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PROTEGER

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**REPORT OF THE UNITED NATIONS JOINT HUMAN RIGHTS OFFICE ON
HUMAN RIGHTS VIOLATIONS COMMITTED BY
THE MOUVEMENT DU 23 MARS (M23) IN NORTH KIVU PROVINCE
APRIL 2012 - NOVEMBER 2013**

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I. Introduction

1. This report of the United Nations Joint Human Rights Office (UNJHRO) in the Democratic Republic of the Congo (M23) details the human rights violations committed by the *Mouvement du 23 mars* (M23) in North Kivu province, in particular in the areas of Nyiragongo and Rutshuru territories that it occupied from mid-April 2012 to 4 November 2013¹. During this period, M23 members committed within these areas grave violations of human rights and of international humanitarian law, such as violations of the right to life, violations of the right to physical integrity, including acts of sexual violence, violations of the right to liberty and security of the person, and violations of the right to property. These violations may constitute international crimes and crimes under Congolese criminal law given their nature and the context in which they were committed.
2. The present report follows the report released by the UNJHRO on 8 May 2013² on human rights violations committed by soldiers of the Congolese armed forces and M23 members in Goma and Sake, in North Kivu province, as well as in Minova and surroundings in South Kivu province, between 15 November and 2 December 2012.

II. Background

3. Established in mid-April 2012 after a mutiny of officers following the integration of combatants of the *Congrès national pour la défense du Peuple* (CNDP) into the ranks of the Armed Forces of the Democratic Republic of the Congo (FARDC), the M23 appeared on the scene on 6 May 2012 via a press release³ signed by Lieutenant Colonel Vianney Kazarama, a former military spokesperson of Operation Amani Leo⁴ in North Kivu. According to this press release, the creation of the M23 was decided by the Military High Command of the Congolese National Army (ANC), the armed wing of the CNDP, in order to demand the implementation of the provisions contained in the political Agreement of 23 March 2009⁵. It should be noted that the M23 was composed of several FARDC officers who had defected, including General Bosco Ntaganda⁶ and Colonel Ruzandiza *alias* Sultani Makenga, former Deputy Commander of

¹ On 5 November 2013, in an official letter addressed to the Congolese Government, the M23 declared that it would lay down its arms.

² See the *Report by the United Nations Joint Human Rights Office on human rights violations committed by the Congolese armed forces and M23 combatants in Goma and Sake, in the North Kivu province, as well as in Minova and its surroundings in the South Kivu province, between 15 November and 2 December 2013*, published on 8 May 2013.

³ The 6 May 2012 press release, signed by Lt Colonel Kazarama, spokesperson of the Military High Command of the ANC/CNDP, has the number 011/ANC/CNDP/2012 and the heading "*Congrès National pour la Défense du peuple, Armée Nationale Congolaise, ANC/CNDP*".

⁴ The Operation "Amani Leo" is a military operation launched in January 2010 against armed groups in North and South Kivu provinces. It was conducted by the FARDC with the support of MONUSCO.

⁵ See the Peace agreement between the DRC Government and the *Congrès national pour la défense du Peuple* (CNDP) signed in Goma on 23 March 2009.

⁶ Bosco Ntaganda, former alleged Deputy Chief of the Staff and commander of military operations of the *Forces patriotiques pour la libération du Congo* (FPLC), is detained at the International Criminal Court (ICC) after having surrendered voluntarily to the US Embassy in Kigali, in Rwanda, on 18 March 2013. On 9 June 2014, pre-Trial Chamber II unanimously confirmed charges against him consisting in 13 counts of war crimes (murder and attempted murder; attacking civilians; rape; sexual slavery of civilians; pillaging; displacement of civilians; attacking protected objects; destroying the enemy's property; and rape, sexual slavery, enlistment and conscription of child soldiers under the age of 15 years and using them to participate actively in hostilities) and five counts of crimes against humanity (murder and attempted murder; rape; sexual slavery; persecution; forcible transfer of population) committed in 2002-2003 in the Ituri district, Orientale province.

Operation Amani Leo in South Kivu, who took over the position of Chief of Staff of the M23 during the occupation of some territories by the group.

4. In mid-April 2012, the M23 took control of several localities in Rutshuru territory, including Runyoni, Tshanzu, Mbuzi, and Bugina. From November 2012, the M23 ensured the control over Kibumba, located about 30 kilometers north of Goma, and a large portion of Nyiragongo territory. The town of Goma and its surroundings, including the town of Sake, were occupied by the M23 from 20 November to 1 December 2012. On 5 November 2013, the M23 declared its defeat after violent clashes with the FARDC, supported by MONUSCO, including its Intervention Brigade⁷.

III. Methodology and difficulties encountered

5. In accordance with its mandate as defined by the resolutions of the United Nations Security Council⁸, the UNJHRO is in charge of the monitoring of the human rights situation in the DRC, including in the territories of Rutshuru and Nyiragongo in North Kivu province, where some areas were occupied for several months by the M23.
6. Between April 2012 and October 2013, UNJHRO staff were not able to conduct in-depth investigations into allegations of violations of human rights and of international humanitarian law committed by the M23 in the zones under its control because of security and access constraints in the occupied regions and because of the risk of retaliation against victims and witnesses of these violations. Nevertheless, during this period, UNJHRO staff were able to gather information on allegations of violations of human rights and of international humanitarian law committed by the M23 for instance via interviews with victims and witnesses of these violations and other sources outside of the controlled areas.
7. From the beginning of November 2013, UNJHRO staff were able to access the regions in the territories of Rutshuru and Nyiragongo that were previously controlled by the M23 and conducted five missions,⁹ in collaboration with other components of MONUSCO such as Child Protection and Civil Affairs Sections, in order to investigate violations of human rights and of international humanitarian law committed by the M23 between April 2012 and November 2013. UNJHRO staff were thereby able to verify previously reported allegations of human rights and international humanitarian law violations committed by the M23. In the course of these missions, UNJHRO staff interviewed more than 160 people, including victims and witnesses of violations of human rights and of international humanitarian law committed by the M23.

⁷ MONUSCO Intervention Brigade was deployed, pursuant to United Nations Security Council Resolution 2098 (see paragraph 9) adopted on 28 March 2013, to the East of the DRC in order to neutralize armed groups. The brigade is composed of a contingent of 3,000 soldiers from South Africa, Tanzania, and Malawi.

⁸ See paragraph 15 a) of Resolution 2098 (March 2013) and paragraph 5 d) of Resolution 2147 (March 2014).

⁹ These missions took place on 4 November 2013, from 6 to 7 November 2013, from 11 to 13 November 2013, from 18 to 22 November 2013 and from 25 to 27 November 2013.

IV. Brief overview of the M23 structure¹⁰

8. The M23 was a political and military movement which was co-led by a president and a general of the armed wing. As from 19 August 2012, the M23 established an administrative structure in the areas under its control and a political cabinet that was responsible for the movement's global policy, including its military orientation. This cabinet consisted of 25 members, namely a president, a military leader, an executive secretary, and various heads of departments¹¹. The purpose of the cabinet was to manage the population located in the areas under its control. On 1 May 2013, the M23 appointed administrators for the territories of Rutshuru and Nyiragongo. It should be noted that it was the M23's political leadership which declared the end of hostilities on the ground in an official statement signed by its president on 5 November 2013. In this statement, the leadership of the M23 declared an end to the rebellion to the national and international communities and asked all army units under its command to join the "*disarmament, demobilization and social reintegration process whose terms have to be discussed with the Government of the Democratic Republic of the Congo*".¹²
9. In parts of territories controlled by the M23, courts or tribunals did not exist, except for a prosecutor's office located in Rutshuru. The office was led by a prosecutor based mainly in Bunagana, and sometimes in Rutshuru-center, who was reportedly appointed by the M23's political-administrative authority. A ministerial department in charge of justice issues was reportedly created, as well as a security department including an intelligence service. The M23 also reportedly set up a police force whose structure was composed of a general management department with five divisions. Those divisions allegedly had included four battalions. A training session for judicial police officers was reportedly delivered from 14 June to 16 August 2013 at the Rumangabo military base and was aimed for 66 future (civil and military) judicial police officers. The training was reportedly delivered by the M23 prosecutor and certificates given to the participants before their deployment in the field. According to the information received by the UNJHRO, it was the only training of this kind that was reportedly organized by the M23.
10. In total, in 2013, 13 arrest warrants were issued by the General Prosecutor of the FARDC against M23 members, including four international warrants against M23 leaders. International warrants were transmitted through diplomatic channels to the Government of Rwanda for M23 leaders currently reportedly located in Rwanda. Pursuant to those arrest warrants, M23 members are charged with crimes against humanity, war crimes and constitution of an insurrectional movement. The UNJHRO has not been informed about the outcome of these arrest warrants thus far.

¹⁰ The information contained in this section of the report is based on various consistent accounts gathered by the UNJHRO.

¹¹ The composition of this political cabinet shows the extent to which the political and military wings were interlinked and acted together.

¹² The press release signed on 5 November 2013 by the M23 President, Bertrand Bisimwa, called for the end of the rebellion from this date and announced the movement's decision to "*continue searching, through purely political means, a solution to the root causes that compelled its creation*".

V. Legal framework

11. The human rights discussed in this report are protected by several international instruments ratified by the DRC¹³. They are also protected by the Universal Declaration of Human Rights¹⁴, of which many provisions are considered to be customary international law. In accordance with this legal framework, the Congolese State is obliged to respect these human rights norms, take the appropriate measures and exercise due diligence to prevent and condemn violations to these rights, whether they are committed by its security forces or by non-state actors. The M23, as a non-state armed group, when it had effective control of parts of Rutshuru and Nyiragongo territories, constituted “*de facto*” authority. Therefore, it can engage its responsibility for violations of international human rights law.
12. International humanitarian law applicable to non-international armed conflicts binds all concerned parties to the conflict, including non-state actors such as the M23. All concerned parties to the conflict must therefore respect international humanitarian law as set out in common Article 3 of the four Geneva Conventions of 12 August 1949 and in Protocol Additional to the Geneva Conventions relating to the Protection of Victims of Non-international Armed Conflicts of 8 June 1977 (Protocol II), as well as customary international law, which guarantees the protection of persons who are not or no longer directly participating in hostilities, and prohibits forced unpaid or abusive labour.
13. Some of those human rights violations, given their nature and type, could constitute war crimes and crimes against humanity under articles 7 and 8 of the ICC Rome Statute ratified by the DRC on 30 March 2012.¹⁵ Some of the human rights violations mentioned in this report may also constitute crimes under Congolese criminal law, such as murder, theft, abduction, rape, and other forms of sexual violence¹⁶, each of which is a crime punishable with imprisonment. It is up to the Congolese military justice system to investigate the crimes within its jurisdiction and to prosecute all crimes committed by armed forces or armed groups in Congolese territory¹⁷. It has to be mentioned that numerous M23 members could benefit from the Amnesty Law¹⁸ enacted by the Head of State on 11 February 2014 for acts of insurgency, acts of war and political offenses

¹³ These instruments include the International Covenant on Civil and Political Rights, which came into force on 23 March 1976, and which guarantees the right to life (Article 6), and forbids the use of torture and of cruel, inhuman or degrading treatment or punishment (Article 7), as well as arbitrary and/or illegal arrest or detention (Article 9) and forced labour (Article 8(3)), the African Charter on Human and Peoples' Rights, which was adopted in Nairobi on 27 June 1981 and which recognizes the respect of life and integrity of the person (Articles 4 and 5) as well as the right to property (Article 14), and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, which came into force on 26 June 1987. The DRC is also a party to several other human rights instruments including the Convention on the Rights of the Child, which entered into force on 2 September 1990, the International Covenant on Economic, Social and Cultural Rights, which came into force on 3 January 1976, the Convention on the Elimination of All Forms of Discrimination against Women, which entered into force on 3 September 1981, the Optional Protocol to the International Covenant on Civil and Political Rights, which came into force on 23 March 1976, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, which entered into force on 12 February 2002, and the International Convention on the Elimination of All Forms of Racial Discrimination, which entered into force on 4 January 1969.

¹⁴ The Universal Declaration of Human Rights of 10 December 1949 recognizes the right to life, liberty and security of person (Article 3) as well as the right to property (Article 17). It also condemns torture and cruel, inhuman or degrading treatment or punishment (Article 5).

¹⁵ Pursuant to Article 215 of the DRC Constitution, the Rome Statute is part of the Congolese law.

¹⁶ Other forms of sexual violence include indecent assault, sexual harassment, sexual slavery, forced marriage, forced prostitution, sexual mutilation and forced pregnancy.

¹⁷ Article 156 of the DRC Constitution of 18 February 2006.

¹⁸ *Loi n° 14/006 du 11 février 2014 portant amnistie pour faits insurrectionnels, faits de guerre et infractions politiques.*

they allegedly committed, but not for other offenses listed in the Law, including for crimes against humanity and war crimes.

VI. Human rights violations

14. As a result of the different investigations conducted since April 2012, the UNJHRO is able to confirm numerous human rights violations committed by M23 members between April 2012 and November 2013, including violations of the right to life against 116 persons, violations of the right to physical integrity against 351 persons, including 161 victims of rape, violations of the right to liberty and security against 296 persons, including 18 victims of forced labor, and 50 violations of the right to property. It should be noted that the actual number of human rights violations is probably much higher than documented in this report. There are also credible reports of other serious violations of international humanitarian law and human rights law as well as criminal activity committed by M23 members during their occupation of parts of Nyiragongo and Rutshuru territories from April 2012 to November 2013, including summary executions, child recruitment and illegal mineral trafficking.¹⁹

6.1. Violations of the right to life

15. As mentioned above, the UNJHRO recorded 116 victims of violations of the right to life committed by M23 members between the beginning of May 2012 and the beginning of November 2013.
16. Many local authorities were targeted by the M23, particularly when they refused to collaborate with elements of this armed group. For instance, on 5 September 2012, the chief of Rumangabo community in Rutshuru territory was shot and killed at his home by M23 members believed to have been acting under the command of a former *chef de poste d'encadrement administratif* of Rugari, Rutshuru territory, who had joined the M23. The latter reportedly accused the chief of the locality of collaborating with the Democratic Forces for the Liberation of Rwanda (FDLR) and the FARDC. It should be noted that he was previously abducted from 18 July to 14 August 2012 by M23 members, and was subjected to cruel, inhuman and degrading treatment, before he was executed in September 2012.
17. M23 members also targeted religious leaders. For example, on 28 September 2012, a pastor was shot and killed at his home in the locality of Tanda, Rutshuru territory, by an agent of the M23 police, who, accompanied by another M23 police agent, had been trying to steal money from the pastor. On 10 February 2013, M23 members also killed a pastor from the *Eglise du réveil "Nzambe Malamu"*, who was also a merchant, at his home located in the Kiringa *quartier* (1 km east of Rutshuru-center) in the Bukoma *groupement*, Rutshuru territory. The victim was mortally wounded and his house was looted by M23 members.
18. Several violations of the right to life were committed by the M23 while they engaged in looting, especially when victims tried to resist. For example, on 2 November 2012, a man was shot and

¹⁹ See Group of Experts Report, S/2012/843, 14 November 2012, which notes that in some cases M23 combatants killed children who tried to escape child recruitment: “*In two accounts, child soldiers witnessed other children being shot or buried alive after failed escape attempts*” (para. 156 of the report).

killed at his home in Kiwanja, Rutshuru territory, by armed men in military uniforms presumed to belong to the M23, while he was trying to resist the looting of his belongings. M23 members also executed civilians who refused to be recruited into the group. For instance, between 5 and 7 July 2012, two men were killed by M23 members in Chengengerero locality, Rutshuru territory, for resisting forced recruitment by the combatants. Additionally, on 29 May 2013, in Kiwanja (about 75 km north of Goma), in Bwisha *collectivité*, Rutshuru territory, a man was shot and killed by M23 combatants while he was trying to flee after being requisitioned by M23 members to perform forced labour in their positions.

19. Some civilians were killed by shrapnel launched by the M23 in residential areas during combat with the FARDC. On 4 November 2013, 15 civilians, including eight men, one woman, and six children, were killed by shells launched by M23 members in the localities of Bunagana, Chengengerero, and Cheya in Rutshuru territory. On 9 and 10 March 2013, in Rugari (about 35 km north of Goma), Rutshuru territory, 12 civilians were shot and killed by M23 members during clashes between the two M23 rival factions of General Makenga and Colonel Baudouin Ngaruye.

6.2. Violations of the right to physical integrity

20. Between April 2012 and November 2013, the UNJHRO recorded 351 victims of violations of the right to physical integrity perpetrated by M23 members. Among them, 161 were victims of rape.

6.2.1. Sexual violence

21. In total, the UNJHRO recorded 161 victims of rape, including 12 girls, from April 2012 to November 2013. These rapes were committed both inside and outside the internally displaced person's camp of Mugunga, in the military camp of Katindo, and in other areas of the territories of Rutshuru and Nyiragongo. For example, 49 women, mainly wives of FARDC soldiers who had fled during the advancement of the M23, were victims of rape by M23 members inside the camp of Katindo, in Goma, from 21 to 25 November 2012.
22. The actual number of victims of rape and other acts of sexual violence could be much higher because some victims, fearing reprisals, reportedly preferred to remain silent. Some victims even reportedly refused to be treated in medical facilities out of fear of reprisal.

6.2.2. Torture and cruel, inhuman or degrading treatment

23. M23 members committed acts of torture and cruel, inhuman or degrading treatment, in particular against civilians they detained. In this regard, the UNJHRO has documented cases of civilian and military detainees from the military camp of Rumangabo, in Rutshuru territory, who were subjected to ill-treatment for refusing to carry out forced labour, such as drawing water, washing clothes or other domestic work.
24. Other cases of torture and cruel, inhuman or degrading treatment by M23 members have also been documented by the UNJHRO. For example, on the night of 9 to 10 December 2012, M23 members broke into a house in Rutsiro, Rutshuru territory, and gave several machete blows to

the owner in order to force him to direct them to the house of an activist from the NGO *Ligue de Sacrifice Volontaire pour les Droits de l'Homme* (LISVDH). The activist was arrested, tied up, and ill-treated by M23 members. He was detained for three days in the M23 position of Nyarubara near Runyoni, Rutshuru territory. During his detention, the victim was whipped repeatedly in order to extricate a confession from him concerning his anti-M23 activities and for possessing a motorola radio. The victim managed to escape on 13 December 2012 with the help of a M23 member to whom his family paid 250 US dollars.

25. In addition, a 35-year-old man was whipped, including on the head, on 2 June 2013, in Matovu, Kisigari *groupement*, Rutshuru territory, by M23 members. The perpetrators reproached him for not doing his mandatory community work - commonly called "*salongo*". The victim had to be hospitalized at the health center in Matovu after being released.
26. In another case, a man was severely beaten by M23 members at the Burambo position (about 6 km north of Goma) in Buvira *groupement*, Nyiragongo territory, on 3 July 2013. They reproached him for asking M23 members to pay for beer bottles that they reportedly had taken without paying. The victim was reportedly released the same day.

6.2.3. Other violations of the right to physical integrity

27. The UNJHRO was able to document many cases of civilians who were victims of other violations of the right to physical integrity, including during attacks by M23 members. For example, 37 civilians were reportedly wounded, on 4 November 2013, by shells launched by M23 members from their position on Tshanzu hill towards the residential areas of Bunagana, Chengerero and Cheya, in Rutshuru territory. Two boys were also reportedly shot and wounded, on 25 February 2013, by M23 members in Buhama village (about 12 km north of Goma) in Kibati *groupement*, Nyiragongo territory. The alleged perpetrators shot the victims before fleeing the scene. One of the boys was wounded in his knee, while the other was wounded in the arm.

6.3. Violations of the right to liberty and security of the person

28. The UNJHRO has recorded 296 victims of violations of the right to liberty and security of the person committed by M23 members between April 2012 and November 2013.

6.3.1. Abduction

29. Between the months of April 2012 and November 2013, M23 combatants were reportedly responsible for the abduction of many civilians, especially those who were accused of collaborating with Mayi Mayi elements or with Congolese authorities. In some cases, the purpose of these abductions was to obtain a ransom in exchange for the victim's release.
30. For example, 30 young men were abducted by M23 members on 7 July 2012 in the locality of Chengerero (about 20 km east of Rutshuru-centre) in Jomba *groupement*, Rutshuru territory. The victims were reportedly forced to carry the personal effects of M23 members towards Runyoni. The whereabouts of these young men remain unknown to this date. On 25 February 2013, seven young men were also arrested in the village of Kalengera, Bwisha *collectivité* (55

km north of Goma), Rutshuru territory, and taken towards Rutshuru-center by M23 members who reportedly belonged to the unit providing close protection to Colonel Baudouin Ngaruye. The victims had attempted to organize a demonstration against the M23. The whereabouts of these young men remain unknown to this date.

31. Many administrative authorities and teachers were victims of abductions. For instance, the Chief of Rubare locality (about 65 km north of Goma) was abducted at his home in Rubare, Kisigari *groupement*, Rutshuru territory, on the night of 29 to 30 April 2013. They reportedly accused him of criticizing the M23 during a meeting. The victim was released on 1 May 2013 after giving two goats to M23 members. The UNJHRO also documented the abduction, on 27 November 2012, of the director of an educational institution in Goma by four M23 members in the Ndosho *quartier*. He was released on 28 November 2012. The director of Kalengera primary school was also abducted in the Kisigari *groupement*, Rutshuru territory. He was reportedly abducted at his home on 21 July 2013 by M23 members, who reportedly demanded a ransom of 500 US dollars in exchange for his release, which was obtained on 30 July 2013.

6.3.2. Forced recruitment

32. During almost 19 months of the M23 occupation of some localities of Nyiragongo and Rutshuru territories, the UNJHRO documented the forced recruitment of a large number of civilians, including prominent members of various communities. In addition, MONUSCO Child Protection Section documented the recruitment of 124 children by the M23.
33. During the month of July 2012, at least 60 adults were forcibly recruited by the M23 and forced to undergo military training in Bukima and Runyoni in the territory of Rutshuru. They were then forced to enroll in the ranks of the M23, but some managed to escape. In addition, 13 local authorities - three of whom were from Kibati, Buvira and Buhumba *groupements* - were subjected to military and ideological training organized by the M23 at the Rumangabo training center between 25 and 28 January 2013.
34. Moreover, on 1 and 2 July 2013, ten locality leaders and two young men were forcibly recruited in Kibumba and Buhumba *groupements* (about 25 km north of Goma), in Nyiragongo territory, by an armed man in the military uniform of the M23. They were then brought to the M23 military base in Rumangabo, Rutshuru territory, to undergo military training. The ten chiefs then returned to their village, while the two young men were reportedly enrolled in the armed wing of the M23.

6.3.3. Forced labour

35. During the reporting period, the UNJHRO recorded 18 victims of forced labor by the M23, including nine men, seven women, one girl and one boy. For example, on 13 April 2013, the chief of Kibiriga village and a student from the same village in Kisigari *groupement*, Rutshuru territory, were abducted and forced to carry the belongings of M23 members from Kibiriga village to the M23 military base in Rumangabo. The whereabouts of these people remain unknown to this date. In mid-July 2012, a group of M23 members came to Rumangabo and forced civilians (including many children) to carry their belongings to Runyoni.

6.3.4. *Illegal and/or arbitrary arrests and detentions*

36. The UNJHRO has documented a large number of victims of illegal and/or arbitrary arrests and detentions by M23 members during the reporting period. One of the largest detention centers run by the M23 was the prison located in the Rumangabo military camp that UNJHRO staff were able to visit on 4 November 2013. Many people were illegally and arbitrarily detained in this center. For example, the UNJHRO has documented the case of three people who were arrested, on 6 September 2012, in the village of Kabaya, Rumangabo locality, Bwisha *collectivité*, Rutshuru territory, by armed M23 members. They were arrested while attending the mourning ceremony for the community chief of Rumangabo, who was shot and killed by M23 members on 5 September 2012. The victims were detained in the prison of the Rumangabo military camp. They were released after a week of detention. Another man was arrested by the M23 police commander in Rubare, Rutshuru territory, on 23 September 2012, under the pretext that he had refused to join the M23. The commander had reportedly asked his family to pay the sum of 400 US dollars for his release. He was released on 30 September 2012 after the ransom was paid.
37. According to many accounts gathered by the UNJHRO during its missions in Rutshuru territory on 4 and 22 November 2013, the M23 was responsible for many cases of prolonged detention for ordinary offences in prisons or cells under its supervision. A former prisoner at the Rumangabo military prison camp, interviewed by the UNJHRO, stated that he was detained there for a year and three months before being transferred to the M23 holding cell in Tshanzu, where he was reportedly imprisoned for a week and a half. He was released after the FARDC took over Tshanzu at the beginning of November 2013.
38. Another man living in Munigi (about 5 km north of Goma) and president of the artisanal miners of Munigi, Nyiragongo territory, was requested by M23 members to come to their position in Kibati (about 12 km north of Goma) on 20 April 2013. He allegedly refused to accede to the demands of M23 members who wanted to levy a tax on the miners working in the areas under their control. He was then detained in the Rumangabo prison, and was released on 27 April 2013.

6.4. Violations of the right to property

6.4.1. *Looting*

39. Acts of looting were regularly committed by M23 members during the reporting period, and in particular, during the occupation of Goma between 20 November and 2 December 2012. Between 23 and 27 November 2012, the Goma military courthouse located in the military camp of Katindo, the office of the province governor and some public offices were systematically looted by men who were alleged to be M23 combatants. Office supplies, computer equipment, and archives were carried to an unknown destination.
40. Other acts of looting committed by M23 combatants include the systematic looting of personal belongings, food supplies, and other valuables belonging to the civilians of Karambi and Rwaniro villages, Rutshuru territory, on 6 August 2012. The perpetrators first harassed and made death threats to the villagers before they began looting. They told the population that they

were looking for firearms. This situation reportedly resulted in the civilian population relocating to the forest for security reasons.

41. In addition, in Rubare locality (about 65 km north of Goma), in Kisigari *groupement*, Rutshuru territory, at least 20 houses were looted during the night of 1 to 2 May 2013 by M23 members. On 9 September 2013, many neighbourhoods of Rutshuru-center, such as Kingarame, Kitambi, Bunyangula and Kashwa, were also systematically looted by M23 members. The perpetrators took large sums of money as well as valuables from the inhabitants of these neighbourhoods. The stolen goods were then loaded onto trucks that were driven toward the town of Bunagana, Rutshuru territory. Finally, six houses located in Kihurura, on the Kiwanja-Isasha axis, Rutshuru territory, were looted on 9 September 2013 by eight men accused of being M23 police officers.

6.4.2. Other illegal appropriations of property

42. Testimony gathered from several sources indicates that the M23 created a specific administration that was in charge of collecting revenue from the population in money and in kind. The M23 very often collected taxes via roadblocks such as those of Munigi and Rumangabo, which prevented the free movement of the population, and in particular from traders and business owners. For example, in Kibati *groupement*, Nyiragongo territory, the M23 set up at least four roadblocks to collect circulation and evacuation taxes.
43. In another instance, M23 members collected "*road maintenance taxes*" on all vehicle drivers in Munigi in the territory of Nyiragongo. The amount of tax collected varied between 10 US dollars (personal vehicle) to 100 US dollars (large trucks of 20 to 30 tons). These taxes were collected for each crossing of the Munigi roadblock. Receipts were given after paying the taxes.
44. The M23 "*tax collectors*" also demanded payment of 250 US dollars from every truck which passed the Rumangabo roadblock and weighed between 17 and 20 tons. The M23 also levied surtax on lumber from Beni territory (North Kivu province). Importers of red wood from Beni territory were, in fact, forced to pay 1,500 US dollars at the roadblock in Rumangabo erected by the M23 while those importing eucalyptus had to pay 300 US dollars. Once they arrived in Goma, the owners of the lumber also had to pay taxes to the Congolese authorities amounting to 1,000 US dollars for red wood and 300 US dollars for eucalyptus wood.
45. In addition, vehicle drivers transporting crops from one province to another, for example, from North Kivu to Orientale province, had to pay 300 US dollars every time they crossed the Rumangabo roadblock in Rutshuru territory. Given that 10 to 15 vehicles crossed the Rumangabo roadblock each week, the amount of money regularly collected by the M23 was quite substantial.
46. The revenue from these taxes was reportedly centralized three times a week at the administrative level of Rutshuru territory into a fund called the "*production*" fund managed by the Finance and Budget department of the M23 which was led by an M23 officer. This fund also reportedly consisted of taxes collected from large contributors or companies, such as mineral water or cigarette producers and those transporting lumber. These large contributors were forced to pay a tax of 20,000 US dollars per month, according to a number of accounts.

47. Store managers in Kiwanja were obliged to pay an annual fee of 200 to 500 US dollars, depending on the size of their store. Small business owners had to pay an annual contribution of 25 US dollars and 2,500 Congolese francs as income tax. Moreover, they had to pay an additional tax of three US dollars. The stores of those who were not able to pay or who refused to pay these various taxes and duties were reportedly closed by officials from the M23 *Direction Générale des impôts* (DGI)²⁰.
48. Extortion was another form of forced and illegal taxation used by M23 members acting in an individual capacity. Some of the members regularly extorted money from civilians and business owners by creating roadblocks. Victims of extortion had nowhere to bring their complaints. According to witnesses and victims, the drivers of the *Association des Chauffeurs du Congo* were regularly taxed by M23 combatants posted at the entrance of Rumangabo, on the Rugari-Rubare axis, Rutshuru territory.
49. The UNJHRO also received reports indicating that M23 combatants forced the local population of Rumangabo, Kisigari *groupement*, to pay 1,000 Congolese francs per week per household. Cow owners had to pay three US dollars for every cow they owned. In Kibumba, Nyiragongo territory, each household had to pay 500 Congolese francs per week.

VII. Conclusions and recommendations

50. On the basis of the evidence gathered by the UNJHRO, M23 members committed serious human rights violations in the province of North Kivu between April 2012 and November 2013, especially in parts of the territories of Rutshuru and Nyiragongo on which the group ensured an effective control for several months. Some of these violations of human rights and of international humanitarian law may constitute, “*according to circumstances*”, war crimes and crimes against humanity as well as crimes under Congolese criminal law.
51. Based on the information gathered, including during several investigation missions, the UNHRO can confirm that there were 116 victims of violations of the right to life, 351 victims of violations of the right to physical integrity, including 161 victims of rape, 296 victims of violations of the right to liberty and security of the person, including 18 victims of forced labour, and 50 victims of violations of the right to property.
52. In light of the violations of human rights and of international humanitarian law documented by the UNJHRO, it is recommended that the Congolese authorities:
 - Open thorough, rigorous and impartial judicial investigations into the crimes committed by the civilian and military elements of the M23 in the province of North Kivu and more specifically in the areas of Nyiragongo and Rutshuru territories that the group controlled and bring all perpetrators of these crimes to justice so that they are held accountable before the competent courts;

²⁰ The *Direction Générale des impôts* (DGI) based in Kiwanja was reopened by the M23 administration after government officials fled, and reportedly collected taxes for the M23.

- Ensure that individuals involved in serious violations of human rights and international crimes, including genocide, crimes against humanity and war crimes, do not benefit from the provisions of the Amnesty Law of 2014 taken in application of the Nairobi Declarations of 12 December 2013;
- Restore State authority in all liberated areas by deploying police and judicial authorities who are beyond reproach as far as respect for human rights are concerned.

