4.1 National conflict drivers

The section above provided a brief introduction to some of the dynamics of the post-1996 conflict in the DRC. This section will unpack these drivers in more detail and try to separate what can be termed the local, national, regional and even global drivers respectively of the conflicts in the DRC. While distinguishing between these elements might produce some clarity, it might also simplify dynamics that are really highly complicated and interlinked. Thanks to this reality, the analysis will consequently have some overlapping elements. This is also important for another reason, namely that the complexity of the conflict, the interconnectedness of its causes, the sheer number of actors and the number of international donors present that are attempting to address the conflict have complicated matters even more. The result is that it has proved extremely difficult to do comprehensive conflict mappings and estimates for donors like the EU, UN and the World Bank, and therefore design engagements and programs have generally not had the impact that was intended. Another problem for the donors in their engagement with the DRC has been that

short-term security objectives have often received priority over proposals for medium- to long-term structural reform. It is also often argued that donors in general, and especially in the DRC, are hampered by the fact that their activities and programs tend to follow standard initiatives and models, not being flexible enough and tailored to the complex realities of the DRC. In addition member states lay down political caveats, for instance, EU member states, limiting the effectiveness of donor programs. One example of this is the illegal exploitation of and trade in natural resources, where for a long time the EU refused to introduce legislation to regulate European-based companies involved in this trade, which was helping to fuel the continued conflict (MONUC, 2008) Another example of the challenges faced by donors related to the domestic political realities in many donor countries is the normative liberal approach to post-conflict reconstruction, which, of course, may have its merits, but it also creates challenges, as seen, for instance, when multiparty elections are forced through. This was the case in the DRC in 2006, where such elections actually turned out to be counterproductive for the wider reform initiatives in the country.

2.1.4.2 Governance and politics

The signing of the All-inclusive Peace Agreement in 2003 (GAIA) and the relatively successful elections in 2006 resulted in a new sense of hope and belief in the future of the DRC. The relationship between the Joseph Kabila government and the international donor community was also characterized by a hope that he might prove to be the source of change and leadership that the DRC needed to move beyond conflict into a brighter and more peaceful future. It was also hoped that the elections might signal a turning away from the past political system of strong authoritarian leaders, with a new democratic dispensation. A new constitution was drafted, helping to fuel this kind of hope. However, by 2006 the DRC was a state with extremely weak or non-existent institutions, often lacking even the legal framework needed to have a functioning state. Since independence the leaders of the country had failed to provide effective leadership in the DRC, and the Zairian/Congolese state was best described as a case of the balkanization of statehood, with the centre in Kinshasa only exerting indirect control over its territory and with the state's "presence" being provided de facto by proxy actors in an advanced neo-patrimonial system. As long as the Mobutu "state" had resources enough to service his clients, the system was relatively stable, but faced with dwindling and even absent resources, the system collapsed. This was the system that international donors and Congolese actors were both faced with, a system that nonetheless constituted the foundation with which the new state was to be (re-)built.

Despite these challenges, progress can be detected in all sectors of the Congolese state. As mentioned previously, the security situation remains volatile in certain sections of the country, especially in the Kivu provinces in the east, but not to the same extent as was the case previously, and the state's presence is more visible in all parts of the country. However, "local ownership" of this process has been limited, and very often these state-building and reform processes have been donor-driven, with local actors only paying lip-service to them. One example of this was the lack of successful deployments of magistrates, who for a long time, due to security concerns, remained in Kinshasa and not in their designated circuit in the country. These magistrates received what by Congolese standards is a high monthly salary for doing nothing – a salary paid for by the EU and other international partners.

The volatility of the Congolese reality, however, means that the citizens of the Congolese state cannot feel secure because insecurity, extortion, violence and treats thereof, as well as intimidation, are parts of the daily reality for many sections of Congolese. The source of these types of security challenges are both local armed groups and state security institutions. However, here too we see some improvements, since prosecutions of security officials happen more frequently, a first step away from the impunity of officials that has characterized DRC.

Nonetheless, politically the DRC finds itself in a delicate situation. President Kabila's postponement of the 2016 elections, allowing him to stay in office longer than prescribed in the constitution, has led to public protests and violence. However, the challenge this time, as also in the two previous elections, stems less from the eastern provinces than from the western and central provinces, especially around Kinshasa, where tensions have been running high. This conflict is also very different in nature compared to the conflicts in the east, since it centres around a lack of service delivery and progress and is consequently political in nature, which is not so much the case in the Kivu provinces. The violence in 2016 has been described as an example of the deterioration of the security situation in the DRC, constituting a direct risk of re-igniting conflict and war. However, true though this analysis may be, the political violence could also be seen as a sign of increased political maturity, where the government and the governing elite are held accountable and questioned over their right to a monopoly of power. The question that remains is whether the elite around Kabila will be willing to relinquish power, against which must be balanced their fear of being prosecuted at a later stage.

2.1.4.3 Political decentralization: the implementation of the constitution

The question of the distribution of power and authority between the central government and the regions has constituted a key challenge in many African states since independence. This has been an issue in Sudan and the current conflict there, it is an issue in the political instability of Ethiopia, and it has constituted a key political battleground in Kenya since President Jomo Kenyatta's refusal to implement devolution. In the DRC the distribution of power between the centre and the regions has been a contested issue since independence, as described previously, as it was too when the parties in the DRC negotiated and formulated the wording of the new constitution: how should power and control be distributed between the regions and the government in Kinshasa, and especially who should control the income from the regions? By its very nature decentralization entails a transfer of authority and resources to the subordinate provincial level.

In the wake of the drafting of the constitution, therefore, there was a constant battle between the centralists, who wanted a strong centralized structure, and the decentralization faction, which argued for strong and autonomous regional structures. The result in the constitution is a compromise between these two positions. The power of the regions was reduced by the decision to divide the existing fourteen regions into 25 smaller regions. This generated a lot of criticism, given the challenge of the weakness or even non-existence of public institutional capacity, and with the expansion of the number of regions this problem would only be exacerbated. The new regional structures meant new regional parliaments, institutions etc. Another criticism of this decision was that, by reducing the size of the regional entities, it increased the relative strength of the central government in relation to them. One example often mentioned was the decision to divide the economically and politically strong Katanga province into four regions to make it easier for the Kabila government to control it.

Another, related issue was the question of the distribution of income between the regional and central levels. The majority of the natural resources and agricultural productive zones are to be found in the geographical belt that extends from Ituri Province in the northeast to Kasai Province in the south-centre. Indeed, the Kinshasa region is to a large extent dependent on the income from these regions. The question during the constitutional process was therefore how much of the regional tax income should be controlled by the region and how much should go to the central government. The compromise was that forty percent of the tax income remains with the regions, while the rest goes to the central government. This issue is extremely important, since it dictates the ability of the central level to be a strong central authority and to finance itself as such. If the central government

level is starved of resources, this will inevitably result in stronger decentralized units. The danger for the regions of under-financed decentralization can be seen in Kenya, where regional governments have been on edge of collapse due to the lack of funds to run local services like education, health and social services. Another reason for the struggle between the groupings in the DRC was the fact that much of the conflict, especially in the east, revolved around local security concerns. The marginalized and vulnerable Kinyarwanda-speaking communities, as well as other ethnic groups, feared the central government, which historically had played a critical role as a source of repression and insecurity. The logic was that a stronger and more decentralized regional structure would be better for the interests of these groups.

2.1.4.4 Rule of law

Despite the optimism that was created by the 2006 election, human rights and rule of law are critical concerns in the DRC. In praising the first elections it was forgotten that most of the benchmark set out by the international donors and the DRC actors to be reached before the elections could be held were not met (SSR, 2004). In fact, several of the benchmarks, such as the finalization of DDR (RR), ensuring the formal presence of the state in all parts of the DRC and the disarmament of the armed groups had not been reached by June 2016 (Office, 2016). The elections were consequently conducted in a situation in which all the conditions that, it was argued, were needed to support and secure the elections were not in place. One of the largest opposition parties, Etienne Tshisekedi's party, the UPDS, boycotted the elections, and certain parts of the country were still plagued by conflict. This was also one of the main reasons for deciding that the 4000-strong EU force should be deployed to help secure the elections. The EU force managed to do so, but the effectiveness of the deployment was debated. Apart from these challenges, the problem with the elections was that the result effectively marginalized the former eastern rebel leaders, which created political uncertainties among the minority groups, especially the Kinyarwanda-speaking communities, who feared for their own security. The new Kabila government did little to address these concerns, and the tacit or even direct contact, support and cooperation with the FDLR in particular was a constant source of concern.

One of the consequences of the violent history of the DRC is that good governance and respect for human rights and democracy have been aspirations that local communities have experienced only to a limited degree. The space for democratic institutions was also limited or absent prior to 1996, but due to the subsequent war it remained limited, and since the 2006 elections has resulted in a narrowing of the space for democratic debate

and civil society, coupled with a centralization of power by and amongst the political elite. As part of the 2002 peace agreement, measures and institutions were established in an attempt to improve the human rights situation and create a democratic form of governance. However, as with many of the activities in the DRC, national ownership was severely limited, as these programs and initiatives were very donor-driven, due to the lack of capacity in national DRC structures, but also to the lack of ownership and of the will to implement these policies. A good example was the continued delays to the judicial formulation process, including the constitutional process, and the attempts to delay elections. It was estimated that two thirds of the members of the transitional parliament would lose their seats at the elections, which meant that they had little incentive to implement reforms and laws that would most likely cost them their seats in parliament, which gave them direct access to power, income and prestige. Basically the political, democratic process in the DRC is one big political theatre and political market place, paraphrasing Alex de Waal, where influence and political parties are used as bargaining chips to access positions and influence by creating alliances with one of the dominant political actors. In 2006 elections these actors were Jean-Pierre Bemba and his opponent, Joseph Kabila, the actors supporting the Bemba wing losing and becoming marginalized, while the actors favouring Kabila won influence and positions, which equalling access to power and economic resources. In fact the DRC is not much different from other presidential systems in this respect, as in Kenya or the USA, but everything in the DRC is just a bit more extreme. Despite the system being changed for the 2011 elections, with the two rounds of election being reduced to one, the optimism created by the first election in 2006 was short lived, and politically the Kabila government has not shown itself willing or able to continue the reforms by opening the public space for free and fair debate or the political space for democratic governance. In reality the closer the Kabila administration has come to the date where the president needs to relinquish power under the constitution, the more the oppression and targeting of political opponents been visible. The arrest of opposition leaders, murders and general human rights violations have again become the order of the day.

2.1.4.5 Security and its absence, and the local resistance to reform

In June 2016, more than twenty armed groups of various levels of organization and sizes were active in North Kivu province alone. Consequently, more than fourteen years after the signing of the peace agreement, the security situation remains volatile in large parts of the country. One of the key reasons for this has been the limited impact that SSR programs have had on the DRC's security sector, which, as a combined program, has been a failure. Some of the reasons for this are described below, but out of the large toolbox that

constitutes SSR, some initiatives have had an impact. One example of this is the EU-supported biometric registration and payment system, which have ensured that salary payments for FARDC personnel have reached their intended recipients. However, the system is not perfect, fraud has been detected, and the system only deals with limited salary payments for the soldiers.

Since 2003, many attempts to create new institutions and structures have been initiated and established. However, the reforms of the FARDC, the police services and the justice system have been slow, have had to be changed and have been negatively influenced by compromises. The FARDC and police force remain key sources of oppression, crime and human rights violations. The UN human rights office has constantly documented this, and the mission is now screening the military units in the FARDC for records of abuse before making provision for joint operations and logistical support. In many respects the FARDC operates like the militia groupings. As will be described below, one of the reasons for this has been the compromises being made in the integration of the armed groups into the FARDC and the continued presence of violent armed groups, like CNDP/M23, ADF, LRA, FDLR and various Mayi-Mayi groups. Large sections of the territory, especially in the eastern parts of the DRC, remain under the de-facto control of non-state armed groups. The military campaigns have only had a limited effect, especially the military offensives against the FDLR and LRA in 2008-2009, which only enjoyed marginal success, while also causing a humanitarian crisis. It was only with the introduction of the Force Intervention Brigade (FIB) concept in 2013 that the fortunes of the joint FARDC/UN military efforts had a major impact. The victory against the M23 rebel group was a major success, entirely changing the security dynamics in the region by removing the main conventional military threat and leaving smaller, less capable militia groupings. However, in the absence of a properly functioning state and justice system, non-state actors and traditional “justice” systems remain part of the provision of alternative sources of security, with direct negative impacts on peace-building initiatives and attempts to achieve peace in the DRC. The absence of a functioning state has also created a proliferation of small arms, for which there is a large market.

2.1.4.6 Economic dynamics

Since the official end of the conflict, reform initiatives have been launched in an attempt to create much needed economic growth. The primary focus has been on the commercialization of the mining sector in order to obtain foreign direct investment in this industry. Necessary judicial reforms have been passed by parliament and existing contracts with extraction companies have been drafted to secure an income to the state. In

the years after the 2006 elections, the Congolese economy experienced annual growth rates of eight percent, but mismanagement, corruption and the general fall in commodity prices have reduced this growth dramatically. A large contract for necessary improvements to the infrastructure was signed, and the result can be seen in, for instance, Kinshasa, where the main roads have been improved. However, foreign investors have been discouraged by a range of factors, including the lack of security, a general drop in commodity prices, the slow bureaucratic processes, slow progress in revising existing mining contracts, and the lack of reforms in public fiscal institutions. Basically, the mining sector needs large capital investments to be able to run as a conventional mining industry, and the industry needs assurances that their investments will not be lost. Part of this is closely tied to the absence of functioning state institutions and regulatory mechanisms, which in large part have been individualized. Several levels of state representatives have managed to use their formal positions to extract funds for personal ends corruptly. The resource extraction industry has been turned into a money-making mechanism, with many levels of government and non-government officials living on the proceeds from these kinds of activities. This is not new in the Congolese context, and this kind of dynamic was very visible during the Mobutu era as well, leading, for instance, to the collapse of the state-owned Geca mines, which were used to finance the activities of the elite at the time, but did not lead to further investment in the company, which eventually collapsed.

One of the direct results of the weak state institutions and the capture of governmental processes by groups and individuals, combined with the continued conflict and instability, has meant that control over natural resources has become an important tool in financing the continued military efforts. It would be an over-simplification to explain the conflict along the lines of this single variable of natural resources, which has played different roles at different stages of the conflict. However, it is also a fact that this has played an increasingly important role in the later stages of the conflict, where taxing and exerting control over artisanal mining activities have become increasingly important.

These activities are intertwined with a network of local businesses and armed actors. Both state and non-state military actors are involved in the extraction industry, and this dynamic has not been changed much by the signing of peace agreements. The great majority of mining in the DRC, estimated at ninety percent, is in the form of artisanal mining, as the limited commercial mining activities take place in the traditional mining heartland of the southeast of Katanga Province. It is important to stress that it is not the mining itself that triggers conflicts, but the activities surrounding it, especially the taxation of these activities. The World Bank has estimated that approximately fifteen percent of the population of the DRC is dependent of the artisanal mining sector. When in 2011 the US introduced the

Dodd Frank Act to control the trade in conflict resources in the DRC, what seemed on the one hand to be a good way of blocking the income from these activities also constituted a direct challenge to the fifteen percent of the DRC population that relies on artisanal mining activities. There are regional differences in the way mining impacts on and is expressed at the local levels in the different regions of the DRC. The Kivu provinces were not traditionally mining provinces, and incomes there used to stem primarily from agriculture and regional trade. However, the conflict changed these dynamics, reducing the ability to pursue agriculture. Mining consequently became an alternative source of income, as well as being a very dangerous activity.

3.1 The truth of the yoke: the role of regional actors in the conflict in the DRC

In the DRC, many of the local explanations about the conflict follow a narrative that places its causes mainly outside the country. It is foreign elements, including the Kinyarwanda-speaking minority, who are considered “newcomers” by the Kivus and therefore not entitled to rights as citizens and land. The biggest culprit in all this is the Paul Kagame government in Rwanda, which has deliberately tried to undermine the stability of the eastern Congo in an imperialistic attempt to manifest Rwanda’s control over this region. This attitude towards Rwanda is quite general, not just among the Congolese themselves, but also in the neighbouring states and Zimbabwe (Chief Joint Ops, 2000).

3.1.1 The Case of Rwanda

“The DRC is like a wounded elephant that lies down. Every time it seems to be feeling better and tries to stand on its feet, the predators will attack it and force it to remain lying down, vulnerable and weak..” (Chief Joint Ops, 2000)

This was how the Zimbabwean Chief of Joint Operations described, among others, the role of Rwanda in the conflict in the DRC, thus legitimizing the military intervention of Zimbabwe and its two partners, Angola and Namibia. The thinking was that Rwanda, because of its small size, was trying to keep the DRC weak and in the long run wanted to annex the eastern parts of the DRC as part of a larger imperialist project. Rwanda, personified by President Paul Kagame, was seen as the main cause and instigator of conflict in central Africa. It is certainly true that, both directly and indirectly, Rwanda has played an instrumental role in the conflicts and wars in the east of the DRC. Furthermore, the UN Group of Experts reports have documented the close economic ties that exist between Rwandan actors and the economic exploitation that is taking place in the eastern DRC. Rwanda has invaded the DRC militarily on several occasions and has helped set up and support a range of military groupings. It is difficult to describe or understand the conflict without taking Rwanda’s role into account. Thus, seen from this perspective, this kind of reasoning could have some kind of analytical authority. However, the reasoning and logic behind Rwanda’s involvement in the DRC is much more nuanced than that, also being a matter of the effects of the genocide and the legitimate security concerns confronting Rwanda, which stem from the east of the DRC.

3.1.1.1 The aftermath of a genocide

There is a vast policy and academic literature dealing with Rwanda's role and involvement in the conflict in the DRC. The main arguments often raised are the direct security concerns, economic interests and even the political ambition to turn Rwanda into a dominant regional power. Historically Rwanda has formed and still forms an integral part of trade and economic transactions in the eastern DRC. This has to do with the proximity of the east's key economic centres to Rwanda and the mere fact that the absence of a functioning infrastructure in large sections of the DRC makes trade and economic transaction costs between the western and eastern provinces of the DRC more difficult and much more expensive. The direct role of Rwanda in supporting anti-government armed groups in the DRC has been established by the UN Group of Experts, which has investigated and documented the level of compliance with the UN arms embargo on all non-state armed groups since 2005. The Group documented how rebel commander Laurent Nkunda and his movement, the CNDP,⁹ and later its successor, M23, have received logistical and military support from Rwanda. However, increased regional cooperation and significant international political pressure on the Rwandan government, including sanctions, combined with security guarantees from the Kabila government and the deployment of the FIB to disarm the main armed groups forcibly, has improved the security situation in the east tremendously. The signing of a regional agreement in 2008 has also improved the security situation considerably, and more importantly it has removed the excuse of insecurity that Rwanda used to intervene in the DRC. However, the continued presence of the FDLR in the east, albeit in a much depleted form, and the a lack of security guarantees for the Kinyarwanda-speaking communities, such as the failure to implement the constitutional provision of the right to DRC citizenship for most Kinyarwanda-speakers, could prompt another military response.

3.1.2 THE ROLE OF UGANDA IN THE DRC

Like Rwanda, Uganda have been directly involved in the conflict and wars in the DRC. And like Rwanda, Uganda has had security concerns stemming from the presence of Ugandan militia groupings operating from Congolese territory. The border area between Uganda and the DRC has historically been an area of contention, with significant armed activities on both sides of the border. It is well documented that certain Ugandan military officers and business interests, as a side effect of Uganda's military presence on Congolese territory, have also become deeply involved in the illegal exploitation of natural resources in the DRC. Despite the signing of an agreement between the DRC and Uganda in 2002 allowing

⁹ Congrès national pour la défense du peuple.

for the withdrawal of the latter's military forces, Uganda, like Rwanda, has maintained a presence in and influence over the security dynamics of the area. Consequently, diplomatic and political relations have been problematic between the DRC and Uganda, and they were made even more complicated when in 2005 the International Court of Justice decided that Uganda should pay compensation to the DRC for its role in the war.

In addition, the oil-exploration projects and the contested border regions around Lake Albert have been other areas of disagreement. To complicate matters even further, the two allies, Rwanda and Uganda, had a military standoff in the area around Kisangani, which made the relationship between the two problematic. In 1999 these former allies even went to war with each other in the eastern DRC. Uganda was, and indirectly still is, very active in Ituri Province, while Rwanda's main area of influence is to the south, in Northern Kivu. In this regard it is interesting to note that in 1986 an estimated 20-25% of Ugandan President Museveni's resistance movement were Banyawandas (Reyntjens, 2005: 588). In 2016 Ugandan influence in Ituri is less direct, and the country is benefitting mostly from cross-border trade, while direct political meddling has also declined.

However, as was the case with Rwanda, the relationship between Uganda and the DRC has improved significantly to such an extent that Ugandan military forces conduct joint anti-LRA operations with DRC forces as part of regional force arrangements. This was made possible among other things by the donor-supported initiative to establish an "International Conference for the Great Lakes Region" (ICGLR) and the "Tripartite + 1 Mechanism". These initiatives have created a much-needed institutional inter-governmental structure for the regions that is able to cope with conflict resolution, be a forum for intergovernmental dialogue and handle the management of cross-border security dynamics. The basic idea has been to solve interstate political problems between the DRC and its neighbours, thereby cutting the external support of and involvement in supporting the armed groups in the DRC.

3.1.3 THE LOCAL ACTORS

As described above, a dominant narrative in the eastern DRC explains the conflict and wars in the region as stemming from the outside. This is, of course, a much narrower reading of the security landscape and the causes of conflict in the DRC. This section will therefore try to unpack some of the explanations found in the literature for the conflicts in the country. However, as mentioned above, these analytical categories – global, national and local – are

closely interlinked, as, for instance, with the trade in natural resources. A vast literature exists dealing with the dynamics, or elements, of the conflicts in the DRC, especially with a focus on the two Kivu provinces, northern parts of Katanga and Ituri Province.

A dominant strain of argument in the literature is that a greed-driven agenda is central to understanding the dynamics of the war and conflicts, and therefore that the control of resources is important to the armed actors in them. This kind of analysis reduces other types of explanation to merely secondary importance. The role of the regional actors in the extraction and distribution of these resources is well documented and described above. The armed groups, including the FARDC, have played and still play a direct role in the extraction of natural resources, which helps finance the continued war efforts, but they also feed into personal enrichment schemes, which of course supports the above argument. This trend of analysis has also informed the thinking related to the calls to ban the trade in “conflict resources” from and with the DRC.

However, other powerful strands of explanation can be found in the literature, which focuses on dynamics such as rights and access to land, which are often related to the debate on rights to citizenship, as mentioned above. Some of these localized conflicts can be traced back to the Mobutu era, with its policies regarding citizenship and access to land, which were linked to how he bought political loyalty. Localized land disputes therefore play a central role in explaining the dynamics of local conflicts, as well as being the rationale behind the existence of certain armed groups. However, from the literature on the DRC, four main strands of argument can be detected:

- The reference to ethnic identity as a dominant factor in local competition and strategies of political mobilization.
- Access to and control over livelihoods, including land, as a problematic issue, leading to intense competition between leaders, groups and individuals.
- The “informalization” of economic production and trade (meaning a shift from more formal, organized means of production and commerce to more informal ones), and a shift in the local economy from agriculture to mining, which has provoked intensified competition for resources linked to the struggle for political and military control.
- Violence as a highly effective strategy to obtain access to political power and economic resources, encouraging the militarization of local society. (Channel Research, 2011)

As mentioned above, one of the central sources of instability is what in the New Wars literature is termed identity politics and ethnic conflict – both, like contested explanations with reference to greed, provide much explorative power as single variables. However, in both Kivu provinces and in Ituri Province, reference is often made to these concepts both on the ground and in the description of events on the ground, and also as an efficient means to mobilize support and to explain the competition for political influence and for control over resources. Ethnic tensions have often been used to mobilize support for both militia movements and the ethnically based political parties with which they are frequently affiliated. This, of course, raises the question of how much emphasis should be put on ethnically based explanations. The arguments in relation to this is that new identities are constructed and changed, but also that identity markers are effective, but changeable tools in mobilizing support and creating a sense of unity.

A visible example of ethnic mobilization is the situation in South Kivu in which the Banyamulenge were both targeted as being Rwandaphones and mobilized into anti-Kabila movements such as the AFDL and RCD. Despite the fact that the Banyamulenge had already arrived in the DRC from Rwanda in the nineteenth century, they were considered “foreigners” and therefore “newcomers” by many of the other ethnic groups. As the war caused tensions to grow in the region, the Banyamulenge were nearly dragged into a conflict that initially had nothing to do with them. Between indigenous ethnic group leaders, access to political power has caused intensified competition. Other ethnic groups have experienced similar pressure and marginalization, which can help explain the formation of the whole range of different militias. In North Kivu, Banyarwanda identity has been used to mobilize young people for militias on both sides of the conflict. However, one limitation to this kind of explanation is the existence of alliances across these identify markers, as has often been the case in North Kivu and in Ituri as well. The identity marker has effectively been used to identify who often also controls trade, markets land, which have been skilfully been exploited by local elites in their quest for political power and control, which is closely connected to the control of the trade in natural resources. This also prompted the EU to launch Operation Artemis in 2003 to pre-empt an escalation of ethnic conflict into a genocide. War changes societies and, in the case of Ituri, has helped increase the divisions between the different ethnic groups. It can even be argued that a securitization of ethnicity has taken place. However, as was the case in North Kivu, later in the conflict these categories became blurred, prompting new alliances across previous ethnic boundaries.

Common to most of the conflicts in the east of the DRC is the fact that issues of ethnicity and identity are being used as bargaining chips in competition over other contested issues,

such as land rights and control over mining. Once the bigger conflicts have been settled, the focus needs to shift to local problems of this nature. The actors in these conflicts have exacerbated the situation by protecting their own interests and those of their interest groups, often making other groups feeling marginalized.

3.1.3.1 The Actors and Causes of War

June 2003 officially marked the end of the Congolese war and the beginning of the transitional period that ended with the national elections in 2006. However, the conflict, and especially the threat of its reappearance, has constantly been an important element in the DRC, especially in the east of the country. One of the criticisms made of the peace agreement was that it ignored the actual situation on the ground, leading to several actors feeling excluded from the transitional institutions (Vlassenroot *et al.*, 2005: 3). This highlights one of the central problems when dealing with the Congolese state, and especially the conflict. Should this conflict be seen from the state's point of view, or should it be seen as constituting a whole range of different actors, within a territory called the DRC, i.e. from the bottom up? It could, of course, be argued that there has been an attempt to split the peace process into two, first through the signing of the Lusaka accord in 1999 focusing on the external actors, and later through the global and all-inclusive peace agreement (GAIA) in 2002 dealing with national Congolese issues. In reality it turned out to be difficult to separate the two levels, since the Congolese rebels were often heavily backed by foreign actors. The Lusaka agreement was therefore never fully implemented, though it was an important influence in securing the deployment of the UN force, despite its delays, as well as in creating the foundations for what was later to become the GAIA.

Remaining within the above-mentioned framework, it can be argued that both agreements, despite the supposedly inclusive nature of the 2002 agreement, have a top-down focus, working from the central government level downwards. For obvious political reasons, there was never any attempt to institute a process that did not incorporate the central government as the judicial state's representative as its point of departure. The problem was that this process recognised the government in Kinshasa as a legitimate juridical sovereign power in the DRC, and thus as having greater legitimacy than the various rebel movements. However, it should be stressed that the mediators attempted to include as many of the local actors as possible in the peace process, which, of course, was made extremely difficult by their sheer numbers: many of them wanted to be included in the process without having a clear basis for legitimizing such a claim. It also led to the effect mentioned above, where splinter groups emerged because it was seen as an effective way to obtain access to and influence over the process.

This automatically leads to another central issue when dealing with the DRC, one of the key questions to ask being the complexity of the conflict, with, for instance, its shifting alliances in the sense of who is aligned with whom. Should, for instance, the Rwandan Hutu rebel movement, the Forces Démocratiques de Liberation du Rwanda (FDLR), be understood as both an independent rebel movement with an ideological objective in the defeat of the Kagame-led government in Rwanda and as an ally of the Kinshasa government during the Second Congo War from 1998-2003, which served its interests and led to its de facto representation of specific areas of especially the provinces of North and South Kivu. The situation on the ground shows that the situation is constantly changing. Where in 2009/10 the FDLR was still managing the bulk of resource extraction in the territories – which, amongst other things, it used to finance its continued war effort – this is no longer the case in 2016. The FDLR therefore was and still is both a legitimate and illegitimate force at the same time. It has become internationally infamous because of its relationship with the genocide in Rwanda, and it is seen as one of the major sources of the continued instability in eastern Congo. However, until recently, for instance, it has also enjoyed a level of informal acceptance from the government, that is, a role similar to that of the privateers of the sixteenth century. The fighting in North Kivu in the fall of 2008, where the national army, the FARDC, entered into alliances with several non-state groups, including the FDLR, against the National Congress for Defence of the People (CNDP) is a case of point. The danger for the FDLR was, of course, that, if they stopped being useful, their status in the eyes of the present government in Kinshasa would change from legitimate to illegitimate, as happened with the arrest of former CNDP leader Laurent Nkunda, the agreement and fast-tracking of the CNDP's integration into the FARDC and the alliance created against the FDLR in early 2009. The complexity of this type of alliance was illustrated in 2011, when strong former elements of the CNDP deserted the army and formed the M23 rebel group, with direct and indirect support from Rwanda.

When dealing with the DRC, a relevant question to ask should be: has the state ever been in control of and, therefore, had a monopoly over the legitimate use of force? The immediate response would be no, or at least partly so and not in direct control. When some kind of order has existed in this vast territory, it has been maintained through patronage, with the responsibility for providing security and acting as the state's local image and expression having been sub-contracted to other actors. This system functioned periodically but finally broke down in the early 1990s. Since then the Congolese state has not been able to exert any form of control over large areas of its territory. Since the signing of the 2002 GAIA, serious attempts have been made to secure this control by deploying a large UN force consisting of more than 20,000 soldiers and getting the last foreign forces from Uganda, Rwanda, Namibia, Zimbabwe and Angola to withdraw. This was supposed to have happened

after the signing of the Lusaka accord in 1999. At the same time the transitional government was trying to deploy the new integrated army to the east of the country, which was plagued by conflict and instability. However, the problem is that the FARDC lacks the capacity needed to provide security.

3.1.3.2 “The Formation of a Centre of Profit, Power and Protection”¹⁰

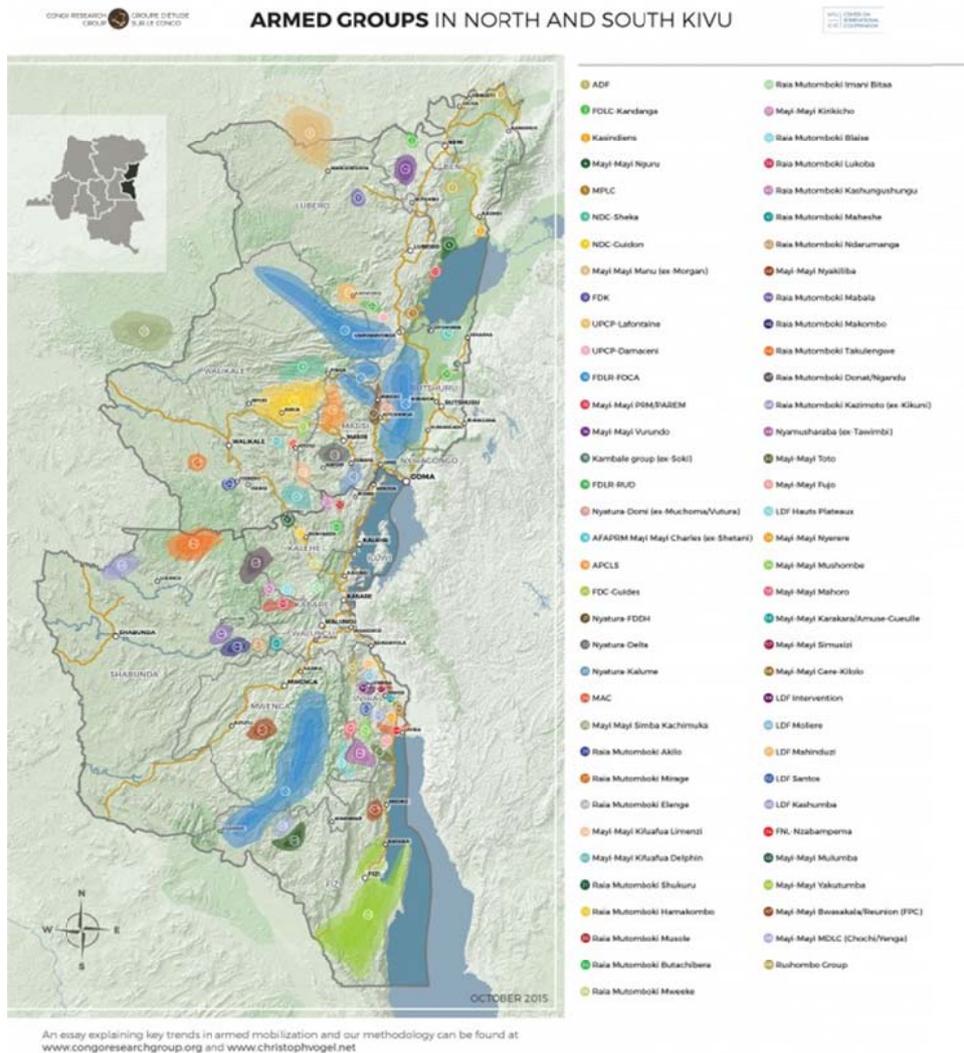
War might be an integrated part of state-making, but, when it is less successful, it becomes organized crime. However, as Vlassenroot *et al.* rightly point out, civil war does often lead to the collapse of the state’s control of its territories and population. The state is then often replaced by new non-state centres of authority that introduce new ways of exercising political, social and economic control (Vlassenroot *et al.*, 2005: 1f.). This means that what is often described as anarchy frequently has a large element of order built into it, i.e. when one kind of order collapses and another kind of order emerges and replaces it and creates “new rules of the game”. Apparent disorder is an important part of this new order, which will often take an extremely violent form and have large amounts of extreme extraction and exploitation as an inherent aspect.

The fragmentation of the DRC has taken place over a period of many years. However, since the beginning of the war in 1996, a number of the actors involved have used the conflict as a means of securing influence for themselves and their group, often as a response to many years of marginalization. The war became an efficient means of obtaining this influence. Yet the dynamics of conflict change over time, as has been the case in eastern DRC, where the causes of war are not the same as the reasons for the continued fighting today (Vlassenroot *et al.*, 2005: 5); (Stearns, Verweijen, & Eriksson Baaz, *The National Army and the Armed Groups in the eastern Congo - Untangling the Gordian Knot of Insecurity*, 2013). However, the original causes tend to survive and continue to constitute threats that could emerge at any time, to be used instrumentally by the actors involved. In addition, war tends to radicalize local politics, which means that minor differences can develop into major issues of conflict. However, it is much too simple to see the conflict in the DRC as resulting in “an economy of plunder based on rebel predation” (Vlassenroot *et al.*, 2005: 14), because the plunder goes much further than merely the rebel element. The conflict has resulted in the (partial) dissolution of the existing system of governance and the establishment of private and informal localized governance structures in its place, often accommodating traditional local elites and using the state apparatus (Reyntjens, 2005: 596). As Bayart once pointed out, there tends to be a recycling of elites in African states generally, not only in the DRC

¹⁰ This heading has been borrowed from a paper written by Vlassenroot and Raeymaekers (2005).

(Bayart, 1999: 193ff.). However, the war has also meant the destruction of the existing structures of power, thus allowing new centres of power to emerge. As Mbembe pointed out, it seems as if new state-like structures developed within the defunct judicial state, with all the state-like features (Mbembe, 2001, cited in Reyntjens, 2005: 596). For instance, individuals crossing the different zones had to pay tolls and export taxes, the “authorities” in these state-like zones collected taxes etc. This underlines Tilly’s argument that there is a close link between state-making and war, and when this is not very successful, as was the case in the DRC, with crime. International actors have been heavily involved in the extraction of resources from the DRC and in selling illegal arms to parties in the DRC. After the signing of regional agreements and the establishment of international control mechanisms, this is no longer so much the case. In addition, it seems that the stronger neighbouring states have resorted to what Dietrich has called the semi-parastatal privatization of war, or “military commercialism” in another article, and deployed forces to the DRC for profit and in support of one of the parties to the conflict (Dietrich, 2001). Thus it has been established that Rwanda has benefited directly from resource extraction in the eastern DRC worth 6.1% of Rwandan GDP or 146% of its official military expenditure (Reyntjens, 2005: 599). Since its official withdrawal in 2002, Rwanda has made use of local agents and allies to secure itself a continued income. The conflict in Northern Kivu in late 2008 involving renegade General Laurent Nkunda should also be understood in this context, though his arrest in January 2009 shows that the relationship is more complex. As Rwanda’s economy has continued to grow and become more diversified, its involvement and dependence on resource plunder has declined as well.

3.1.3.3 The militia groups



Stearns & Vogel Conflict Mapping, 2015

After the defeat of the M23 rebel group in November 2013, a fragmentation of armed groups was detected in the eastern DRC. In 2016 it was estimated that there were more than seventy active militia groupings in the eastern parts of the DRC, each with its individual characteristics, composition, level of formalization etc. (Stearns & Vogel, 2015). In addition to these militia groupings, the structures of a formal state play a role in both the formal and informal power structures in the eastern DRC. The distinction between “liberation movement” and “rebel movement”, “legitimate” and “illegitimate”, “mercenaries” and “militia”, and “public” and “private” is a fine one in the DRC, especially in the eastern part of the country. As Michael C. Williams argues, these agents often have to be understood as a fusion between public and private status, that is, quasi-private and quasi-public (Williams, 2009). The lack of effective state capacity means that a major part of the DRC is in reality under the control of

different types of militias and semi-autonomous army commanders. As Chrétien correctly points out, individual militia members tend, willingly and unwillingly, to change their allegiances, thereby functioning as de facto mercenaries (Chrétien *et al.*, 2008); (Verweijen, 2016) However, differences can more often be found between ethnic and locally based Mai-Mai groups, which tend not to shift alliances so frequently as is the case for some of the other militia groups (Verweijen, 2016). To what extent a change of alliances is actually happening on the ground is, of course, debatable, because, as Bøås *et al.* show in the case of Liberia, this perception may only reflect the de facto reality to a limited extent (Bøås *et al.*, 2008: 44); (Verwijken & Wakenge, 2015). This could have clear implications for the DRC because it raises the question of the extent to which this is merely a perception and whether this is in fact also the case in the DRC. This means that the image normally used to depict these militias tends to be too static, whereas in fact their composition tends to be much more fluid. One example might be the CNDP militia led by Laurent Nkunda, which is, of course, Tutsi-dominated, but not entirely so. The ethnic element is used as both a tool of mobilization and an effective political fig leaf covering a whole range of other reasons for the activities of the militia. Also, this militia was initially created by several ethnic Nande Mayi-Mayi groups, but it later also included other elements, for instance, from the Hutu.

The disintegration of the rebel movements opened up a space for new actors in the eastern DRC, and especially for new coalitions (Vlassenroot *et al.*, 2005: 6). Since 1998, for instance, anti-Rwandan sentiment has increasingly been used as an instrument in the creation of alliances. This was also part of the Congolese tendency to explain everything bad or negative as coming from outside the DRC. The Banyarwandas of North Kivu are a case of point (Turner, 2008). The author often met this kind of reasoning while in the eastern DRC. This sentiment led to new alliances where the predominantly rural Mayi-Mayi found common cause with the disenfranchised youth in the cities. Over time the Mayi-Mayi, which started out as militia closely tied to its local community, was transformed in the war into pro-government and government-armed militias with close contacts to local businesses and, therefore, local power structures (Vlassenroot *et al.*, 2005: 7). Since the end of the Second Congo War, and as a consequence of the widespread fragmentation of armed groups, the security dynamics have become localized and further implicated in local grievances and local political dynamics, and therefore no longer so tied to a national political project. The armed groups have become useful tools in mobilizing support and extending local control for mid-level political and army actors, as well as customary chiefs (Verwijken & Wakenge, 2015)

During the Congolese war, two parallel processes were in play at the same time. First of all, in its attempt to create some kind monopoly of the use of force, the Kinshasa government co-opted these militias in order to fight its rivals in the eastern DRC. This could be seen as a continuation of the Mobutist system, which managed to survive for so long, among other

reasons because of its ability to co-opt its rivals (Lemarchand, 1992: 185). Secondly, the local business elites used or at least attempted to use the militias as an effective tool to secure control over local resources and thereby sources of extraction. Their direct competitors were the Rwandan and Ugandan armies, or at least individuals within these armed forces who had clear economic interests in the eastern DRC and used their proxy militias – primarily the RCD-Goma (Rwanda) and the RCD-ML (Uganda) – in competition with the local power structures. These dynamics meant that informal alliances between rebel enclaves, regional elites and international actors were created, which introduced some kind of order and security within these enclaves. For instance, the informal alliance between the Mayi-Mayi militias and the Kinshasa government through its local agents also provided these militias with some kind of legitimacy. However, these alliances were extremely dynamic, and opportunistic alliances were formed more or less on an ad hoc basis. Another example was the alliance mentioned above between PARECO, Mayi-Mayi, FARDC and FDLR against the Kinyarwanda-speaking communities in North Kivu. After the end of the War these dynamics have changed, and the local militia groupings have generally lost their national political usefulness, having been replaced by local dynamics as described above (Verweijen & Wakenge, 2015) (Verweijen, 2016)

3.1.3.4 The FARDC

Another interesting dynamic in this connection was that, over time, or at least for long periods of time, these competing enclaves discovered a common interest in avoiding confrontation because everybody was benefiting from the status quo. An interesting dynamic was, of course, introduced with the consequences of the 2002/3 peace agreement, which provided for all the armed groups to be integrated into a new national army as part of the dual strategy, the *tronc commun*, of integrated Disarmament, Demobilisation and Reintegration (DDR) and Security Sector Reform (SSR) processes in the DRC. At first these militia units were integrated into the FARDC, but allowed to stay in their local areas, which turned out to be problematic because of their split loyalties and interests. Only later were these units sent to *brassage*, that retraining and reintegration.¹¹ One example of this was the 2005 struggle around Walikale in North Kivu between different elements of the FARDC, that is, the former RCD-Goma and Mayi-Mayi rebels, who fought among themselves for control over the local cassiterite mining facility. The Mayi-Mayi made an alliance with the Hutu extremists in the

¹¹ For further reading on the SSR program in the DRC see deliverable 3.5

FDLR, both being opposed to the local FARDC military commander, who in turn was opposed to the government in Kinshasa (Reyntjens, 2005: 600); (Bailey, 2009, personal interview). In the event it proved difficult to rely on the former militias to deal effectively with the security challenges in their home territory, which was why the FARDC altered its strategy and started to deploy individual units away from their home regions. This was also to do with the fact that the FARDC initially lacked the logistical capacity, facilities and organizational capacity to send all rehatting and integrated forces to *brassage*. The rehatting happened between 2003-2007, whilst the *brassage* process only became fully operational by 2005-06.

The decision to move the integrated forces out of their own regions created other problems because it often meant separating soldiers from their own dependants. However, the FARDC must to a large extent also be considered a local militia-type organisation because the soldiers and especially the officers serve several masters. Salaries in the FARDC, if they are ever actually received, are not enough to survive on, which is why the FARDC creates alliances with local power structures as a way to extract resources. This happens both through the taxation of the local population and the sale of army equipment and services to the local militias and elites (UNSC, 2008).

It is also important to recognize that, despite the provision in the new DRC Constitution for government control of the military, the real control is to be found in the Katangan elite, as well as the so-called “Tango Four” grouping that originates from Maniema province and that surrounds President Joseph Kabila. Moreover, real control of the army is to be found in the so-called *Maison Militaire*, rather than at the chief of staff level. In addition, Kabila’s private force, the *Garde Républicain* (GR) consisting of approximately 10-12,000 soldiers, is still under his personal command and should be seen as a state within the state (Howland, 2009, personal interview). This means that the informal structures of power in Kinshasa are highly significant for the continued instability in the eastern DRC, in particular in the Kivus and Ituri Province. At the local level, according to Vlassenroot *et al.*, the war in the eastern DRC resulted in a dramatic change in social organization, with the real power in some instances moving away from the traditional chiefs to the local militias, while struggles between ethnic groups over resources, such as access to land, became both an effective mobilizing tool and a *de facto* source of conflict (Vlassenroot, 2005: 10f.). This was also seen in the area of customary law, where the traditional chief and leaders have to some extent been replaced by the new source of power, which has replaced the existing system by establishing new mechanisms of social control.

3.1.4 ORDER AND CONTROL IN EASTERN DRC: AN ORDERLY SOCIETY?

As Rawls has argued previously, “orderly societies” are defined by the fact that “everyone accepts, and knows that everyone else accepts, the same principles of justice; and ...its basic structure”. The eastern DRC is characterised by weak structures and several distinct “societies”, where knowledge of the formal and especially the informal rules differs depending on the level of formalization and control. The degree of formalization differs tremendously, making it difficult for the local population to navigate in this plethora of localized fiefdoms, where some are relatively orderly and others are not. The use of violence as a means of creating control is, in this context, an important element in establishing a monopoly on, for instance, extraction in competition with other actors. The use and the threat of the use of violence has a determining effect on the form and destiny of political communities. However, the use of violence as a means of control also relates to some extent to the degree of formalization or, using Tilly’s terminology, of state-making (Tilly, 1985), and the stage in the state-making process which an area has reached. For instance, in Northern Kivu it is possible to distinguish between different kinds of order, depending on who is in control. The formal presence of the Congolese state, characterized by the existence of formal state institutions, though often very weak, represents an attempt to exercise state control.

The regular army (FARDC) has become notorious for its actions in the DRC, where rape and pillaging former part of the operational patterns. This is no longer so much the case, as the FARDC has tried to improve discipline, and the worst perpetrators are found amongst the armed groups. Confronted with these allegations, individual soldiers claim, according to Baaz *et al.*, that the atrocities are caused by anger resulting from poverty, widespread substance abuse, and the inability and/or unwillingness of the country’s leaders to live up to their responsibilities towards the individual soldiers and their families (Baaz *et al.*, 2008: 77ff.). This means first of all that the FARDC is a serious source of instability and that the soldiers both serve a public function, representing the state, and a “private function” as perpetrators of crimes against the local population, as well as often serving local interests, and being a private source of (in)security.

To a certain extent, this resembles Percy’s description of the historical role of paramilitary forces in Europe (Percy, 2007), but it is also a consequence of the “hybrid” nature of the Congolese state, as found in neo-patrimonial systems. It is of course difficult to separate the two roles, which often are played out simultaneously. It may even be argued that to a certain extent the government in Kinshasa accepts both roles, both because it does not have any other choice, as it does not have the capacity to enforce discipline among its troops, and because high-ranking figures in the force steal the funds that are supposed to cover the salaries of the individual soldiers, for instance. Consequently, there seems to be widespread acceptance of this type of conduct. The result is that the FARDC must be considered an

extremely undisciplined force, which tends to fall apart during battle. As in many other authoritarian states, the relationship between the local population and the armed forces is characterized by an ambiguity which stems from the fact that the state, here represented by the armed forces, have often been a source of violence and oppression. However, the force is also the best source of security for the local population. In some instances, the more formalized rebel forces like M23 provide and constitute an alternate source of security. One of the problems is and has been the SSR programme, which has not worked properly but has created an “patchwork army” lacking the nucleus of a national army (Peleman, 2009, personal interview). This is exacerbated in areas that have constant rivalry between groups and government for control, which often leads to more violence.

Zones are controlled by rebel groups where A) formality is in place and information on the rules of the game is accessible. For instance, ten dollars should be paid for service, a certain percentage of the harvest etc. B) In less formalised circumstances no information is available to the public, which dares not risk to plant the fields (Lavand’Homme, 2009, personal interview). Among other things the difference seems to be that, in the formalized rebel areas the rules of the game are known, while it in the latter examples knowledge will often be confined to, for instance, the village level. To a large extent this depends on the ambitions of the individual movement. Two of the most highly formalized and strongest movements to emerge in recent years have been the CNDP and the FDLR.

3.1.4.1 The CNDP

In its own account of itself, the CNDP was a political movement with a military wing in the form of the Congolese National Army (ANC). What is remarkable about this movement is the level of organization and control that it manages to exercise, especially around Masisi, until at least M23’s defeat in November 2013. It managed to establish state like institutions and administrative systems in the areas under its control, including a tax collection system, and thus replaced the formal Congolese state authorities (UNSC, 2008: 5). However, it is clear that, despite the creation of institutions, the CNDP leadership was never willing to invest too much in building and formalizing institutions, limiting itself to providing the population with a minimum of administrative services to offer some hope for a better future in an attempt to secure itself a constant flow of income.

Despite its local state-like nature, the CNDP was a truly global phenomenon that operated and had networks extending far beyond the Congolese state – indeed, it had international political and financial networks that stretch around the globe. An important mobilizing factor was the stated concerns for the safety and security of the local Tutsi minority, which was used to mobilize support among the Tutsi expat community. This was apparently one of the

areas in which the former leader of the CNDP, Laurent Nkunda, made a misjudgement because, during the fighting in late 2008, he started to proceed beyond the explicit but narrow Tutsi focus to promote a national political ambition. This estranged some of his primary backers, especially in Rwanda, and turned him from a useful asset into a problem. Furthermore, the CNDP was split by factionalism, which led to divisions and disagreement over the movement's future strategy.¹²

The CNDP managed to secure large stockpiles of weapons and ammunition from the FARDC as a result of its military victories, as well as through the corrupt practices of local FARDC commanders. There were several concrete examples of high-ranking FARDC officers apparently being implicit in instigating or even helping to instigate the CNDP taking possession of FARDC arms (UNSC, 2008: 7). This also illustrates the point made above that state presence is not the same as state control: in this case the representative of the state that was present, the FARDC, was found to be cooperating with the local rebel movements. This underlines some of the points stated previously, especially that the distinction between public and private, between legitimate and illegitimate, is a blurred one. The FARDC, or at any rate groups and individuals within it, in its relationship with the CNDP, has functioned at times as a hybrid entity and served as the representative of the formal and internationally recognized state, that is, fighting on behalf of the government, while at the same time serving private interests. In its place the CNDP functioned with a high degree of formalization and as a de facto state-like entity in the areas that are under its control. Seen from Tilly's perspective, it is clear that the central authority has so far been unable to extend its control with military means and to challenge the control of local hegemonic forces. The relatively high degree of formalization in the CNDP also meant that the rule of law and a certain degree of order have been detected in these areas (Lavand'Homme, 2009, personal interview). This also means that the CNDP has limited its use of violence in its areas of control as long as the civilian population is willing to pay its taxes. However, the size of the tax base and taxable commodities depend on the "state's" ability to deliver security and trust in the future for the local population, something that was still missing to large extent CNDP-controlled areas (Lavand'Homme, 2009, personal interview).

3.1.4.2 The FDLR

The FDLR movement is clearly too narrowly based for us to be able to consider the conflict in the DRC a national conflict. The FDLR represents the last elements of the Hutu extremists

¹² For further reading on the divisions in the CNDP, see Jason Stearn's analysis of the nature of the CNDP-M23: http://riftvalley.net/publication/cndp-m23#.WBsRrneZM_U

who were responsible for the genocide in Rwanda, and since 1994 it has been active in the eastern DRC in different forms. It represents only a small percentage of the present-day FDLR that was actively involved in and responsible for the Rwandan genocide. This is reflected in the fact that Rwanda has reduced the list of wanted *genocidaires* from approximately eight thousand to fewer than Thirty (Bailey, 2009, personal interview; Lancaster, 2009). The FDLR manage to settle down and exercise a form of control, at least until the Rwandan offensive in January 2009, in large areas in both North and South Kivu. In 2016 the FDLR's military strength and influence have been radically reduced, since large sections have been repatriated to Rwanda, often with their relatives, while the movement has at times faced massive military pressure.

Most of the combatants in the FDLR were recruited from among male Hutu refugees, and the organization still has a strong Hutu nationalist agenda. At the same time, it perpetuates a strong anti-RPF and Paul Kagame rhetoric, whom they accuse of being the culprits of the 1994 genocide, and they have condemned Kagame for his dictatorial tendencies in recent years (see, for instance, FDLR, 2009a; FDLR, 2009b). Until 2009 some form of alliance existed with the DRC government in what was considered to be a common struggle against Rwandan interests in the area. Because the FDLR has been present in large areas for a relatively long period, it had quite often become a community with a settled and established relationship with the local population. However, the degree of formal control seems to differ greatly from one area to another. In some areas the FLDR did establish state-like administrative systems and constituted a visible factor in people's everyday lives, for instance, patrolling markets and taxing miners and traders. In other areas, as in the northern part of South Kivu, the FDLR is not in direct control except for a presence along the trading routes, where it sets up temporary roadblocks and then withdraws again when confronted by MONUC (Force Commander South Kivu 2009, personal interview). The level of formalization in FDLR-controlled areas thus differs from area to area to a large extent and is a clear indication of the ambitions of the FDLR leadership. A high degree of formalization and, therefore, of the reinvestment of resources into society, as possibly found in the southern parts of South Kivu, indicates that the leadership intends to remain in that area (DDR(RR) Bukavu, 2008, personal interview). An opposite example might be the area around Walikale in North Kivu, where the FDLR has drawn a large income from taxation at road blocks, but has not reinvested it into the local community (Lavand'Homme, 2009, personal interview). This area has continued to constitute an area of instability and of rebel activity. The threat of violence against the local population – that is, the use of fear as a tool to obtain support – is a tool that is often used by the FDLR. When it comes under pressure – for instance, from the

joint FARDC-Rwandan offence initiated in early 2009 – the FDLR tends to use terror tactics against the local population as a part of its campaign strategy.¹³ The author himself experienced how the FDLR in South Kivu, in a letter to the local army commander and MONUC, indirectly threatened to kill the local population between Kanyola and Walungu southwest of Bukavu if the military offensive was extended to South Kivu. The fighting and widespread attacks against the civilian population in North Kivu in the first half of 2009 showed that these threats are not merely empty statements. However, the reduced capacity of the FDLR also means that attacks and confrontations between it and the local population had become fewer by 2016. The findings of the UN Group of Experts from late 2008 pointed out that in some mining areas under its control the FDLR runs a regime of terror (UNSC, 2008: 24). In the area lost by the FDLR since then, control has been assumed by other actors and splinter groups, illustrating the new security dynamic to be found in the eastern DRC. Human rights organizations have expressed concerns that military offensives invariably have severe consequences for civilian populations because organizations like the FDLR tend to resort to a strategy of retaliation as a response to military pressure (Howland, 2009, personal interview). However, it was interesting to note, in relation to the fighting, how few direct battles actually took place during the Rwandan-led offensive in 2009 because FDLR often chose to withdraw instead of confronting the Rwandan army (Peleman, 2009, personal interview). After the 2009 offensive, and especially after the defeat of M23 in 2013 and the military focus on the ADF and the FDLR in the northern part of North Kivu, the human rights situation has improved significantly in large sections of the DRC, and the number of attacks on civilians, the incidence of sexual abuse cases and the recruitment of child soldiers have all been reduced dramatically (Head of MONUSCO Child Protection Office, 2016).

In military terms, the FDLR has lost a lot of capabilities, and large numbers of FDLR insurgents have returned to Rwanda as part of the DDR(RR) initiative. However, the FDLR is still considered to be a relatively well-equipped and disciplined force, especially compared to the integrated sections of the FARDC. Nonetheless the 12,000 newly recruited and bilaterally trained personnel of the FARDC have acquired a reputation for being more disciplined and having a higher level of military capabilities (Office, 2016). This has improved the military capabilities of the FARDC, which is therefore in a better position to take on the more organized rebel groups like the FDLR. FDLR personnel have enjoyed a steady income from the tax collected in the areas under its control, and until recently it received large sums of money from the Congolese government in payment for its alliance with the government

¹³ This pattern can, for instance, also be found among the Ugandan rebel group, the Lord's Resistance Army in the northern DRC.

(UNSC, 2008). The FLDR is nevertheless split into several military and political factions, characterized by a high level of internal discipline, which limits the number of desertions. Despite the fact that many of the combatants would like to demobilise, this is not possible at present because of the fear of reprisals from the commanders against either the combatants themselves or their dependents (FARDC 2009, personal interview). According to some of the MONUC DDR(RR)¹⁴ operatives in South Kivu, many of the FDLR commanders are tired of living in the bush for fourteen years, despite the fact that the economic networks controlled by the FDLR make them relatively well off, and they seem to be trying to find a way out (DDR(RR) office Bukavu 2009, personal interview). However, this depends on individual commanders' personal situations, for instance, whether there is an international warrant for his arrest or not. According to the local FARDC battalion commander in Walungu, the FDLR should be seen as being divided between those who want to return to Rwanda, those who would accept relocation elsewhere in the DRC, and those who wish to stay where they are and fight to the end. This latter group has already sent away their families (FARDC 2009, personal interview).

It is difficult to distinguish between political rhetoric and its role for the organisation, and the economic interests that are controlled and administered by the FLDR and its allies. The group did develop an extremely efficient "illegal" trade network for its mined resources, estimated by the UN Group of Experts to be worth millions of dollars each year (UNSC, 2008: 19). This is not necessarily separable but could, for instance, have severe consequences for the ability to negotiate a peace agreement with the FDLR.

3.1.4.3 Extraction and taxation

The economic networks in the DRC and their international connection have for many years been a source of bewilderment and astonishment for academics, practitioners and especially the local population. The corruption of the Mobutu era has been well described as a system where a local politico-commercial class of capitalists was created, known in the DRC as the "the green vegetables", who came to play a major role during Mobutu's rule.¹⁵ These networks covered the whole of the DRC, with Mobutu extending favours and partial autonomy to local "lords" in exchange for their loyalty. This whole class of national capitalists was very active during Mobutu's attempts to initiate reform in the early part of the 1990s. A large number of them escaped when Laurent Kabila came to power in 1996. He inherited a state that had collapsed institutionally and had large international debts.

¹⁴ For a more detailed description of the DDR(RR) program, see deliverable 3.5 – DRC Case Study.

¹⁵ See, for instance, Beatrix Hiboux's book chapter on the "Criminalization of the Zairian State".

An important part of state-making is the ability to extract resources and to create a monopoly of tax collection. Using Tilly's terminology, it could be argued that this ability is a key indicator of a state's strength. This section will focus on extraction and taxation in the eastern DRC and its consequences for the local system and networks of power. The distinction between so-called "legal" and "illegal" networks is, of course, difficult to make because "illegally" mined minerals end up on the international markets as legal products, despite the big mining exporters, the *comptoirs*, being aware of the source of the minerals (UNSC, 2008: 20). Another confusing aspect was mentioned previously, namely that the rebel groups have been cooperating with the formal state, which, of course, raises some questions concerning the status of these groups as either legitimate or illegitimate (UNSC, 2008: 25). By accepting cooperation with the rebel groups, the formal states also provide these movements with some level of credibility.¹⁶ The cooperation between the militias and the FARDC played an important role during the fall 2008 offensive in attempting to halt the CNDP. At the time the attitude among the FARDC leadership seemed to be that it had more pressing issues to deal with (UNSC, 2008: 26). This has changed and, as described above, movements like the FDLR CNDP/M23 have lost national political value, instead becoming a political liability to national politicians.

Another element in this debate is the level of control exercised by groups such as the FARDC, CNDP and FDLR. Often they do not control the actual mining site, but tax the miners and traders, the *negociants*, operating in the mine (UNSC, 2008: 20). As illustrated by the UN Group of Experts report, the legality issue is complicated by the government-licensed *comptoirs*, who knowingly export the minerals mined in areas that are not controlled by the government (UNSC, 2008: 21). This, however, illustrates an important point, namely the close cooperation between business interests, both national and international, formal and informal institutions and what some would call "criminal groups and networks". In this complex system, the state, whether willingly or unwillingly, and especially in its capacity as a judicial sovereign state, provides legitimacy for non-state military networks that directly or indirectly challenge the state itself. The FDLR and its network of economic partners are spread out in, for instance, Uganda, Rwanda and Burundi.

Another level of cooperation exists between individual FARDC soldiers and the militias, the former often being known to sell their equipment, ammunition and uniforms to the latter. This stresses one of the other issues in the distinction between "public" and "private", legal and criminal, where the individual soldier is both a formal state representative and individual criminal at the same time. However, this cooperation runs deeper than the just the level of

¹⁶ The obvious political explanation is that it is sometimes necessary to support the "enemy of your enemy", as has especially been the case for the DRC and its weak government.

the individual soldier, because it is widely known that FARDC elements, as illustrated in the Walikale example above, are involved in “private” taxation and extractions of resources in the areas they control, often in cooperation with militia elements. The first thing the FARDC does when it moves into a new area is to secure the means to survive because it lacks the necessary logistical support and thus needs to “live off the land” (Lavand’Homme, 2009, personal interview). However, the FARDC’s role in extraction often also goes in the other direction because the local elite often attempts to buy protection from the FARDC.

When Joseph Kabila became president of the DRC, he inherited an internationally recognised state that was empirically an empty shell. Changing Kinshasa governments had sub-contracted, both willingly and unwillingly, de facto control over vast areas of the Congolese state, thus establishing functioning and autonomous state-like formations. Kabila’s situation could in one way be seen as an example of how, according to Lemarchand, a sovereign national leader may lose most of his sovereignty because he is dependent on foreign military assistance for his control over the government of his country. However, the counter-argument could be that, despite the 2006 elections, Kabila's sovereignty and legitimacy as president has always been based on and guaranteed by foreign recognition.

The DRC has been in crisis because its external and internal recognition as a state has been questioned due to its inability to function as a state. This is, of course, a controversial statement to make since it could be argued that the judicial statehood of the DRC has never been questioned, and also because none of the rebel movements or armed actors has called for secession, as was the case in the 1960s. However, the ability of the judicial state to function as such has been in fact used by, for instance, neighbouring states as an excuse to intervene militarily, which in reality undermines the sovereign statehood of the DRC government.

To a certain extent, the FARDC is an example of, and represents, “private” interests in a large section of the territory that is not controlled by state actors.

Alliances in the eastern DRC change rapidly, and with them the status of the different movements as well. An example is the CNDP, which in late 2008 was seen to be the cause of conflict and, because it was fighting the Kinshasa government and consequently the international community represented by MONUC, was considered to be a rebel group and an illegal organization that was undermining the peace efforts and future of the Congolese state. Six months later, the CNDP was regarded as an integrated part of the FARDC, fighting officially to secure and extend the control of the DRC’s central government – the “legitimate” government of the DRC. Taking the private dealings and alliances of the patchwork army into account – that is, its local taxation and extraction activities – it becomes difficult to distinguish meaningfully between formal and informal, legitimate and illegitimate, because the status of

particular groups varies and changes, meaning that it is possible to be both at the same time. These paramilitary types of forces have a dual role in their relationship to the state because they act as its defender while at the same time undermining the state's attempt to establish itself. One consequence is the balkanization of control and the provision of order, which is so visible in large sections of the eastern DRC especially.

The conflict has also had two further main consequences, namely the collapse of the traditional order and social structure. This was, of course, something that had started already shortly after independence, but it increased greatly during the Mobutu era. The wars and conflicts since 1996 have been a consequence of the breakdown in order, which has been exacerbated further by the wars and conflicts in its turn. At the same time, the conflict and the new structures of power must also be understood as a response by excluded communities to the threat of and actual violence conducted by a broad range of state and non-state actors. This stresses an important fact, namely that disorder and order go hand in hand – that is, out of apparent anarchy it is possible to find some kind of order. However, this does not mean, to follow Rawls, that an orderly society exists because the local population is often kept unaware of the rules of the game, and because the group or groups that exercise control change frequently. The militia movements only rarely reinvest any of their income in the local community and seem more focused on securing taxable incomes now rather than on investing in the future and thus obtaining potentially more valuable incomes. The level of reinvestment in the local community constitutes an important indicator of the ambitions of the militia leadership, that is, of the extent to which it sees a future for itself in the territory concerned. The situation in the eastern DRC shows that, apart for some areas controlled by the CNDP and the FDLR, none of the non-state actors seem to envisage their staying in the areas they control indefinitely, and there seems to be no alternative to the formal judicial state. For the international community, one consequence of the above situation is that in the DRC the formal state is actually part of the problem of finding a lasting solution because it lacks capacity and legitimacy, and especially because its agents – for instance, its security sector – lack the capacity and will to extend the state's role and control. Simultaneously, in the present post-Westphalian state system, there does not seem to be any alternative to the state. The consequence is that the international community – MONUC and others – finds itself supporting and cooperating with a judicial state that both willingly and unwillingly subcontracts its responsibility for the state to both national and foreign non-state actors. In describing the conflict, the AU force in Somalia has coined the acronym “VUCA”, standing for “volatile, unpredictable, complex, and ambiguous”. This is also very much the case in the conflict in the DRC.

4 CONCLUSION

D 3.1, The Democratic Republic of Congo (DRC) Review, have assessed the existing literature and academic and policy research on the contemporary security situation in the DRC, as well as the responses to this situation. Deliverable 3.1 therefore functions as a foundation for the analysis in deliverable 3.5. to arrive at a better assessment of the internal and external impact on the EU's CSDP and ESDP missions to the overall security of the DRC. The EU has since the start of the first Congo War been a dominant actor in the region, and has actively supported and help frame the peace agreements and their implementation. The first EU mission, Operation Artemis, was deployed in the Ituri provincial capital of Bunia in 2003 with the aim of stabilizing a deteriorating security situation. The force was deployed parallel to the existing UN PSO mission in the DRC, and after six months became part of the international community's overall assistance to the country. In 2005 the EU launched both a EUPOL¹⁷ and a EUSEC mission, which were supposed to help train the Congolese police and military institutions as part of the SSR and state-building project initiated after the signing of the two peace agreements. The EUPOL project was ended in 2014, EUSEC in 2016. The EU has therefore been involved in a wide range of post-conflict state-building initiatives as part of larger efforts to address the vast range of causes of conflict in the DRC. The DRC review' focused on the background for the wars and conflicts in the DRC, and how the EU has been involved since primarily 1996. The four (five is EUPOL-included as a separate mission) all had different objectives. The two robust military deployments were both deployed for a short time-period (less than six month), and had a narrow and realistic mandate.

Artemis was deployed to stabilise and put a lid on an escalating local conflict in the town of Bunia. It was a French dominated mission, but with a clear EU and UN mandate, and was supported by non-EU states, for instance South Africa with two Oryx helicopter platform, Canada provided strategic and tactical airlift capacity, and Cyprus. The inclusion of a small British contingent helped create access to Entebbe airport, since France role in Central Africa remained a tenuous issue due to its role during the Rwandan genocide in 1994. The operational area was logistically close to Entebbe Airport, which is a regional logistical hub, and only 300 km from the operational zone in Bunia. Strategic lift was identified as a weakness in the mission, which was furthermore seen as a French mission in an EU framework. Another challenge was, that budgetary problems meant that EU had to reduce its original force target. France functioned as the framework nation, and a budget of 7 million Euro was made available for common costs, whilst the remainder of the cost was based

¹⁷ The EUPOL mission was launched in two phases, with the smaller EUPOL-Kinshasa deployed from 2005-07, which was then replaced with EUPOL-RD Congo which ran from 2007-2014.

covered by the contributing states. However, Artemis was exceptional in the sense that France covered much of the costs of the operation, and used 46 million Euros on this operation.

Its area of operation was limited to the town of Bunia, and it managed to stabilise the situation and hand over the UN mission on 1 September 2003. Being the first independent military operation launched by the EU, the operation became a milestone in the development of the ESDP, that came to shape future operations. The deployment of the Artemis was also characterised by strong French geostrategic interest, but was also a consequence of the split found in the Western NATO alliance due to the US led invasion of Iraq. Artemis was also interesting in the sense that it was a robust military deployment of 1800 deployed forces, with superior capabilities, including significant Swedish special forces capabilities. France provided 900 of the combat troops, whilst Germany's 350 contribution was of a non-combat nature. On top of that France had over a 1000 troops in reserve in Gabon and Chad.

When the EUFOR operation was deployed on 30 July 2006 and withdrew on 30 November 2006 it was based on some of the experiences from Artemis. The difference was however, that the bulk of the forces was only deployed as a rapid deployable capability in neighbouring Gabon, which could be deployed in hotspots all over the DRC. The force was under German command, and had contributions from 21 EU member states, and then Turkey. The objective of the force was four-fold: supporting and providing security to MONUC installations and personnel; contributing to airport protection in Kinshasa, protection of civilians under imminent threat of physical violence; and evacuation operations in case of emergency if needed. The force was therefore basically sent in to prop-up the MONUC force already in operation, and operated in close cooperation with that force. Again this operation had a clear UN mandate, and there was local consent regarding the deployment. However, this mission also showed some of the weaknesses that EU military operation is facing. When the resolve of the force was tested when government forces attacked the oppositional presidential candidate Jean-Pierre Bemba, it was only the Spanish contingent that did not have national caveats barring them to intervene. Furthermore had Congolese governments force fortified the international airport to such an extent, that it would have made it difficult to bring in the reserve force stationed in Gabon without at least being delayed. So whilst the EUFOR mission to a large extent managed to fulfil its mandate, the operation also showed some of the limitations. In terms of pooling and sharing, both missions managed to have a close cooperation with the MONUC operation, and managed in the case of Artemis to bring in non-EU partners to provide logistical support for the mission. However, the EUFOR deployment showed that if the intelligence is not shared and accessible, and the national contingents do

have national caveats that bloc them from operating effectively, it can in-danger the missions and its objectives.

In terms of financing the force was based on the same model as Artemis, where common costs was covered for by the Arthena mechanism, whilst the national costs was covered by the contributing state. The budget for the four months deployment was 16.700 million Euro to cover the common costs for the 2500 troops deployed in DRC and Gabon. The estimated total cost of the mission was 100 million Euros. EUFOR RD Congo had approximately 1000 troops deployed in Kinshasa, whilst the bulk of the force was either in Gabon, and, as an additional reserve, in Germany and France. The EUFOR RD Congo illustrated again that the contributing countries was reluctant deploying troops in theatre, and that the needed strategic and tactical lift capabilities needed to be effective was not available. As was the case in Artemis, France contributed 1090 troops, whilst Germany deployed 780 soldiers and was by far the biggest troop contributors. EUFOR RD Congo was however, significant in the sense that it constituted a chance to show the EU flag, and the Berlin+ agreement with NATO was not activated on this mission.

In terms of the two capacity building mission, EUPOL and EUSEC, both missions was tasked with assisting in implementing the SSR program that followed the 2002 peace agreement. However, due to the fact that the missions lasted for nearly ten years, the tasks and objectives changed over time. The EU has invested large amounts of money and resources in the attempts to assist in implementing the peace agreements. In the by 2006 the EU had already spend more 750 million Euros on post-conflict reconstruction and SSR in the DRC, and has been the single largest aid donor in the country.

The initial task was to train the interim security forces, both army and police, to provide security related to the elections in 2006. After that the missions was involved in reforming, integrating and training the security forces, and had a focus on human resource development, including payment of salary. In the last part of the EUSEC mission leading to the closure in July 2016, the mission focused on the military training infrastructure. Most of the EU projects have been done in partnership, or sometimes in competition with other donors, also EU member states. Belgium, France and the UK have for instance been running large bilateral training programs, parallel to the EU-projects. Coordination between the donors have often been absent , or insufficient, leading to overlapping of programs and duplication. The problem has been that national donor interests, and a reluctant national DRC partner which prefers easier controllable bilateral partnerships, have reduced cooperation and had a significant negative effect on the impact of the projects.

EUSEC was initiated in 2005 and was closed in July 2016. During its last mandated year it had a budget of 2,5 million Euros, and had 10 international staff, down from a budget of 11 million Euro and 48 international staff during the financial year of 2012-13. EUSEC managed during its time in operation to build an IT system for the Congolese army, financing the building of 11 armouries, introduce identity cards for the army personnel, and focused in the last years in operation on creating capacity in the military education system.

EUPOL was initiated in 2005 as EUPOL-Kinshasa, and changed into EUPOL RD Congo in 2007, and ended its mandate in September 2014. In its last year in operation it had 31 international staff, stemming from seven, mostly, French speaking EU member states. Focus has been on help establishing the legal framework for the police, increasing and improve the training and specialised training facilities in the police force, whilst attempts of creating a biometric payment and indent card system has been less successful. The last five years of the mission the it had a budget between 6-7 million Euros.

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