

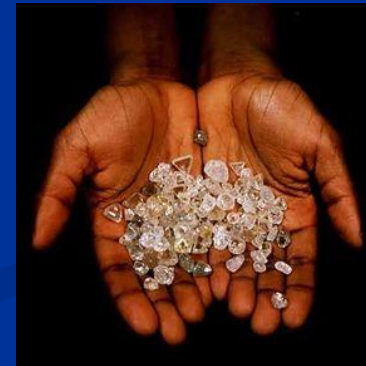
Does the peacekeepers comply with the laws and culture, traditions, habits and customs of host country?

■ *They are perception and assumption:*

■ There exists a perception that the mission, the duties and the conducts of the UN peacekeepers are well understood;

■ There seems to exist an assumption that peacekeepers are aware and implement their tasks.

Peacekeeping and Illegal Trafficking of Natural Resources in Eastern DR Congo



By

Philippe Tunamsifu Shirambere

MA in International Law and the Settlement of Disputes

Lecturer of law at ULPGL Goma/ DR Congo

Content :

- A. Introduction ;*
- B. Establishment and mandate of the UN mission in the DRC ;*
- C. Involvement of peacekeepers in illegal trafficking of natural resources ;*
- D. Legal analysis of the case of UN Employee Caught Smuggling Minerals ;*
- E. Critical understanding/ case study;*
- F. Conclusion .*

A. Introduction

Since 1996, the DRC has been the theater of armed conflicts in which were involved neighbor countries: Burundi, Rwanda and Uganda.

The first conflict (October 1996- May 1997) allowed LD Kabila to come in power while Mobutu fled to Morocco.

Under national pressure, in July 1998 Kabila decided the return back of the foreign armies involved in the conflicts in Congo, unfortunately Rwanda and Uganda got angry.

In August they turned against him and backed a new rebellion in eastern Congo against the Government of Kabila. The rebellion was seen as an invasion of the DRC.

In consequence the **conflict becomes the threat to the regional peace and security** that demanded an urgent response by the parties with the support from the international community.

A. Cont'

- As the UNSC has the primary responsibility for the maintenance of international peace and security (art 24), it was concerned by the situation and called for a ceasefire and the withdrawal of foreign forces.
- Following the signing of the Lusaka Ceasefire Agreement between the DRC and States involved in the conflict, in July 1999 the UNSC established the MONUC by its resolution 1279 of 30 November 1999.
- The tasks of peacekeeping operations are *the maintenance of ceasefires and separation of forces; preventive deployment; protection of humanitarian operations and implementation of a comprehensive peace settlement.*
- However, since the establishment of MONUC, peacekeepers have committed acts of gross misconduct.

B. Establishment & mandate of the UN mission in DRC

- First all the **Congolese population welcomed the resolution 1258 (1999)** which authorized **the deployment of the UN military liaison personnel**
- The initial mandate of MONUC was **the observation of the ceasefire** and disengagement of forces (UNSC Res 1279(1999))
- In 2004 the mandate was expanded to include **Chapter VII** of the UN Charter, which enables the mission **to use force to protect civilians.**
- On 1 July 2010, under Resolution 1925 (2010), MONUC became the United Nations Mission for Stabilization in DRC (MONUSCO) **with the mandate to ensure the effective protection of the civil population**, and authorized to concentrate its military forces in eastern DRC.
- In June 2012, under the Resolution 2053 (2012), the UNSC extended the MONUSCO's mandate to June 30, 2013.
- **Unfortunately**, regarding the implementation of those resolutions, **the protections of the civilian population have been far from the expectation.** Also, peacekeepers and civilian staffs of UN Mission were involved in sexual abuses of young girls and women.

UN reactions to sexual abuses:

- The UN Assistant SG for peacekeeping operations, **Atul Khare**, declared clearly to the UNSC that the UN failed to protect population.



- The UN former Under-SG-for Peacekeeping **J.M Guehenno** said that: "The fact that these things happened is a blot on us. It's awful. What is important is to get to the bottom of it and fight it and make sure that people who do that pay for what they have done."



- The UN former SG **Kofi Annan** declared that "I am afraid there is clear evidence that acts of gross misconduct have taken place".



- However, raping girls was not the only misconduct, the UN peacekeepers were also involved in illegal trafficking of natural resources.

C. Involvement of peacekeepers in illegal trafficking of natural resources

- Mineral resources have historically financed both local and foreign-armed groups in eastern DRC since conflicts have started.
- To address that, the UNSC Res 1856(2008) gave the MONUC a mandate with FARDC to prevent the provision of support to illegal armed groups. To use its monitoring and inspection capacities to curtail the provision of support to illegal armed groups derived from illicit trade in natural resources.
- Nevertheless, since the establishment of the UN mission, many evidences have been expressed to denounce the involvement of the UN peacekeepers in the illegal exploitation of Congolese natural resources and even accused of providing weapons to rebels in east.
- The Pakistani case is especially serious, it concerned “guns for gold”, to one of the militias in Ituri. The UN’s internal auditors uncovered proof that Indian peacekeepers had been buying gold in Nord-Kivu.

D. Legal analysis of the case of UN Employee Caught Smuggling Minerals

- Peacekeepers are also involved in illegal trafficking of natural resources through national staffs of the UN Mission.
- **Julien Mukala**, a driver for the UN peacekeeping mission was arrested after the border police found **24 bags of cassiterite** weighing **1,200 kg** in the **vehicle n° 1727** on 21st August 2011 night.
- The case has been submitted to the court in the *proceedings of fragrance*.
- Regarding **the judicial decision RP 21 665** there was evidence in the following allegations: the unlawful possession of mineral substances, the illegal transport of mineral substances, and the attempted export fraudulent of mineral substances (**criminalized by the Congolese Mining Code: articles 303-304-305**).



D. Legal analysis of the case ... Cont'

- The court found that the accused was guilty of the violation of detaining mineral substances (*cassiterite*), and has resolved intentionally to transport mineral substances.
- As he did not provides the proof of having accomplished all administrative formalities before crossing the border, the court has found the accused guilty and condemned him for three years in prison and a US\$ 25,000 fine for trying to smuggle minerals to Rwanda.
- The Congolese government said in a statement that “the incident puts into question the compliance of some members of the UN Mission with the relevant resolutions of the UNSC governing their presence in the DRC and Congolese law.”

E. Critical understanding/case study

- Involvement of UN peacekeepers in the exploitation of natural resources out of their mandate
- Link between armed conflicts and smuggling of minerals/UN peacekeepers
- Poor mechanisms of civil protection/ disappointment from the Congolese people from the ground
- Impact of the smuggling of natural resources in Congo by UN peacekeepers and the implementation of their mandate
- “No Nkunda No Job” said a former Indian command
- Repatriation of the peacekeepers involved in the smuggling of minerals in their respective countries /implementation of their immunities
- Repatriation and the fight against impunity for those who have been repatriated in their countries/judicial proceedings

E. Conclusion

- Regarding the masse violations of human rights in the area where the UN peacekeepers have been deployed and the presence of rebels groups demonstrated the structural ineffectiveness of the UN peacekeeping mission.
- In additional to that, the involvement of the UN peacekeepers in sexual exploitation and abuse, in illegal exploitation of Congolese natural resources and the gold smuggling and arms trading ;
- The Congolese people think that the international community through the UN peacekeeping mission had not been able to successfully reestablish peace in the DRC even to prevent the illegal trafficking of natural resources.

E. *Cont'*

- Thus, I suggest that the UN provide for a judicial system (**court-martial**) which will be dealing with cases involving peacekeepers who have violated their mandate or acting out of their daily duties in different UN missions through out the world.
- In conclusion, I support the Krauthammer's believes “if you want to intervene, do it seriously”. “Occupy, or stay home,” is the advice.

THANK YOU