

## PRACTICE NOTE

# Surrendering to the Big Picture: Historical and Legal Perspectives on Accountability in the Democratic Republic of Congo Following the Defeat of the March 23 Movement

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It remains to be seen whether the past few months will mark a genuine turning point in the conflict in eastern Democratic Republic of Congo (DRC), as the rebel faction March 23 Movement (M23) announced the end of its 20-month insurgency against the government on 5 November 2013. News of the rebel group's surrender following its political and military defeat signals an important moment of hope and renewed prospects of peace and stability in a region prone to protracted armed conflict. However, long-term stability in the country and in the region will require a multi-faceted process consisting of comprehensive accountability for human rights violations that have been committed by all parties to the conflict. In this article, I will first lay out the historical context of the fighting and the root causes of conflict present long before M23's entrance onto the scene as a splintered rebel faction so as to understand M23's place within the country's history of protracted violence. Next, I will explain the violations of international humanitarian and human rights law committed by all possible parties, including rebel and government groups, as well as individual criminal responsibility and corporate liability. Lastly, I will chart the pathways of criminal and social accountability at various levels of international and domestic justice systems to see how the DRC may continue to build long-term local stability in the eastern parts of the country by addressing the question of accountability for international crimes. This brief analysis aims to provide a broader understanding of a complex conflict beyond the defeat and disarmament of M23, albeit a key group in a region of contentious cross-border conflict.

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## Introduction

Military or diplomatic defeat of an armed group is certainly a necessary step in the process of demobilisation, disarmament, and reintegration (DDR). As such, the Democratic Republic of Congo (DRC) seems to have taken a giant leap forward in this process of peace-building; 5 November 2013 saw President Bertrand Bisimwa of the March 23 Movement

(M23) request rebel commanders lay down arms and discuss political solutions to issues of social reintegration with the Congolese Government (Sawyer 2013). On 7 November, M23 military leader Sultani Makenga surrendered in Uganda, along with thousands of rebel combatants. On 12 December, the DRC and M23 signed peace declarations in Nairobi, Kenya. These 'hopeful moment[s]' follow a reinforcement of United Nations (UN) and government troops in eastern DRC, the loss of foreign aid and diplomatic support to Rwanda for its suspected involvement in

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M23 operations, and a string of peace talks in Angola, Uganda, and South Africa (aimed at implementing the February 2013 *Peace, Security and Cooperation Framework Agreement* for the DRC and the region). With news of M23's defeat signalling 'the end of a misadventure' and leading to renewed prospects for military and social stability in the region, a dose of caution is in order, as questions of accountability remain long after the laying down of arms by the DRC's youngest but most publicised rebel group (Berwouts 2013). The aim of this article is to discuss the various legal responses that are essential (and those that are most feasible) following the recent cessation of the M23 rebellion, and how these pathways to comprehensive accountability fit into the larger picture of conflict in the DRC. From a history of human rights violations in the Congo, to the current conditions of wary yet renewed hope in eastern DRC, accountability for M23 members must be assessed amid an understanding of past and continuing national violence and regional politics.

In this article, I will first explain the broader historical contexts of the fighting in order to present the root causes of conflict in the DRC, present long before M23's entrance onto the scene as a splintered rebel faction. Next, I will explain the violations of international humanitarian and international human rights law committed by all parties to the conflict, including rebel and government groups within the DRC and in the neighbouring states of Uganda and Rwanda. It is vital to recognise that M23 is not the sole rebel group in operation in eastern DRC, nor are rebel groups the sole perpetrators of human rights abuses. The DDR process concerning M23 has kick-started expectations of peace and stability and has reignited lingering questions about the various legal responses that must be implemented vis-à-vis M23 combatants. That said, virtually all prominent government and armed groups to the conflict, including foreign armies, have committed violations of international humanitarian law and international human rights. I

will touch on how these violations may give rise to state and individual criminal accountability, as well as possible instances of corporate liability for foreign companies indirectly or implicitly involved in human rights violations. Such examples of comprehensive accountability will place the liability of M23 members within the necessary historical, political, and legal perspectives.

Lastly, I will chart these possible pathways of criminal and social accountability at various levels of international, domestic, and local justice systems. Without taking away from the significance of M23's announcement of surrender - especially for those living in the region and those most affected by cessation of armed conflict between the government and rebel groups - this brief overview and analysis aims to place these recent developments within a broader historical and legal understanding of a genuinely complex conflict. I will explain how the nature of the conflict has transformed throughout the years, and how the multi-faceted process of post-/protracted conflict stability requires legal accountability that reaches beyond the initial defeat and disarmament of one rebel group. In essence, the surrender of M23 and optimistic expectations for peace should be met with a corresponding surrender to the larger picture, as sustainable peace ultimately necessitates accountability, among numerous other factors. Furthermore, questions of accountability for M23 ex-combatants cannot be asked independently of their historical, political, and legal underpinnings - an understanding of which will aid a more comprehensive perspective of what the M23's surrender actually means for conflict and stability in the DRC.

### **Background of the Conflict**

Since the colonial era, the DRC has known political upheaval, military conflict, and exploitation of its natural resources. In recent decades, the First Congo War (1996–1997), the Second Congo War (1998–2003), and an ongoing period of violence in the regions of Ituri (northeast Congo, bordering Uganda),

the Kivus (three eastern provinces bordering Uganda, Rwanda, and Burundi), and Katanga (bordering Angola and Zambia to the south) have killed millions, destabilised the national economy, and led to many questions of legal accountability for such atrocities. Political and social stability often seem elusive in the DRC, particularly if one considers the 1961 assassination of Prime Minister Patrice Lumumba, three decades of corrupt dictatorship under Mobutu Sese Seko, and the 1996 Rwanda and Uganda-backed rebellion that installed Laurent Kabila as President (Sriram *et al* 2010: 102–103). Regionally, the 1994 Rwanda Genocide resulted in an influx of Tutsi refugees and Hutu *genocidaires* - many of which are *ex-Forces armées rwandaises* (ex-FAR) - into the eastern regions of the DRC, inciting ethnic tensions, land rights disputes, and transnational security issues (Breytenbach *et al* 1999: 36). In 1998, with Kabila seen as being ‘too conciliatory’ towards the ex-FAR in the DRC, Rwanda shifted its support to the Rally for Congolese Democracy (RCD) rebel group and invaded the resource-rich Kivu region under the pretext of supporting Congolese Tutsis (OHCHR 2010: 153). Uganda similarly turned against Kabila, supporting the Movement for the Liberation of the Congo (MLC) and invading the Ituri region to attack the Ugandan rebel group the Lord’s Resistance Army (LRA), then operating from bases within the DRC (McKnight, forthcoming). Kabila called upon military support from Zimbabwe, Angola, and Namibia, bringing a convoluted web of armed groups, government-backed and independent Mai-Mai militias, and splintered rebel factions into a conflict that would come to be known as Africa’s ‘Great War’ (Stearns 2011).<sup>1</sup>

The 1999 Lusaka cease-fire and the 2002 Pretoria Accord, signed by key parties to the conflict, established the demobilisation of foreign troops, an integrated national army, a UN peacekeeping mission (MONUC), and the formation of a unity government - with Joseph Kabila as president following the 2001 assassination of his father (Sriram *et al* 2010: 105–106). The peace agreement



**Figure 1:** Map of the DRC with North and South Kivu provinces in red. Source: [www.berejst.dk/389/Goma.htm](http://www.berejst.dk/389/Goma.htm)

prompted multiple investigations into the violations of international humanitarian law and human rights committed during the conflict, as well as discussions concerning methods of accountability for various perpetrators. These already present questions of accountability following the official end of the DRC’s civil wars were only exacerbated by continued armed conflict in the Kivus. The current provinces of the Kivu region, as established in 1986, include South Kivu or *Sud-Kivu* (bordering Burundi and Rwanda), North Kivu or *Nord-Kivu* (bordering Rwanda and Uganda), and Maniema (to the west of North and South Kivu). A great majority of the continuing conflict in the Kivu region has occurred in and around the North Kivu capital of Goma (see **Figure 1**).

Against this backdrop of two decades of conflict as well as protracted armed hostilities since 2003, the formation of M23 in 2009 can be understood in the context of a much broader, much older situation of political and social instability. M23 was created following a peace agreement on 23 March 2009, signed between the DRC Government and the National Congress for the Defence of the People (CNDP), a splinter faction of the Rwanda-backed RCD, led by Bosco Ntaganda.

The agreement saw the CNDP become a recognised political party and proposed that CNDP's armed wing be integrated into the government's Armed Forces of the DRC (FARDC) (*March 23 Agreement* 2009: art. 1.1). An International Criminal Court (ICC) arrest warrant for Rwandan-born Ntaganda (issued in 2006 and publicly unsealed in April 2008) indicted the military leader on charges of war crimes committed between 2002 and 2003 by his Patriotic Forces for the Liberation of Congo (FPLC) (*Prosecutor v. Ntaganda*, ICC 2006).<sup>2</sup> By 2012, with Kabila under heightened international pressure following 2011's suspect elections, Ntaganda (then chief of staff of the CNDP) was at serious risk of being handed over to the ICC as a 'sign of [Kabila's] good will' (Berwouts 2013). Additionally, CNDP soldiers within FARDC refused to be deployed by the government to western and central parts of the country, as they became increasingly frustrated with the lack of military integration promised by the March 23 Agreement (Berwouts 2013). Holding the agreement to be effectively disregarded by the government, 300 ex-CNDP members (supposedly led by Ntaganda) formed M23 on 4 April 2012, naming their rebellion after the dishonoured peace deal.

M23 is composed primarily of ethnic Tutsis and some Mai-Mai militias from North Kivu, and reached a peak size of approximately 5,000 members by the end of 2012. With M23 lacking the military support or 'clout to start a proper war', it is believed that Rwanda (and Uganda, to a lesser extent) supplied M23 with military and financial aid, weapons, special forces units, and recruitment opportunities from within Rwanda (Berwouts 2013; UN Group of Experts Report on DRC 2012: §§ 8, 11, 18, 20, and 35). Adequately armed, M23 slowly gained momentum, violently stating its case against the DRC Government, FARDC, and the failed implementation of the March 23 Agreement. In the 20 months leading up to its ultimate defeat, M23 committed human rights violations throughout North Kivu, reaching a military climax by temporarily capturing Goma in November 2012.

In March 2013, Security Council Resolution 2098 authorised the UN Force Intervention Brigade (FIB) - primarily composed of Malawian, South African, and Tanzanian troops - to protect civilians and neutralise armed groups through offensive operations in eastern DRC (UNSC Res. 2098 2013: §§ 9 and 12). Coordinated efforts between FARDC and FIB in the latter half of 2013, combined with low recruitment, high desertion rates, and internal fighting within M23 (between CNDP military leader Ntaganda, M23 military chief Makenga, and M23 president Jean-Marie Runiga Lugerero) regarding negotiations with the government, ushered in the military defeat of the rebel group in November 2013 (Berwouts 2013). These factors allowed the government to regain control of the rebel-held cities of Kibumba, Ruman-gabo, Rutshuru, Kiwanja, and Bunagana, as M23 numbers fell to approximately 800–1,500 troops (Olivier 2013; Stearns 2013). The lack of Rwandan support, due to foreign sanctions, also likely brought about a weakening of M23 numbers (Stearns 2013).

Even though M23 has been neutralised, numerous other Congolese rebel groups remain, including the relatively small but persistent Democratic Forces for the Liberation of Rwanda (FDLR). FDLR and other groups must also surrender or be defeated through offensive operations carried out by government troops and/or the FIB before stability can be fully realised in the region. However, rebel groups are not the sole perpetrators of international crimes in the DRC, and the question of comprehensive accountability can only be effectively answered if the roles of other potentially liable groups and individuals are also considered.

### **Assessing Violations of International Humanitarian and Human Rights Law**

In 2004, FARDC became the newly integrated military comprised of former government *Forces Armées Congolaises*, ex-*Forces Armées Zaïroises* (known as Mobutu's '*Tigres*'), rebel soldiers from RCD-Goma and MLC, and certain government-backed Mai-Mai militias.

FARDC fought in North Kivu, killing and raping civilians and further escalating tensions between Hutu and Tutsi refugees, as well as between *Banyarwanda* (Congolese Tutsis with Rwandan roots) and non-*Banyarwanda* communities (Clark 2008: 5). Rwanda's military intervention in the major Kivu cities of Goma and Bukavu violated international humanitarian principles of non-intervention and non-use of force, and indiscriminate attacks on civilian populations violated human rights law. Uganda's occupation of Ituri similarly resulted in violations of humanitarian law, and the coercive labour production of gold, oil, and coltan amounted to violations of *jus cogens* principles prohibiting slavery (HRW 2005: 33). Furthermore, Rwandan and Uganda forces committed human rights violations while fighting each other for control of the north-eastern Congolese city of Kisangani in June 2000. What became known as the '*La Guerre des Six Jours*' (Six-Day War) left approximately 1,000 Congolese civilians dead and thousands of homes destroyed (HRW 2002: 5).

As for the confounding array of rebel groups, the MLC committed rape, deliberate killing of civilians, and violations of the terms of the Lusaka agreement when it re-invaded Ituri in 2002 (HRW 2003: 36). From 2002 to 2004, widespread hostilities between the ethnic Hema and Lendu groups - in their struggle for land and power following Uganda's withdrawal from Ituri - included crimes against humanity and, arguably, genocide (HRW 2003: 36). In Kisangani, the RCD-Goma faction performed mass killings and summary executions, which were condemned by the UN Secretary-General (HRW 2002: 24–25).

Deciphering individual responsibility is complicated by the fact that perpetrators repeatedly swapped alliances throughout the conflict. Laurent Nkunda, a former RCD warlord turned national army general turned CNDP political leader, is alleged to be responsible for the murders, rapes, and child soldiering committed by the CNDP in North Kivu (Clark 2008: 6). Under the International

Court of Justice (ICJ) decision in *Nicaragua v. United States*, Rwanda's effective control of the RCD factions, and Uganda's effective control of MLC factions, could lead to inferred responsibility on each state for the extrajudicial killings, torture, and other human rights abuses committed by the Congolese rebel groups (*Nicaragua* 1986, ICJ).

Lastly, the DRC's wartime 'economy' of exploitation was exacerbated by a range of corporate actors, which were found to provide infrastructure to armed groups or to be complicit in human rights violations committed by such groups (Martin-Ortega 2008: 273–275). In just one example, Human Rights Watch (HRW 2005: 113–117) reported that a Ugandan-based gold exporting agency and a Swiss gold manufacturer had fuelled human rights abuses of torture and arbitrary detention committed by Congolese rebel groups because the companies knew or should have known that the gold purchased in Uganda had originated from DRC conflict zones. Less involved African states, such as Angola and Zimbabwe, may also be responsible for human rights abuses as their desperate efforts to finance their share of the war resulted in 'deal[ing] with ever more questionable partners' involved in illicit trade (Prunier 2009: 237). Corporations and states have a duty under international law not to violate human rights and to ensure that others do not violate human rights, which leads to an increasingly problematical balance of business ethics, competitive markets, and the safeguarding of human dignity in a wartime economy.

### **Charting Pathways to Comprehensive Accountability Post-M23**

Although the DRC, Rwanda, and Uganda are all state parties to the Geneva Conventions, the violence in the DRC is generally characterised as a non-international armed conflict falling outside the realm of the Conventions. Regardless, such acts as mutilation, torture, degrading treatment, and taking of hostages still fall under Common Article 3, which prohibits cruel treatment and violence to civilian

life committed during internal armed conflict. The absence of a 'grave breaches' provision prevents Article 3 violations from rising to the level of war crimes; however, acts such as murder, rape, and persecution perpetrated by rebel or government groups in the DRC may still amount to crimes against humanity. Such acts committed by non-state actors, such as MLC and RCD rebel factions, could also be considered crimes against humanity under the Additional Protocol II, if the armed groups exercised *de facto* control over the territory where violations occurred (AP II: art. 1.1). Violations outside the scope of Common Article 3 or the Additional Protocol II may still constitute breaches of customary international law, which creates binding obligations on all parties to all conflicts.

If the DRC can be characterised as more than an internal armed conflict with merely international-ised aspects, then grave violations committed by state actors - foreign and domestic - would become war crimes under the Geneva Conventions. In the ongoing conflict between DRC troops and RCD factions in Kivu, Rwanda has been accused of financially and militarily influencing (if not outright controlling) rebel operations (Clark 2008: 4; RFI 2014). Allegations against the Rwandan Government in Kigali include the provision of arms, ammunition, and direct troop reinforcement to M23 as recently as August 2013 (*African Arguments* 2014). The argument for the conflict in the DRC to obtain international legal character depends heavily on whether actors outside of the DRC will ever be formally recognised as 'the masters of the game' (Breytenbach *et al* 1999: 40).

The Rome Statute of the ICC abandons distinctions between international and internal armed conflict, examining cases referred to it either by a member state, the UN Security Council, or cases originally investigated by the ICC Prosecutor. The ICC places individual criminal responsibility on citizens of member states, whether rebel or state actors, for crimes within its temporal jurisdiction (beginning in 2002). The DRC situation was

self-referred to the ICC in 2004 by Kabila. In March 2012, the ICC convicted Thomas Lubanga of the war crime of conscripting and using child soldiers under the age of 15, occurring between 2002 and 2003 (*Prosecutor v. Lubanga Dyilo*, ICC 2012). The ICC is also currently prosecuting Ituri rebel leader Germain Katanga for war crimes and crimes against humanity, including child soldiering, rape, and sexual slavery (*Prosecutor v. Katanga and Chui*, ICC 2008). On 18 December 2012, the court acquitted Mathieu Ngudjolo Chui, as the prosecution failed to prove that the defendant was a direct co-perpetrator of attacks in Ituri in 2003 (Decoeur 2013). ICC indictments of Rwandan President Paul Kagame and Ugandan President Yoweri Museveni are unlikely yet possible if stronger evidence of their 'effective command' of Congolese rebel groups can be unearthed (Rome Statute: art. 28). As for Ntaganda, he provided the ICC with its first surrender of an indicted war criminal. In March 2013, Ntaganda voluntarily surrendered at the United States embassy in Rwanda, and was subsequently escorted to The Hague, where he will face charges.

International criminal law targets high-level perpetrators of the gravest crimes, leaving domestic and non-criminal avenues of accountability essential to ensuring a greater scope of retribution and reparation for victims. Under the court's prosecutorial strategy of 'positive complementarity', ICC cases ideally catalyse domestic prosecutions and development of the rule of law (Mattoli & van Woudenberg 2008: 55). Although the DRC has begun some prosecutions in domestic military courts - including a December 2013 conviction of around a dozen rebel soldiers and civilians for sexual violence and murder committed in Sake, near Goma - the DRC's fragile transitional government has failed to implement Inter-Congolese Dialogue resolutions for a truth commission (*Al Jazeera* 2013; Sriram *et al* 2010: 108). However, the government has made hesitant moves towards establishing a special domestic

court capable of prosecuting international crimes committed in the DRC, which will be discussed in further detail below. The DRC has indicted Nkunda for violations of international and Congolese criminal law, but has yet to obtain his extradition from Rwanda. It is reported that the DRC Government engaged in negotiations with the rebel leader for decreased CNDP rebellion against FARDC (Clark 2008: 6). The Nkunda-DRC talks demonstrate the difficulties of achieving criminal justice when the negotiation of conflict resolution can possibly be achieved at the cost of impunity.

Similar diplomatic hurdles have been encountered with Makenga's surrender in Uganda just days after M23's defeat. For Makenga to be prosecuted for international crimes in the DRC, Uganda must first cooperate in his extradition. Furthermore, approximately 1,700 rebel soldiers surrendered alongside Makenga, and likewise need to be extradited before undergoing possible prosecution.<sup>3</sup> Meanwhile, sanctioned M23 leaders that have not yet surrendered are believed to be moving freely throughout Uganda (O'Reilly 2013; RFI 2014). This presents a cooperation challenge for the government in Kampala, which hosted stalled peace talks between the DRC and M23 in November 2013, and continues to claim neutrality in its neighbour's conflict - all while attempting to strengthen its international reputation in regards to international criminal justice (Kigambo 2013). These sorts of conflicting regional interests, combined with the notion that international crimes are an affront to the international community as a whole, have led to the use of foreign domestic courts as a possibly more effective forum for prosecution. For instance, the Spanish High Court has exercised universal jurisdiction with its indictment of 40 members of the Rwandan Patriotic Army for war crimes, genocide, and crimes against humanity committed in the DRC (see Sriram *et al* 2010: 112–113). However, prosecutions that occur a continent away from the scene of the crime run the

risk of not effectively deterring future misconducts in the DRC nor adequately allowing Congolese victims to experience a sense of justice.

The idea of hybrid or 'mixed' courts has also been put forth in the DRC, particularly in response to the UN's 'mapping report' outlining human rights violations committed in the country between 1993 and 2003 (OHCHR 2010). In November 2010, DRC civil society and human rights organisations called for a 'specialised mixed court', which would appoint foreign judges to special chambers within the DRC to prosecute international crimes committed in the country (Lee 2012). A final version of a bill drafted by the Congolese Minister of Justice and later endorsed by the Congolese Law Commission rejected the idea of a mixed chamber composed of international staff, and instead proposed a stand-alone special court (HRW 2011). If established, this specialised court is hoped to strengthen the national judiciary by allowing for domestic prosecution of war crimes, crimes against humanity, and other international crimes not currently included in the Congolese penal code (Lee 2012). Without a specialised court, only military tribunals can exercise domestic jurisdiction over such crimes (as described above with the December 2013 convictions).

Corporate liability for foreign companies indirectly or implicitly involved in human rights violations in the DRC also encounters difficulties of jurisdiction and enforceability. As a result, accountability for corporate perpetuation and exploitation of Congo's resources hardly amounts to more than moral obligation (Martin-Ortega 2008: 279). Although voluntary initiatives, like the Kimberly Process to prevent conflict diamonds, are making strides towards greater accountability, corporate responsibility is still largely viewed as a '*social* rather than...*legal* form of restraint' (Martin-Ortega 2010: 277–281).

Non-criminal liability, although a form of 'softer' law, can be beneficial to goals of reconciliation and reparation. In the absence

of formal tribunals in North Kivu, informal or 'traditional' dispute resolution processes have been implemented in the region, including local *boutiques des droits* (law shops), the *Commission de pacification et de concorde* (a community of elders meant to identify and quell the causes of inter-ethnic conflict), and *Barza Inter-Communautaire* community dialogue between victims and perpetrators of conflict in the Kivu regions (Kamwimbi 2008: 374–376). Unfortunately, allegations of pro-RCD bias and a sense that local healing 'wasn't considered a priority in a period of major insecurity' led the *Barza* to collapse in 2005 (Clark 2008: 6–14). This shows how involvement of local leaders and politicians often taints the purposes and potential of domestic accountability measures and can exacerbate rather than address root causes of the conflict. However, politically neutral organisations with the capacity to mediate ongoing violence in the DRC - such as a revamped *Barza* or similar institution - could ensure that jurisdictional and definitional limitations of international criminal law do not result in complete impunity or stalled peacebuilding.

Other non-criminal accountability measures that may be discussed by government and former rebel combatants include conditional or blanket amnesties. Amnesties, while controversial, are praised by some for promoting social reintegration, while often criticised for doing so at the expense of impunity (see Lessa & Payne 2012). Uganda passed an Amnesty Act in 2000 (recently renewed in 2013), inviting former rebel combatants to be reintegrated into northern Ugandan societies upon the sole condition of disarmament and renouncement of fighting. Blanket amnesties are generally considered to be a violation of international human rights law, which insists (arguably requires) that perpetrators be held accountable for human rights violations (Lessa & Payne 2012). However, this method of prioritising social reintegration above criminal accountability has been praised in Uganda, where a majority of perpetrators were themselves victims of

abduction and child soldiering (Afako 2012). Instances of perpetrator-victims may not be as numerous in M23 and other Congolese rebel groups; however, in December 2013, the DRC Government approved an initial plan to grant conditional amnesties to M23 ex-combatants that were not found guilty of serious crimes (AFP 2013). This proposed amnesty is currently awaiting approval by the Congolese Parliament.

### **Conclusion: Analytical Caution in Light of Recent Events**

By the official end of Congo's wars in 2003, the DRC had become a jumble of confused fighting, with the causes of war, allegiances of parties, and avenues towards peace scarcely discernable. Human rights issues of political, economic, and ethnic scope likely served as both genuine underlying sources of conflict as well as pretexts for retaliatory interventions by neighbouring countries. The ensuing humanitarian and human rights violations committed in the name of righteous conflict transformed the nature of the war from a worthy struggle for democracy to a continental tragedy (Sriram *et al* 2010: 103). In the midst of this protracted and complex conflict, the apparent end of M23's insurgency does not equate to automatic peace and stability in the region. With many rebels fleeing into Uganda and Rwanda - some still in hiding and others detained by the foreign governments - issues of justice and accountability will be more difficult than the physical laying down of arms. Impunity is a root cause of the conflict in the DRC and will continue to stall the furtherance of peace and stability until adequately addressed through the various methods of accountability outlined above.

Militarily, FARDC will remain 'under scrutiny to see how they manage their victory' against M23, in terms of dealing with continued threats to national security and civilian protection posed by FDLR and other rebel armed groups still operating in eastern DRC (Stearns 2013). Meanwhile, President Kabila will be closely watched in regards to



his ability to politically manoeuvre through issues of custody and treatment of ex-combatants, and how effectively the government can 'do the rest of [its] homework' by reforming its institutions and laying out an agenda of reconciliation (Berwouts 2013). Therefore, legal accountability is just one of numerous and intertwining military, legal, social, and political reinforcements of sustainable peace needed in eastern DRC and in the country as a whole.

This article has explained how legal accountability can and must fit into the larger picture of sustainable peace, political stability, and social reintegration, not only in light of the recent developments in the conflict, but also in spite of such events. International criminal and domestic law, revamped social dispute resolution processes, or, at the very least, conditional amnesties that require social accountability in the form of truth-telling, are essential measures for accountability in the DRC. Such processes will allow the country to capitalise on its recent opportunity for long-term stability in the eastern regions beyond the initial defeat and impending disarmament of M23. As the questions of accountability begin to be answered through international and domestic action, assessments and predictions of the ever-shifting conditions of peace and conflict in the DRC will benefit greatly from a dose of analytical caution. In this way, recent developments regarding M23, post-conflict responsibility, and transitional justice can begin to be placed within the DRC's intricate history of conflict and within the multi-layered legal pathways to comprehensive accountability.

## Notes

- <sup>1</sup> Chad also briefly intervened in the DRC conflict before pulling out.
- <sup>2</sup> The DRC became party to the ICC with its ratification of the Rome Statute in 2002.
- <sup>3</sup> The DRC Government contests the number of M23 soldiers that have surrendered in Uganda.

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