HIV AND THE RIGHT TO SANITATION IN THE CONTEXT OF CONFLICT AND INTERNAL DISPLACEMENT IN THE DEMOCRATIC REPUBLIC OF CONGO

BY

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DECLARATION

I, Prisca BWIHANGANE MINJA, hereby certify that this mini-dissertation is my original work and has not been submitted of any degree or examination in any other university or academic institution.

The sources that are utilised are duly acknowledged and properly referenced.

20 November 2013

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Prisca Bwihangane Minja Date

Student

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DEDICATION

To the almighty God: You have been always faithful to me even when myself I was not;

To my parents BWIHANGANE NABUHESI Jean and BASHENGEZI KIZITO Euphrasie, just because you are unique;

To PLHIV, especially IDPs living with HIV, who always face discrimination related to water and sanitation;

To Humphrey L B, my best friend forever, my source of happiness, hope and strength.

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LIST OF ABBREVIATIONS

ABA/ROLI:	American Bar Association/ Rule Of Law Initiative
ARVs:	Anti- Retroviral
AIDS:	Acquired Immune Defiency Syndrome
ACHPR:	African Chapter on Human and Peoples' Right
AU:	African Union
AMCOW:	African Minister's Council on Water
CBOs:	Community Based Organisations
CRC:	Convention on the Rights of Children
CEDAW:	Convention to Eliminate All Forms of Discrimination Against Women
CNDP:	Congres National pour la Défense du Peuple
DRC:	Democratic Republic of Congo
FARDC:	Forces Armées de la République Démocratique du Congo
HIV:	Human Immunodefiency Virus
ICESCR:	International Covenant on Economic Social and Cultural Rights
ICCPR:	International Covenant on Civil and Political Rights
ICC:	International Criminal Court
IDPs:	Internally Displaced Persons
IHL:	International Humanitarian Law
NGOs:	Non Governmental Organisations
NSAs:	Non- State Actors
MDGs:	Millennium Development Goals
M23:	Movement of the 23
OCHA:	Office for the Coordination of Humanitarian Affairs
OHCHR:	Office of the High Commission of Human Rights
PLHIV:	People Living with HIV
UDHR :	Universal Declaration of Human Rights
UNAIDS:	Joint United Nations Programme on HIV/AIDS
UNICEF:	United Nations Children's Fund
UNCESR:	United Nations Covenant on Economic and Social Rights

UNDP: United Nations Development Program

UNHCR: United Nations High Commissioner of Refugees

CHAPTER 1: INTRODUCTION

1.1. BACKGROUND

Access not only to sanitation but adequate sanitation is a key mechanism for improving the health and well-being of the world's most vulnerable communities.[1] Sanitation is both vital for human health[2] and an important human right.[3] Yet, the topic of sanitation has been avoided by the global community, as have the behavioural, political and financial commitments required to make a difference to dismal situations of lacking sanitation.[4] The sanitation sector has been characterised by poor funding, fragmentation and disorganisation. Improved access to sanitation (that is, access to toilets, privacy, safe disposal of waste, hand washing and basic hygiene)[5] continues to be a low priority for a majority of stakeholders. Even the word "sanitation" is sanitised, perpetuating ancient taboos about discussing human waste, obscuring and institutionalising the simple reality that evacuating waste is a natural human function that must be treated with dignity and respect.[6]

The scale of the sanitation crisis is profound. Lack of adequate sanitation has dire consequences on people's live. The UN estimates that 2.5 billion people, 40 per cent of the world's population, lack access to adequate sanitation and this could be the primary reason why people die of diseases such as diarrhoea and cholera. Most often, women and children are the victims of these diseases, exemplified by the fact that nearly 2 million children die every year of diarrhoea and cholera.[7]

A visible link has been observed between HIV/AIDS and sanitation. Water and sanitation is the main key in ensuring that one is healthy. As said above, opportunistic infections, such as diarrhoea, are caused by lack of clean water and proper sanitation. Therefore, ensuring that

[1] Sanitation as a key to Global Health: Voices from the field, United Nations University Institute for Water, Environment and Health, available on www.inweh.unu.edu (accessed on 5 November 2012)
[2] International year of sanitation 2008, available on www.sanitation2008.org (accessed on 5 November 2012)
[3] COHRE, WaterAid, SDC and UN- HABITAT, Sanitation: A human rights imperative (Geneva 2008), available on www.cohre.org/sanitation (accessed on 5 November 2012)
[4] Sanitation as a key to Global Health: Voices from the field, United Nations University Institute for Water, Environment and Health, available on www.inweh.unu.edu (accessed on 5 November 2012)
[5] Sanitation as a key to Global Health (n 4 above)
[6] Sanitation as a key to Global Health (n 4 above)
[7] COHRE, WaterAid, SDC and UN- HABITAT 'Sanitation: A human rights imperative' (Geneva 2008), available on www.cohre.org/sanitation (accessed on 5 November 2012)

people living with HIV have access to clean water and sanitation reduces the risk of developing diarrhoea and cholera. Many people living with HIV have died because of these diseases. Provision of clean water and sanitation would be one of the strategies to manage opportunistic infections. Furthermore, when people show more AIDS-related symptoms or are at a terminal stage of the disease they will frequent toilets to relieve themselves. Access to sanitation facilities like toilets becomes even more important.

Lack of access to adequate sanitation is largely a problem of developing countries and rural areas.[8] The Democratic Republic of Congo (DRC), formerly the Republic of Zaire, is among them, especially its Eastern part. Due armed conflicts, this area has been affected and continues to be affected by instability. Moreover, the phenomenon of Internally Displaced Persons (IDPs) has increased poverty, because people are oblige to flee, leaving their homes and their activities behind them in order to start afresh somewhere else without any guarantee of security. Most IDPs live in camps and face many problems, especially access to potable water and adequate sanitation.[9]

The Eastern part of the DRC has been facing armed conflicts since the 1990s; North Kivu has been a "hot spot" in fighting in October 2012. This is a situation that has forced over 220,000 people to move from their homes since April 2012.[10] Some 18,000 have sought refuge in neighbouring Rwanda and Uganda, and thousands others have crossed into South Kivu province. The deteriorating security situation has led to increased violence against civilians. Home to some 550,000 IDPs prior to the recent fighting, the latest wave of violence will likely push the total IDP figures in North Kivu considerably higher. North and South Kivu account for some 70 per cent of the country's total IDP population. For the first time since 2009, over 2 million people are internally displaced in DRC.[11]

The latest violence results directly from in-fighting in the national army that started in April 2012. The territories of Rutshuru, Walikale, Lubero and Masisi represent the epicentres of the violence. IDPs are in need of shelter, health, food and non-food items. However, water and sanitation are the most acute needs. Therefore, they are among the most vital and very first

[8] Sanitation as a key to Global Health: Voices from the field, United Nations University Institute for Water, Environment and Health, available on www.inweh.unu.edu (accessed on 5 November 2012)
[9] Humanitarian bulletin Democratic Republic of Congo, available on www.rdc-humanitaire.net (accessed on 5 November 2012)
[10] n 9 above
[11] n 9 above

services provided in a camp.[12] A continuous lack of water, insufficient latrines or uncontrolled open defecation, poorly set up waste disposal or drainage systems are all risks that lead to illnesses and epidemics in which, as I said above, women and children are the first victims.

In the Eastern part of the DRC, people and especially IDPs living in camps, have to travel a distance to access a toilet. Those people without toilets go to bushes or open places to relieve themselves. Having no proper sanitation means that there is a vicious cycle of poverty, diseases and bad hygiene.[13] Decomposing human waste in an open space means that people are more vulnerable to catch diseases.[14] People living with HIV/AIDS are sick. They cannot afford to travel long distances to access a toilet. They need to stay in a very healthy and hygienic environment, free from harmful bacteria and germs.[15] Otherwise they will always be exposed to the double vulnerability of internal displacement and HIV status, as the result of inadequate access to proper sanitation and clean water.

1.2. RESEARCH QUESTIONS

It is clear that war and armed conflicts have affected people in the Eastern of DRC in general and IDPs in particular. It is also clear that because of war and armed conflicts, people of the Eastern of DRC are dying from opportunistic diseases as the results of inadequate access to proper sanitation and clean water. Therefore, people of the Eastern of DRC and in particular IDPs are not enjoying the highest attainable standard of physical and mental health as provided by the General Comment 12 on the Right to Health, especially access to adequate sanitation.[16] Six questions arise from this situation:

- What are the effects of armed conflicts on the sanitation situation of people in the Eastern DRC, especially IDPs?
- Does the sanitation situation have an effect on the likelihood of HIV infection and the progress of HIV into AIDS among the people of the Eastern DRC, especially IDPs?
- What are the DRC's obligations in respect of the right to sanitation of persons in the Eastern DRC, especially IDPs?

[12] Humanitarian bulletin Democratic Republic of Congo (n 9 above)
[13] E Kamminga and M Wegelin-Sshuringa 'HIV/AIDS and water, sanitation and hygiene' (2003) 14
[14] n 12 above
[15] n 12 above
[16] Article 12(1) of ICESCR provides: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

- Do non-state actors have obligations in respect of the right to sanitation of persons in the Eastern DRC, in particular IDPs?
- Does the state and non-state actors, if relevant, comply with their obligations in respect of sanitation?
- How can access to sanitation of people in the Eastern DRC, especially IDPs, be improved?

1.3. LITERATURE REVIEW

The international protection of people of the Eastern part of the DRC in general and IDPs in particular is an issue that has attracted the attention of many writers because, first, they belong to the huge family of human being and therefore, deserve to enjoy the human rights recognised to every person by several international instruments; and second, considering their vulnerability because of war and armed conflicts, special attention towards them remains very important.

Focusing on the right to adequate sanitation towards people of the Eastern part of the DRC and IDPs in particular, it is necessary to notice that there is a lack of literature and much of the writings available have taken the form of reports done by special rapporteurs, international organisations, and NGOs, with no emphasis on international human rights protection as the way forward. However, it remains important to explore available literature on IDPs and those on the right to sanitation as a whole in a sense that it could be meaningful to the study of people of the Eastern part of the DRC, which is made up of 70 per cent IDPs. The following is a study of some of the reviewed literature:

A humanitarian bulletin on the DRC's situation done by OCHA in June 2012 reported that a major humanitarian challenge over the past 18 months before June 2012, the fight against cholera has had significant implications in terms of health, water, hygiene and sanitation.[17] As of 28 June 2012, over 17,000 cases and 495 deaths had been reported in that year alone, representing 79 per cent of all reported cases in 2011. Of these cases, 70 per cent were reported in Eastern DRC, an area recently affected by renewed violence.[18]

[17] Humanitarian bulletin Democratic Republic of Congo (n 9 above)
[18] n17 above

The American Bar Association Rules of Law Initiative (ABA/ROLI), an international organisation that provides legal assistance to victims of sexual violence in the Eastern part of the DRC, in its report of 2011, demonstrates that some girls and women were raped while going to release themselves or to draw water at some kilometres from their homes. People of the Eastern part of the DRC in general are not aware of their HIV status. Even the use of condoms is still a challenge because of the traditional taboo surrounding the issue of sexuality, customs, and religion. Moreover, people are not educated enough about HIV.[19]

Coming to the issue of rape, the use of condoms is excluded. Perpetrators and victims are highly exposed to HIV. Often, victims do not disclose the rape because first, in the context of conflicts and insecurity, they have the fear of been killed by the perpetrators; secondly, rape is still considered as a shame or a curse for the family. For example, a man cannot marry a girl who has been raped. Therefore, due to the inability to disclose the rape, perpetrators are not prosecuted. As victims continue to have unprotected sex with their partners, some symptoms of AIDS start to appear.[20]

The Constitution of the DRC does not guarantee specifically the right to sanitation, but its article 47 provides the right to heath.[21] It states that the right to health and food security are guaranteed to every Congolese.[22] We can assume that the right to sanitation is included in the right to health. The DRC should therefore ensure that each Congolese has adequate access to proper sanitation. It is the DRC's obligation to respect, protect and fulfil the right to sanitation. Moreover, the DRC ratified the Covenant on Economic, Social and Cultural Rights.[23] This Covenant requires States Parties to formally recognise the rights within their national legislation, to provide laws and regulations to fulfil the right to water and sanitation that prove to be essential.[24] Recognising the right to water and sanitation domestically is intrinsic to fulfilling the right; it entitles individuals to demand it politically, administratively and judicially. As a result of constitutional recognition, development and interpretation of legislation and policies must be in accordance with the right. Their normative content can

[19] ABA/ROLI report 2011 on sexual violence in the Eastern part of the DRC, available on www.americanbar.org (accessed on 20 February 2013)
[20] n 19 above
[21] The Constitution of the DRC 2006
[22] Humanitarian bulletin Democratic Republic of Congo (n 9 above)
[23] Ratified on 1 November 1976 and entry in to force on 1 February 1977
[24] Article 12(1) of ICESCR provides: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

broadly be described under the categories of availability, quality, accessibility, affordability, and acceptability.[25]

Both Susan Marks and Andrew Clapham give the scope of health and human rights, saying that an important source of guidance is the General Comment on article 12 of the ICESCR, issued in 2000 by the Committee (General Comment 14). It includes the underlying determinants of health such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environment conditions, and access to health-related education and information, including on sexual and reproductive health. They argue by saying that every person without distinction should enjoy these underlying determinants of the right to health.[26]

Muhammed Tawfiq Ladan expresses an interesting point of view on the issue of IDPs in a form of protecting fundamental human rights in armed conflict by defining them as those which are inherent in our nature and without which we cannot live as human beings and without which no society is viable and able to survive.[27] He talks especially about the right to life and the right to dignity of the human person.[28]

Gonzela Aguilar Cavallo, in his article on the human right to water and sanitation, made a interesting comment about non-state actors by saying that in the last few decades, public international law has recognised non-state actors ('NSAs') in many fields as participants and to a certain extent as subjects.[29] Indeed, NSAs, particularly private corporations, have been recognised as relevant actors in international human rights law but also in international economic law and international environmental law. Private corporations, transnational companies and other businesses are one of the main stakeholders of the globalised world.[30]

However, he asserts that these actors might also be a source of major concern regarding environmental and human rights violations and abuses, including water and sanitation rights and that in the modern world, States have been privatising many of their traditional functions,

[25] Water and sanitation as human rights, available on www.ohchr.org (accessed on 21 January 2013)
[26] S Marks and A Clapham *International human rights lexicon* (2002) 200
[27] M Tawfiq Ladan *Introduction to international human rights and humanitarian law* (1999) 202 206 2010
[28] n 26 above
[29] A Gonzalo Cavallo 'The human right to water and sanitation: Going beyond corporate social Responsibility' (2013) 29 *Merkourios - International and European Law* 40
[30] n 26 above

as well as the distribution of essential services for livelihood such as water. This often comes at the expense of vulnerable groups, including people living in poverty, women, children and indigenous communities.[31]

A case study from the DRC has been done by an NGO called Tearfund, which includes that the DRC does not really comply with their obligations in respect of the right to sanitation because of so many problems like tensions between mindsets, lack of coordination, lack of political and budgetary priority, lack of demand, war and armed conflicts.[32]

Jacques EO Emina reinforces the idea of non compliance of the DRC's obligations in his study on the paradoxical under-five diarrhoea prevalence decline in the DRC by saying that with 89,900 annual child deaths due to diarrhoea, the DRC is the country with the third highest diarrheal morbidity among under-five children worldwide.[33] Three factors may explain this situation: the humanitarian crisis, environmental degradation and population poverty. First, since 1996, the DRC has been hit by conflict, which has devastated and destabilized the country. People continue to live in crisis conditions in many parts of the country. The Eastern provinces (Orientale, Katanga, Maniema, Nord Kivu and Sud Kivu), and more recently the province of Equateur, are afflicted by violence. Second, the majority of people do not have access to clean drinking water (54 percent) and hygienic toilet facilities (77 per cent). The large amounts of faecal waste are discharged into the environment without adequate treatment. Last, the DRC's 2010 Human Development Index (HDI) is estimated at 0.239, which gives the country a rank of 168 out of 169 countries with comparable data despite numerous natural resources.[34]

A factual report done by Field Actions in the DRC shows how several joint missions of medical specialists in epidemiology of cholera and engineers in water and sanitation in Eastern DRC have confirmed that there was a need for drastic improvement of water and sanitation infrastructures, especially in these urban and suburban areas.[35] Finally, it was

[31]The ICSECR (n 23 above)
[32] Tearfund 'Sanitation and hygiene in developing countries: indentifying and responding to barriers. A case study from the Democratic Republic of Congo' February 2007 http://tilz.tearfund.org/research/water+and+sanitation (accessed on 27 February 2013)
[33] n 31 above
[34] J B O Emina 'The paradoxical under-five diarrhoea prevalence decline in the Democratic Republic of Congo. What can we learn for the decomposition analysis?'
[35] From research to field action: example of fight against cholera in the Democratic Republic of Congo, available on www.field-action-sci-rep.net/2/29/2009 (accessed 27 February 2013)

expected that a strategy against cholera based on access to safe drinking water and good medical surveillance in those areas could eliminate the epidemics of cholera in the Eastern DRC. A drastic change of strategy was therefore proposed: the limited curative approach, on the one hand, the few existing water/sanitation programmes, on the other, will be merged into a global approach involving a larger scale water and sanitation infrastructure improvement, environmental protection, hygiene awareness and medical watch targeting a few focus areas diagnosed as playing a central role in the origin of the epidemics. This new comprehensive strategy was discussed during a workshop gathering the main stakeholders held from 17 to 18 December 2007 in Kinshasa and further formalized in the Strategic Plan for the Elimination of Cholera in the DRC 2008–2012 approved by the Minister of Health of DRC.[36]

1.4. METHODOLOGY

This study will mainly rely on the library and desk research methodology, comprising primary and secondary sources of information. The primary sources will include international conventions and other instruments relevant to IDPs and to the right to sanitation, while the secondary sources include textbooks, journals, available statistics on IDPs and on sanitation, reports of UN agencies, international organisations and NGOs, and internet research. These primary and secondary texts are analysed.

In addition structured and unstructured interviews were conducted in order to have information on the ground about the link between water, sanitation and HIV, and show how the lack of access to adequate water and sanitation affect the most vulnerable groups (PLHIV and IDPs). The interviews were focused on PLHIV, who were obtained through the outreaches done by the legal aid clinic of the faculty of law (University of Goma) to their CBOs, and there were no intended sample size of respondents. However, 60 PLHIV identified, agreed to participate in the study by responding to the questionnaire. The interviews took place on 04 May and 1 June 2013 at Heal Africa Hospital and 15 March, 29 March and 12 June 2013 at Mugunga.

[36] From research to field action: example of fight against cholera in the Democratic Republic of Congo (n 35 above)

1.5. STRUCTURE

The study is made up of seven chapters. Chapter 1 provides a contextual analysis of the study and present the problem, the research questions of the study, methodology as well as literature review; it gives a broad understanding of the study as a whole. Chapter 2 gives an overview of the situation of armed conflicts in the Eastern part of the DRC, as the results of IDPs and explains its impact on sanitation situation of people, especially IDPs. Chapter 3 shows how the sanitation situation can have an effect on the likelihood of HIV infection and the progress of HIV to AIDS among the people of the Eastern part of the DRC, especially IDPs. Chapter 4 presents the DRC's human rights obligations as a state and human rights obligations of non-state actors in respect of the right to sanitation of persons in the Eastern part of DRC, especially IDPs. It also shows how the state and non-state actors comply with their obligations in respect of sanitation. Chapter 7 finally contains the conclusions of the study, and some recommendations are provided about the improvement of access to sanitation for people of the Eastern part of the DRC, especially IDPs by the researcher.

CHAPTER 2: THE EFFECTS OF WAR AND ARMED CONFLICTS ON THE SANITATION SITUATION OF PEOPLE IN THE EASTERN DRC, ESPECIALLY IDPs

> 'Despite its inordinate mineral wealth and food production potential, the DRC remains one of the lowest per-capita income countries in the world (rated at less than US$ 100 in 2000). This country is a dramatic example of the scars left by the former colonial empire and the failure of the post-colonial state to meet the minimum needs of its citizens.'[37]

It is important to mention that after more than a century of European colonial exploitation, the DRC experienced nearly three decades of the oppressive Mobutu regime. In a popularly

[37] J Mac Dougall and C McGahey 'Three Community-based Environmental Sanitation and Hygiene Projects Conducted in the Democratic Republic of Congo'(April 2003) Urban Environmental Health Strategies 2

heralded and relatively bloodless revolution, Laurent Kabila came to power. Then Joseph Kabila Kabange, after the assassination of his father in 2001 and assumed the leadership. He inherited not only a vast country, but also a country plagued with lots of problems.

Moreover, internal displacement is the phenomenon that has really characterised the Eastern part of the DRC. The DRC has experienced an increase in armed conflicts between its national army and various armed groups particularly since 2003 with the *Congres National pour la Defense du Peuple* (CNDP), a rebel's group which was leaded by the General Laurent Nkunda. As a result, a growing number of people in the east (in the two Kivus provinces, for instance) have had to leave their villages.[38] Therefore, finding assistance in local communities became increasingly difficult, and hundreds of thousands took refuge in what the humanitarian community has termed "spontaneous settlements". The crisis in Eastern DRC has displaced an estimated 1.7 million Congolese, according to the United Nations High Commissioner for Refugees (UNHCR).[39] Other regions of Congo have also been affected by sporadic violence. In 2012, UNHCR expected to spend $12.4 million in support of IDPs in the DRC.[40]

This situation has really affected the DRC and especially its Eastern part in a sense that the eastern of the DRC sick problems. T Dagne highlighted some of them like: 'inadequate and crumbling infrastructure, civil war that has pitted the new regime's forces against rebels, an external debt that amounts to ten times the value of the country's annual export of goods and service, severe poverty, which affects 80 per cent of the population and widespread malnutrition and disease, including vaccine-preventable outbreaks, malaria, HIV/AIDS, water-borne diseases such as typhoid fever and cholera, dysentery and diarrheal disorders, acute respiratory infection, tuberculosis and other infectious diseases', as the result of inadequate sanitation and water supply.[41]

[38] What does the future hold for IDPs living in the camps in central Masisi? Return, local integration ,and settlement elsewhere in the country Available on www.internal-displacement.org (accessed on 12 November 2012)
[39] From research to field action: example of fight against cholera in the Democratic Republic of Congo, available on www.field-action-sci-rep.net/2/29/2009 (accessed 27 February 2013)
[40] T Dagne 'The Democratic Republic of Congo: Background and developments' (September 2011) Congressional Research Service 2 Available on www.fas.org (accessed on 30 March 2013)
[41] From research to field action: example of fight against cholera in the Democratic Republic of Congo (n 35 above)

Focused on people in the Eastern part of the DRC (first section), and especially IDPs (second section), this chapter is aimed at demonstrating how the overview of the crisis in the DRC, as explained above, has affected their sanitation situation.

2.1 EFFECTS OF ARMED CONFLICTS ON THE SANITATION SITUATION OF PEOPLE OF THE EASTERN DRC

2.1.1 Introduction

According to the USAID report, the DRC remains one of the poorest countries in the world and ranks 176 out of 182 in the United Nation Human Development.[42] When it comes to the MDG report, the DRC also has one of the lowest rates of access to drinking water in sub-Saharan Africa.[43] In addition, T Dagne has stated that while the rate of access to improved sanitation has improved by 14 per cent since 1990, coverage remains low, estimated at 23 per cent.[44] In 2006, a status overview of sixteen African countries, among others the DRC, had been done by three international organisations on water and sanitation. It shows how the DRC is not on the track towards meeting the Millemium Development Goals (MDGs) for water and sanitation, partly because the country has just emerged from conflicts that led to deterioration of the sector's infrastructure.[45] Only 22 per cent (11.5 million inhabitants) and 10 per cent (4.8 million inhabitants) of the population have access to safe drinking water and sanitation, respectively, when the coverage must expand to 71 per cent for water and 55 per cent for sanitation.[46]

According to the African Minister's Council on Water (AMCOW), the water and sanitation sector in the DRC suffered a great setback during the country's long political crisis through the 1990s and early 2000s. Since then, the sector has started to recover, albeit slowly. Basic water supply and sanitation needs are still immense. Today, an estimated 50 million Congolese — which is 75 percent of the population—do not have access to safe water, and

[42] Democratic Republic of the Congo Water and Sanitation Profile, available on www.usaid.gov (accessed 3 April 2013
[43] Getting Africa on Track to Meet the MDGs on Water and Sanitation, A Status Overview of Sixteen African Countries, 2006
[44] T Dagne 'The Democratic Republic of Congo: Background and developments' (September 2011) Congressional Research Service 2 Available on www.fas.org (accessed on 30 March 2013)
[45] From research to field action: example of fight against cholera in the Democratic Republic of Congo (n 35 above)
[46] T Dagne (n 40 above)

approximately 80-90 per cent do not have access to improved sanitation. The key bottleneck that currently impedes progress in the DRC's water and sanitation sector is the limited implementation capacity.[47] Even as more finance is becoming available, the sector struggles to absorb it efficiently, hindered by weak institutions, outdated sector policies, a dearth of qualified technicians and managers, remaining insecurity, and a lack of support infrastructure such as roads and electricity. Although recent coverage trends have crept upward, and notwithstanding the relatively successful mobilization of external funds, the MDG targets for water supply and sanitation as well as the much less ambitious national targets set by the DRC's first Growth and Poverty Reduction Strategy Paper (DSCRP) for the year 2015, are out of reach.[48]

According to a UNICEF report, wars and conflicts also destroy water and sanitation systems along with health services.[49] Of the 10 countries with the highest rates of under-five deaths, seven are affected by armed conflict. Angola and Sierra Leone have the highest death rates; nearly one in three children dies before the age of five. In the same report, UNICEF shows that thirty-five recent researchers by the International Rescue Committee found that conflict caused 1.7 million civilian deaths in the Eastern DRC between August 1998 and May 2000. One third of the deaths were children under five.[50]

2.1.2 The sanitation situation of people in urban areas

Despite the fact that armed conflicts had a serious impact on the sanitation situation on people in the Eastern of DRC, it is important to mention that the DRC, as one of the poorest countries of the world, often lacks access to clean water and adequate sanitation.[51] Access to improved drinking water and sanitation facilities in the DRC is constrained by poor coordination of, and accountability for, sector activities with responsibilities spread among at least twelve ministries and public bodies. Service delivery focuses on urban and rural areas, with very little coverage in growing peri-urban areas. Only 40 per cent of the required funding necessary to meet the DRC's water and sanitation goals is available through planned

[47] Water supply and sanitation in the Democratic Republic of Congo Avalaible on www.wsp.org (accessed 29 January 2013
[48] Democratic Republic of the Congo Water and Sanitation Profile (n 42 above)
[49] United Nations Children's Fund *The State of the World's Children: 2000*, UNICEF, New York, 84-87
[50] n 47 above
[51] Getting Africa on Track to Meet the MDGs on Water and Sanitation, A Status Overview of Sixteen African Countries, 2006

public investments each year. Such a large funding gap can only be alleviated by bilateral and multilateral donors.[52]

However, above all the problems discussed above, armed conflicts remain one of the main reasons that affect the sanitation situation of people living in the urban area in a sense that not much improvement of the sanitation system has been noticed since the DRC got his independence in 1960. On a contrary, the system that has existed has been deteriorated by armed conflicts since the 1990s.

The sanitation situation of the DRC in general and the Eastern part in particular was inadequate before the 1990s. Urban sanitation coverage was particularly poor as infrastructure in urban areas remains underdeveloped or in disrepair. Effective administration and focus on cost recovery at the regional level was particularly lacking. Operators disregard environmental regulation by discharging wastewater directly into the Kivu Lake, thereby further limiting the supply of safe drinking water sources.

The Second Congo War began in 1998 and officially ended in 2003. In July 2003, Eastern DRC entered a "post-conflict" phase in which a fragile peace agreement holds the region together in a climate of uncertainty about lasting peace.[53] People were leaving rural area for the urban area, because of insecurity. The war created huge capacity gaps, especially in the areas of management and technical knowledge. Provision of adequate water and sanitation services has been hampered by continuing violence, weak government institutions and poor infrastructure linking the provinces to the capital city.[54] At the same time, many Congolese refugees are returning from neighbouring countries. These refugees were resettling into an environment with inadequate, war-damaged infrastructure, including a lack of sufficient safe water and sanitation services.[55]

This situation is one of the reasons that have increased the epidemic of cholera, diarrhoea and infectious disease as the result of high mortality of women and children under five.

[52] Democratic Republic of the Congo Water and Sanitation Profile, available on www.usaid.gov (accessed 3 April 2013)
[53] M Burt and B Keiru 'Strengthening post-conflict, peacebuilding through community water–resource management: case studies from Democratic Republic of Congo, Afganistan and Liberia' (2011) Tearfund UK, Nairobi, Kenya 232
[54] Water supply and sanitation in the Democratic Republic of Congo (n 47 above)
[55] Democratic Republic of the Congo Water and Sanitation Profile (n 42 above)

International Organisations such as UNICEF and WHO, together with several NGOs working in the DRC confirmed that access to toilets, privacy, safe disposal of waste, hand washing and basic hygiene were not only insufficient but also inadequate in the Eastern DRC, considering the fact the population was growing and no improvement was really done by the government.

2.1.3 Sanitation situation of people in rural areas

According to the DRC Humanitarian Plan 2013, key health indicators remain alarming. Infant mortality, high maternal mortality, low access to basic health services, continuation of major epidemics (malaria, cholera and measles), 69 per cent of the rural population has no access to drinking water and basic sanitation.[56] In many areas, humanitarian actors have great difficulties to reach population in need, because of the very poor condition of roads in the country, and Eastern insecurity and numerous attacks against humanitarian workers. Many persons affected find themselves isolated and without support.[57]

According to government statistics (DSCRP/UNDP), access to improved sanitation in rural areas of the Eastern DRC has stagnated at a low level of around 10 per cent since 1990. Household survey-based estimates by the Joint Monitoring Programme (JMP) of UNICEF and WHO paint a slightly different picture, showing an increase from around 5 per cent in 1990 to a still low, but considerably higher 23 per cent in 2008.[58] The reason for this difference in level and trend of measured access is difficult to judge: surveys were conducted in the midst of armed conflict and political upheaval and their accuracy is likely compromised; in turn, the method by which the DSCRP statistics were computed is opaque and details cannot be traced anymore. In general, sector stakeholders in the DRC judge the more pessimistic access figures more realistic. Sector experts agree, however, that the current level of coverage increase is less than what is needed to achieve national targets.[59]

In the context of the East of the DRC, armed conflicts are more visible in rural areas, some people can flee to the urban area, and others can stay around or find refuge in the forests surrounding the villages. Access to sanitation is practically inexistent until some

[56] Republique Democratique du Congo, Plan d'action humanitaire 2013 Available on www.unocha.org/cap (Accessed 1 April 2013)
[57] Water supply and sanitation in the Democratic Republic of Congo (n 50 above)
[58] Water supply and sanitation in the Democratic Republic of Congo (n 50 above)
[59] Democratic Republic of the Congo Water and Sanitation Profile (n 52 above

international organisations and NGOs come to their rescue and try to solve the problem. But in the meantime people are obliged to defecate in the open or use unsanitary facilities, with a serious risk of exposure to sanitation-related diseases.

On the one hand, when people flee from rural to urban areas, more pressure is placed on urban coverage, against the background that rural coverage lags in a consistently manner as against urban coverage; in fact, on average, there are over three rural dwellers unserved for every urban dweller unserved in respect of sanitation.[60] Rural populations migrating to urban areas, together with natural urban growth, will add to the number of urban unserved. Demographic trends are expected to change over time, with the global urban population expected to be exceed the rural population. Consequently, from the baseline in 1990 to the target date in 2015,[61] considering the remaining armed conflicts and insecurity, the number of rural dwellers without access to basic sanitation will decrease, whereas the number of urban residents without access will increase. On the other hand, the relative situation of the rural population in 2015 might still be unfavourable: the number of unserved rural dwellers in the east of the DRC might be more than twice the number of unserved urban residents.[62]

2.2 EFFECTS OF ARMED CONFLICTS ON SANITATION SITUATION OF IDPS

2.2.1 Introduction

As indicated above, internally displacement is one of the phenomena which characterises the Eastern part of the DRC. Since the beginning of 2012, armed conflicts, ethnic tension and inequitable access to land have led to renewed violence in the East and North-East of the DRC, resulting in the displacement of more than 2.2 million people inside the country.[63] As a result, a growing number of people in the province of North Kivu have had to leave their villages. However, hundreds of thousands took refuge in what the humanitarian community

[60] Meeting the MDG drinking water and sanitation, the urban and rural challenge of the decade Available on www.who.int and www.unicef.org (accessed 8 April 2013)
[61] n 58 above
[62] Water supply and sanitation in the Democratic Republic of Congo (n 50 above)
[63] Newly displaced in the eastern Congo in need of urgent assistance Available on www.unhcr.org (accessed 10 april 2013

has termed "spontaneous settlements".[64] Since 2008, the humanitarian community has organised the management of many of these settlements. International humanitarian organisations have established a Camp Coordination and Camp Management Working Group (CCCM WG) coordinated by the Office of the United Nations High Commissioner for Refugees (UNHCR).[65] At the end of 2011, there were 31 official displacement camps in North Kivu and close to a dozen spontaneous settlements.[66] The official displacement camps house more than 78,000 IDPs; 60,000 are located in the territory of Masisi. The camps continue to receive people displaced by the violence between armed groups in their home areas, and camp populations increased over the course of 2011.[67] Meanwhile, the sanitation situation remains alarming. The phenomenon of internally displacement has increased the rates of infectious diseases and mortality in the DRC in general and the Eastern part in particular.

2.2.2 Effects on camp-based IDPs

Most diseases to which IDPs are exposed are preventable. They include diarrhoea; acute respiratory infections, tuberculosis, malaria, cholera, measles and meningitis are partially linked to the overcrowded and unsanitary conditions.[68] IDPs' access to clean water and sanitation is inferior to that of the general population of the Eastern part of the DRC. Precarious living conditions with respect to water and sanitation are particularly evident in overcrowded camps situations. While camp populations can be assessed relatively easily, the majority of IDPs are dispersed in rural or urban areas, and little data exists on the hardships they experience regarding access to clean water and sanitation facilities.[69]

Shelter, health, food and non-food items, and water and sanitation in particular, are the most acute needs of IDPs based in the camps. They totally depend on humanitarian aid. An insufficient number of tents are always distributed, however. Families are assembled under large tents that leave them exposed to the elements. While waiting impatiently for the humanitarian aid, some construct their own makeshift shelters out of straw mats and pieces of

[64] What does the future hold for IDPs living in camps in central Masisi? Return, local integration, and settlement elsewhere in the country Available on www.internal-displacement.org (accessed 12 November 2012)
[65] Water supply and sanitation in the Democratic Republic of Congo (n 50 above)
[66] n 65 above
[67] n 65 above
[68] Internal displacement, Global Overview of Trends and Developments in 2005 Available on www.internal-displacement.org (accessed 8 April 2009)
[69] Health and IPDS Available www.internal-displacement.org (accessed 10 April 2013)

fabric to protect themselves from sand and dust storms.[70] Unfortunately, in their vulnerable situation, they cannot afford to provide sufficient latrines for themselves, sufficient clean water to wash hand and enough place for open defecation. Consequently, either they are obliged to travel a long unsafe distance, with high risk of being killed, women and children being abused, in order to get some water and relieve themselves in the fields; or they go to bushes or open places to relieve themselves around their houses.

Furthermore, investments dried up, sector institutions collapsed and infrastructure was and is still abandoned and destroyed. Support infrastructure such as road and electricity are almost inexistent. During emergencies, public health officers should work together with the communities to create an environment in which public health risks are reduced as much as possible, and the safety and dignity of emergency-affected populations (IDPs) is enhanced. United Nations agencies, international organisations and NGO's are willing to provide crucial humanitarian assistance to many IDPs in coordination with relevant authorities.[71] However, they face serious problems to reach the camps because of insecurity and roads that are either impracticable or impassable. Most of time they need MONUSCO's escort to reach some areas, and it demands a huge logistic management that can take days and sometimes weeks to be done.

Finally, IDPs, relying totally on humanitarian aid, will be waiting desperately for the aid that maybe will not come or even though it comes, it will not be sufficient or adequate as expected. For instance, the UNICEF Water, Sanitation and Hygiene Programme 2013 has planned to provide 20 litres of clean water to each person instead of 50 litres, 1 latrine for 50 persons instead of 20 persons, and 1 shower four 100 persons instead of 50 persons.[72]

2.2.3 Effects on IDPs in host families

The picture of the situation of IDPs in host families is presented like this:

> 'The Eastern part of the DRC and the North Kivu in particular, is the central role of host families in assisting IDPs. Host families typically have two notable traits: they are often extended family members, and in many cases they themselves were once

[70] Refugees and IDPs Available on www.doctorswithoutborders.org (accessed 9 April 2013)
[71] Plan d'action humanitaire 2013 Available on www.unicef.org (accessed 2 April 2013)
[72] Newly displaced in the eastern Congo in need of urgent assistance Available on www.unhcr.org (accessed 10 april 2013

> displaced. Providing refuge to close to 72 per cent of North Kivu IDPs over the past six years, these families largely overshadow the absorption capacity of IDP sites and camps. Host families are indirect victims of violence-induced displacement, as taking in extra people often stretches their coping mechanisms and can create social tensions. Recognizing that they play an important role in the aid spectrum, the aid community has increasingly included them as beneficiaries in emergency projects and distribution schemes.'[73]

A major humanitarian challenge over the past 18 months, the fight against cholera has had significant implications in terms of health, water, hygiene and sanitation. Over 17,000 cases and 495 deaths had been reported in 2012, representing 79 per cent of all reported cases in 2011.Of these cases, 70 per cent were reported in eastern DRC, an area recently affected by renewed violence.[74] However, there remain significant challenges, induced by the renewal of violence in the eastern part of the DRC. The humanitarian community estimates that needs for medical supplies, water supply, sanitation and other health needs for IDPs in host families have surpassed the original targets in the 2012 Humanitarian Action Plan,[75] with needs for cholera awareness activities, health education and transmission prevention alone rising some 300 per cent.[76]

The Eastern part of the DRC's multiple health crises are exacerbated by renewed violence, especially in North Kivu, where health centres and other infrastructures surrounding IDPs, have been looted or destroyed, forcing health staff to relocate.[77] Response to epidemics and to an increased need of basic health services, water supply, sanitation and emergency obstetric care has also suffered due to security-related access restrictions. Moreover, many health challenges in IDPs areas are a result of chronic poverty (Host families lost have activities to generate incomes anymore), government difficulties in providing even the most basic health services, inconsistent policies for human resources, long dependence on foreign humanitarian assistance and continued insecurity affected by armed conflicts. This leads to a situation in

[73] Humanitarian bulletin Democratic Republic of Congo, available on www.rdc-humanitaire.net (accessed on 5 November 2012
[74] Water supply and sanitation in the Democratic Republic of Congo (n 50 above)
[75] Plan d'Action Humanitaire 2012 Available on www.rdc-humanitaire.net (accessed 2 April 2013)
[76] Water supply and sanitation in the Democratic Republic of Congo (n 50 above)
[77] Humanitarian bulletin Democratic Republic of Congo, available on www.rdc-humanitaire.net (accessed on 5 November 2012

which the elements of a dysfunctional health system and how it can be rebuilt must be addressed while simultaneously dealing with immediate health crises and priorities which are clean water and adequate sanitation.

CHAPTER 3: THE EFFECT OF SANITATION ON THE LIKELIHOOD OF HIV INFECTION AMONG THE PEOPLE OF THE EASTERN DRC, ESPECIALLY IDPs

In the DRC every individual has, in one-way or another been affected by the HIV and AIDS pandemic either through the loss of a parent, a loved one, a close relative or a workmate. The social and health impact of this pandemic is enormous and manifests itself in a growing number of orphaned children, an increased burden on the elderly and society in general, a loss of skilled and other manpower, a diversion of resources from productive sectors and a heavy strain on the health delivery system.

The DRC was one of the first African countries to recognise HIV/AIDS, when it started registering cases in 1983. By the end of 2005, UNAIDS estimated that 1 million people were living with HIV/AIDS in the DRC, which had an adult HIV prevalence of 3.2 percent. The heterosexual activity was the main mode of HIV transmission, which accounts for 87 percent of cases. According to the 2006 DRC Antenatal Care (ANC) Surveillance Survey, HIV

prevalence was highest among men and women aged 15 to 24 and women attending antenatal clinics (3.6 years old).[78]

However, because many regions in the DRC are difficult to reach, data about the HIV/AIDS epidemic is incomplete. Nevertheless, available data shows that decade of conflict has exacerbated the country's epidemic. For instance, HIV prevalence among women who have suffered sexual violence in areas of armed conflicts in the Eastern part of the DRC[79] may be as high as 20 per cent.[80] HIV prevalence remains high in some rural areas of the eastern part that were at the front line of the 1998 war. Moreover, approximately 90 per cent of the DRC's estimated 2.17 million IDPs live in the eastern part of the country, where surveys have shown that HIV prevalence is five times greater than the national average.[81]

Several factors fuel the spread of HIV/AIDS in the DRC, but for the Eastern part, consecutive wars have made it extremely difficult to conduct effective and sustainable HIV/AIDS prevention activities such as water supply, access to adequate sanitation and hygiene. More than others, people living with HIV (PLWHA), and especially IDPs, suffer particularly from the health and social impacts of inadequate water and sanitation as their need for clean water, sanitation and hygiene practices increases as they struggle to protect themselves from the infection, or cope with the diseases symptoms.

3.1. EFFECT OF SANITATION ON THE LIKELIHOOD OF HIV INFECTION AMONG PEOPLE IN THE EASTERN PART OF THE DRC

3.1.1 Introduction

Presently very little data is available on how water, sanitation and hygiene infrastructures are affecting the lives of PLWHA in the DRC in general and the Eastern part in particular. However, literature has identified a series of linkages between water, sanitation and hygiene

[78] HIV/AIDS health profile available on http://www.usaid.gov/our_work/global_health/aids (accessed 12 April 2013)
[79] ABA/ROLI report 2011 on sexual violence in the Eastern part of the DRC, available on www.americanbar.org (accessed 20 February 2013)
[80] Refugees and IDPs (n 70 above)
[81] n 80 above

and HIV and AIDS. According to UNICEF, UNAIDS, a hygienic environment, adequate sanitation and clean water are the key factors in preventing opportunistic infections associated with HIV and AIDS, and in the quality of life of people living with the disease. PLWHA are more susceptible to water and sanitation-related diseases than healthy individuals, and they become sicker from these infections than people with healthy immune system.

A study was carried during May to June 2012 to assess water, sanitation and associated factors among PLHIV and IDPs in home based care services in Goma and Mugunga I, II and III. An open-ended questionnaire was used to select subjects. Data was collected from 60 PLHIV from 2 CBOs: Deborah Group at the hospital Heal Africa and YME/Grands-Lacs group in Mugunga. Unfortunatly, IDP's camps were unavailable that time because of armed conflicts between the Congolese army and the Movement of 23 March (the M23). The use of the interviews was first of all, to have the real situation and information on the ground, but also to consider the needs, difficulties and capabilities of PLHIV in terms of access to water and sanitation. Four important questions were asked to them as follow:

- What kind of problems do you face as PLHIV or/and IDPs living with HIV?
- Do you have problems related to water and, hygiene and sanitation?
- Are you facing discrimination related to water, hygiene and sanitation?
- How do you overcome these problems?

3.1.2 People infected by HIV

People infected by HIV in general, are often marginalised by society and face extraordinary difficulties in accessing safe water and sanitation, while both is vital to their health.[82] People of the Eastern part of the DRC face the same difficulties.[83] For them, staying healthy is particularly important to avoid water and sanitation related diseases which are most common opportunistic infections.[84] However, as said in section 1 of the second chapter, war and armed conflicts has affected the sanitation situation of people in the Eastern part, including people infected by HIV. Therefore, there is almost not available data, showing how people infected by HIV in the Eastern part lack adequate sanitation. However, in order to connect the theory

[82] HIV/AIDS and WASH, available on www.wsscc.org/topics/hot-topics/hiv/aids-and-wash (accessed 27 April 2013)
[83] What kind of problems do you face as PLHIV? PLHIV Interviewed on 04 March 2013 and 01 June 2013 at Heal Africa Hospital in Goma town; and 15 May 2013, 29 May 2013, 12 June 2013 in Mugunga.
[84] n 81 above

to the practice, the interviewees observations and respondents statements have highlighted the situation.

Access to sanitation facilities was not really encouraging even in terms of basic latrines. Among all surveyed households, most of the respondents said that they did not have access to latrines facilities.[85] Even those who had access to latrines facilities, the respondents statements showed that the quality of these latrines were poor.[86] In case of people infected by HIV, unclean latrine facilities are more of a problem due to the need to reduce the risk of opportunistic infections, many of which can be spread when latrines are of a poor standard.[87] Moreover, most of the latrines used by people infected by HIV are in the poorest quality; with neither roof, nor durable shelter or good slab.[88] One more issue relating to latrines that came up in focus group discussions was the question of sharing latrines. The majority of people infected by HIV reported that they share with 10 or more people such as neighbours and friends. Though most of them did not have a problem with this situation, they were aware that other latrine users were concerned about sharing their latrine with someone known to be HIV positive.[89]

Most of people of the eastern part are not aware of their HIV status until they got water and hygiene (washing hands) related diseases.[90] When asked in qualitative discussions what the increased use of water was for, the majority responded that their increased need of water was for washing rather than drinking or bathing by people infected by HIV themselves. Before they knew their HIV status, they were using any source of water and as result they were suffering from diarrhoea over and over again as well as having rashes.[91] Going for voluntary testing, they realised that they were HIV positive. They therefore get advice from counsellors on how to take care of themselves, including the use of clean water and on proper hygiene.[92] This helped them their hygiene behaviour. They acknowledged an increase in washing hands after visiting toilets and bathing twice a day when it is possible, because access to clean water

[85] Do you have problems related to water, hygiene and sanitation? PLHIV Interviewed on 04 March 2013 and 01 June 2013 at Heal Africa Hospital in Goma town; and 15 May 2013, 29 May 2013, 12 June 2013 in Mugunga.
[86] n 85 above
[87] n 85 above
[88] n 85 above
[89] Do you have problems related to water, hygiene and sanitation? (n 85 above)
[90] PLHIV Interviewed: what king of problems do you face as PLHIV (n 83 above)
[91] n 90 above
[92] How do you overcome these problems? PLHIV Interviewed on 04 March 2012 and 01 June 2012 at Heal Africa Hospital in Goma town; and 15 May 2012, 29 May 2013, 12 June 2013 in Mugunga.

remains a serious problem, especially for them, since they cannot afford it either by paying or by travelling a distance to get it.[93]

People infected by HIV face discrimination related hygiene and sanitation especially when it comes to the use of latrines.[94] People in general have a limited knowledge on HIV transmission and highly believe that HIV can be transmitted through sharing latrines. To protect themselves, they decide not to share latrine with sick people.[95] Sick people have realised that, so they decided not to reveal their status because of the fear of discrimination.[96] People infected by HIV face also discrimination at tap stands or from private water vendors who refused to serve them. They fear transmission of infection or losing business as other customers choose to go elsewhere.[97] Discrimination was also experienced within the home, as family members, afraid of contracting the virus themselves, refuse contact with and are not prepared to bathe or wash them regularly.[98]

3.1.3 People affected by HIV

The majority of HIV and AIDS patients are being cared for within their families, local communities, often by trained volunteers that it is called "home-based care". And most of the time the caregivers in household are girls, women and children, mainly because of the gender constructs and socially defined roles in traditional Congolese culture. Because of the importance of staying healthy, hygiene education, use of clean water and access adequate sanitation must be part of the common life of carers. In the eastern of the DRC, caring for sick relatives is a huge burden on family members and some may simply refuse to help if the effort is too great.[99] And yes, the effort is great because of poverty (family members cannot afford to pay sufficient water for the whole family and more for sick people) and distance (getting water might be easy but when it comes to clean water, family members have to travel a long distance early in the morning or late in the evening to get it).[100] Most of the respondents' statements showed that where water is needed to care for the sick, it means there

[93] n 90 above
[94] Are you facing discrimination related to water, hygiene and sanitation? PLHIV Interviewed on 04 March 2013 and 01 June 2013 at Heal Africa Hospital in Goma town; and 15 May 2013, 29 May 2013, 12 June 2013 in Mugunga.
[95] How do you overcome these problems? PLHIV Interviewed (n 92 above)
[96] n 95 above
[97] n 95 above
[98] How do you overcome these problems? PLHIV Interviewed (n 92 above)
[99] What kind of problems do you face as PLHIV? PLHIV Interviewed (n 83 above)
[100] n 98 above

is often less available for use by other family members.[101] Yet their needs also increase. Those who care for their relatives need to have water available for frequent handwashing as they are afraid of spreading infections through their contact with the sick person. The vulnerability of people infected by HIV means that they are much more likely to contract common communicable diseases. Therefore, it is a serious risk to their lives, but it also increases their family members' chances of infections by bringing such diseases into the household.[102]

Furthermore household surveyed showed how people affected by HIV or AIDS are discriminated in the area of hygiene and sanitation in relation to latrines.[103] Members of the community widely believe that by staying daily with their relatives infected, carers might be also infected.[104] Therefore, members of the community decide not to share latrine with sick people but also with their carers. Sometimes carers decided not to reveal their situation because of the fear of discrimination. There were also a number of reports of discrimination at tap stands or from private water vendors who refused to serve sick people's family members either for fear of transmitting infection or for fear of losing business as other customers decide to go elsewhere.[105]

3.2. EFFECT OF SANITATION ON THE LIKELIHOOD OF HIV INFECTION AMONG IDPs

Data that reflects the effect of sanitation on the likelihood of HIV infection among IDPs is almost unavailable, due to the fact that, in a context of conflict, it is not easy to have real statistics about PLHIV, especially IDPs living with HIV. Moreover, trying to reach the camps and get information on the ground with IDPs themselves or CBOs was difficult. The target camps (Mugunga I, II and III) were under control of the M23 and therefore unsafe. However, some reports have been made by a number of UN agencies, international organisations and NGOs; reports that reflect the reality on the ground and on which we can assume that IDPs living with HIV face some problems to access water and sanitation.

[101] Do you have problems related to water, hygiene and sanitation? PLHIV Interviewed (n 85 above)
[102] n 99 above
[103] Are you facing discrimination related to water, hygiene and sanitation? PLHIV interviewed (n 94 above)
[104] n 101 above
[105] Do you have problems related to water, hygiene and sanitation? PLHIV Interviewed (n 85 above)

3.2.1 Sanitation situation in the IDP camps

The cholera epidemic continues to spread in the province of North Kivu in the wake of massive displacement of populations affected by the fighting between the armed movement of 23 March and the FARDC (Congolese army). Cholera remains a major public health problem, particularly in terms of access to safe drinking water and proper sanitation. During the 31th epidemiological week, 259 cases have been reported throughout North Kivu, against 88 cases with one death during week 30.[106]

Since the outbreak of fighting in North Kivu in April 2012, WHO is working closely with other partners to strengthen epidemiological surveillance and provide urgently needed assistance (emergency health kits basics) in for vulnerable people forced to leave their home because of widespread insecurity environments. Communities are constantly aware of the need to protect themselves from cholera within the rules of food safety and personal and community hygiene. However, it should be noted that in the absence of major investments in water supply and sanitation, the chance to control the cholera epidemic in a sustainable manner are required.[107]

3.2.2 HIV situation in the IDP camps

'As we speak, they are the number of 4001 households or 13,515 individuals, IDPs who live here come mainly from Masisi, Rutshuru and Ufamandu.[108] They fled in their armed Milieus since last April', said Blandine Kagoma, responsible for the protection of the NGO Première Urgence-Aide Médicale Internationale (PU-AMI) project supported by the Office for Refugees (UNHCR). 'Life is difficult for displaced persons in the camp, because they have two months unattended food rations', she said, adding that the first challenge of the camps is the HIV / AIDS since the number of cases HIV / AIDS remains unknown.[109] The IDP camp Munguga III has an office of the Congolese National Police (PNC) with a small cell for offenders, a health post with a pharmaceutical depot. According to police, there are about two rapes every month in the camp, some of minors. "Sexually transmitted infections, respiratory

[106] Rapport de la situation du Nord-Kivu: préparation et réponses aux urgences, avalaible on www.afro.who.int (accessed 7 August 2013)
[107] Do you have problems related to water, hygiene and sanitation? PLHIV Interviewed (n 85 above)
[108] RDC/Kivu: la vie des déplacés dans le camp de Mugunga III demeure difficile-xinhua via Afriscoop available on www.radiookapi.net (accessed 8 August 2013)
[109]Rapport de la situation du Nord-Kivu: préparation et réponses aux urgences (n 106 above)

infections and malaria are common in this camp," he informed Bertin Barungu, nurse jobholder health Mugunga III.[110]

Moreover, when it comes to water and sanitation, people have to work a distance to attend tabs of water and access toilets. The risk for women and girls to be raped is high. And yes, women and girls has reported that they were raped while going to get water or going to the toilets early in the morning or late in the evening.[111] Sick people cannot afford to travel a distance to get water or access sanitation. What they do is that defecate around their homes, they use unclean water. The chances of being infected become higher among IDPs living in the same area, especially those who might be HIV positive.

All these reports have shown that the priority in IDP camps is not to test for HIV. The priority is to survive, which means to have a shelter, food, water. Sometimes, even the quality of food, water and sanitation does not really matter: What they see is what they get. Therefore, most of IDPs are not aware of their status; some of them might be HIV. Even among those who die with diseases related to water and sanitation (such as diarrhoea and cholera), there might be those who live with HIV.

[110] n 109 above
[111] American Bar Association, 2012 report available on www.americanbar.org (accessed 6 June 2013)

CHAPTER 4: HUMAN RIGHTS OBLIGATIONS IN RESPECT OF THE RIGHT TO SANITATION OF PEOPLE IN THE EASTERN DRC, ESPECIALLY IDPs

> Everyone has the right to an adequate standard for living for themselves and their families, including adequate food, clothing, housing, water and sanitation.[112]

> 'Clean water and sanitation are not only about hygiene and disease; they are about dignity too… Everyone, and that means ALL the people in the world has the right to a healthy life and a life with dignity. In other words: everyone has the right to sanitation.'[113]

The scale of the sanitation crisis is real and profound. The UN estimates that 2.5 billion people, including people of the east of the DRC, which is 40 per cent of the world's population, lack access to adequate sanitation. The recognition of this crisis pushed the UN to declare 2008 the International Year of Sanitation, to provide the necessary impulse to get the sanitation MDG back on track. This has inspired numerous debates and conferences, attended by ministers responsible for sanitation, which has greatly improved the recognition that sanitation is an issue that underpins all development efforts.[114] While virtually all governments have recognised in at least one political declaration that sanitation is a component of the right to an adequate standard of living, the majority (including the DRC) have yet to reflect this in their national policies and legislation relating to sanitation.

General Comment 15 on the Right to Water by the UN Committee on Economic, Social and Cultural Rights focuses on defining the roles and responsibilities of State parties with respect to water, taking into account the need for access to sanitation. Expert reports have treated sanitation as a right alongside water, in particular the Guidelines on the realization of the

[112] The Habitat Agenda, adopted by consensus of 171 States at the second United Nations Conference on Human Settlement (Habitat II),1996
[113] Prince Willem Alexander of the Netherlands, Chair of the UN Secretary General Advisory Board on Water and Sanitation (UNSGAB)
[114] Ministerial statements resulting from the South Asian Conferences on Sanitation, African Conferences on Sanitation and Hygiene, Latin American Conferences on Sanitation and East Asian Conferences on Sanitation, all available on http://www.personal.leeds.ac.uk/%7Ecen6ddm/SanitationDeclarations.html (accessed 5 November 2013)

right to drinking water and sanitation (adopted in 2006 by the Sub-Commission on the Promotion and Protection of Human Rights)[115] and the 2007 Report of the UN High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to drinking water and sanitation.[116]

> 'Addressing sanitation as a human right is to ensure that the political and legislative frameworks are in place to ensure access to sanitation for all. Recognising sanitation as a human right will therefore demonstrate that sanitation is a legal entitlement, not charity. Civil society can use the right to raise the political profile of access to sanitation services; provide a basis for holding to account those responsible for ensuring that sanitation is accessible to all; require information sharing and genuine participation in decision-making around the provision of services; ensure a focus on vulnerable and marginalised groups, who have been historically discriminated against or neglected, such as PLHIV; provide a basis for defining minimum requirements for sanitation; provide a framework and guidelines for the development of and reforms to public policies and plans, to prioritise resources, and to monitor performance'[117]

4.1 DRC's HUMAN RIGHTS OBLIGATIONS

4.1.1. Introduction

The DRC is a monist country. It means that the DRC has domesticated international law and given it supremacy over the national law. In 2010 the government voted in the United Nations in favour of a resolution making water and sanitation a human right.[118] The DRC has also ratified several international treaties, under which the human right to safe drinking water and sanitation is guaranteed.[119] Recognition of the right to water and sanitation ensures that access to minimum essential supplies of safe water and basic sanitation is a legal entitlement. This right therefore provides a basis for individuals to hold governments to account. The

[115] United Nations Sub-Commission on the Promotion and Protection of Human Rights, Res. 2006/10,Promotion of the realization of the right to drinking water and sanitation (2006) UN Doc available at www.ohchr.org (accessed 5 November 2012)
[116] OHCHR Report (2007), UN Doc. A/HRC/6/3, para. 66 available at http://www2.ohchr.org/english/issues/water/index.htm
[117] Sanitation: A human right imperative available on www.unhabitat.org (accessed 5 November 2012)
[118] The right to safe drinking water and sanitation in DRC available on http://www.un.org/News/Press/docs/2010/ga10967.doc.htm (accessed 21 January 2013)
[119] The International Covenant on Economic, Social and Cultural Right (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

DRC's governments must respect principles such as non-discrimination, access to information and participation, transparency and accountability.

Furthermore, the DRC sees the increasing number of IDPs as a major problem and challenge. The DRC has advocated for and provided assistance and protection to IDPs for a number of years and in the majority of international programmes, IDPs are the primary target group.[120] To reflect this, the DRC in 2004 chose to revise the mandate for its international work taking into account, among other things, an expanded interpretation of DRC's target groups. The mandate now reads: 'Protection and promotion of durable solutions to refugee and displacement problems on the basis of humanitarian principles and human rights, including to provide refugees, internally displaced and other affected groups in situations of war and conflict with assistance according to their rights…'.[121] This is to present DRC's position on IDP protection thereby putting IDPs, as a group with particular protection needs and also to further raise the awareness about DRC's specific competencies in IDP protection.[122]

4.1.2 Right to sanitation of people in the eastern part of the DRC

While the Water Supply and Sanitation sector has several ministries and organizations with overlapping jurisdictions and responsibilities, the National Water and Sanitation Committee (CNAEA) has primary responsibility for coordination of water management activities at a high level. It is under the supervision of the Minister of the Plan (MINPLAN) and draws its members from six ministries with responsibility in the water sector.[123] The Ministry of the Environment, Nature Conservation and Forestry (MECNE) has overall responsibility for water resource management. The National Sanitation Programme Agency (PNA), under MECNE, only functions in Kinshasa, while other areas are served by private providers.[124] PNA is responsible for handling domestic and industrial waste, and it operates without a cost recovery mechanism, thereby jeopardizing the sustainability of existing systems. The National Company for Water Supply in Urban Areas (REGIDESO) is the public water utility responsible for supplying drinking water to 94 urban centers, including major cities, administrative centres and towns. Drinking water in rural areas falls under the National Rural

[120] DRC Position Paper on IDP Protection adopted by the council in may 2007
[121] n 121 above
[122] n 121 above
[123] Democratic Republic of Congo: Water and Sanitation profile available on www.usaid.gov (accessed 3 April 2013)
[124] n 123 above

Water Service (SNHR) which is responsible for making an inventory of water resources in rural areas, constructing drinking water structures, and training the population in servicing and maintenance.[125]

Under the Constitution, the DRC reaffirmed its commitment to human rights and fundamental freedoms as proclaimed by the international legal instruments in which it has accessed. Also, it has integrated these rights and freedoms in the Constitution. The DRC has taken the responsibility to respect, to protect and to fulfil the rights of its citizens by considering sacred human life,[126] by guaranteeing equality of all Congolese before the law,[127] and by fighting against all form of discrimination, especially against women.[128] However, when it comes to the right to sanitation, the Constitution does not consecrate specifically sanitation as a right. Article 47[129] provides that the right to health and food security is guaranteed. The right to access potable water is provided by article 48.[130] The law determines modalities to exercise those rights.[131] Even though the DRC does not stipulate sanitation as a specific right, it recognises it as a right included in the right to health through its ministries.[132]

The DRC has ratified numerous international conventions under which the right to sanitation is recognised not only as a right but as a *human right* and guaranteed to all human beings including those of the eastern part of the DRC. According to the WHO, human rights are protected by internationally guaranteed standards that ensure the fundamental freedoms and dignity of individuals and communities.[133] They include civil, cultural, economic, political and social rights. More, they principally concern the relationship between the individual and the State; with governmental obligations to *respect* (State parties refrain from interfering directly or indirectly with the enjoyment of the right to sanitation), *protect* (State parties prevent third parties such as corporations from interfering in any way with the enjoyment of the right to water), and *fulfil* (State parties adopt the necessary measures to achieve the full

[125]Democratic Republic of Congo: Water and Sanitation profile(n 123 above)
[126] Article 16 of the Constitution
[127] Article 12 of the Constitution
[128] Article 14 of the Constitution
[129] The constitution of DRC
[130] n 129 above
[131] n 129 above
[132] Comite National de l'Eau et Assainissement; Ministère du Plan; Ministère de l'Environnement, Conservation de la Nature et Ecologie; Programme National d'Assainissement; REGIDESO
[133] Sanitation and Hygiene Promotion, Programming Guidance available on www.who.int (accessed 3 April 2013)

realisation of the right to sanitation. These are the three basic principles that lead the DRC as a State party to all international conventions that he has ratified, especially those in relationship with the right to sanitation.

The ICESCR is inspired by the principles proclaimed by the Charter of the United Nations that recognises the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. These rights derive from the inherent dignity of the human person that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.[134] The ICESCR, therefore, has provided that everyone should enjoy the highest attainable standard of physical and mental health.[135] Of course physical and mental health seems to be broad, but the underlying determinant of the right to health provides specifically the right to sanitation and their normative content can broadly be described under the categories of availability, quality, accessibility, affordability, and acceptability.

Availability means that the DRC must ensure that a sufficient number of sanitation facilities is available. *Quality* means that the DRC must make sure that sanitation facilities are hygienically and technically safe to use; likewise to ensure hygiene, access to water for cleansing and hand washing is essential. *Acceptability* means that the DRC must ensure that sanitation services are accessible to everyone in the household or its vicinity on a continuous basis. Physical security must not be threatened by accessing facilities. *Affordability* means that the DRC ensures that realising access to sanitation and water must not compromise the ability to pay for other essential needs guaranteed by other human rights such as food, housing and health care. *Acceptability* means that the DRC must make sure that sanitation facilities are culturally acceptable. This will often require separate male and female facilities. Also, facilities have to be constructed in a way that ensures privacy and dignity.

Breaking down the rights in this manner helps to ensure that access is factually guaranteed. However, the existence of facilities is not sufficient, for instance, when PLHIV cannot access

[134] The preamble of the ICESCR
[135] Article 12(1) provides:' The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.'

them. Physical access alone is not sufficient when people of Eastern DRC and specially PLHIV cannot afford expensive water and sanitation services because of sickness, poverty and insecurity in some areas. The existence of toilets is not sufficient when women do not use them because they are not sex-separated or do not guarantee their privacy or either increases the risk of being raped. Therefore, all those requirements must work together to be efficient and consistent.

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), adopted in 1979 by the General Assembly and ratified by the DRC (as of 9 February 2010), includes sanitation and water supply as components of the right to an adequate standard of living, in its article 14(2)(h)[136] dealing specifically with rural women. The Convention on the Rights of the Child, adopted in 1989 by the General Assembly and also ratified by DRC (as of 9 February 2010), refers to clean drinking water and "environmental sanitation" in the context of guaranteeing the right of the child to the enjoyment of the highest attainable standard of health (Art. 24).

PLHIV have a particularly hard time exercising their right to sanitation as a result of discrimination or stigma. It means that to fully protect the right to sanitation, it is essential to pay attention to the specific situation of PLHIV. The DRC must adopt positive measure to ensure that PLHIV are not discriminated against in purpose or in effect. For instance, the DRC must tailor its water and sanitation policies to PLHIV who are most in need of assistance rather than merely targeting majority groups. It is even important to say that the DRC, through its Law No. 08/011 of 14 July 2008 on the protection of rights of people living with HIV / AIDS and those affected, has made a considerable achievement in that it aligns with the overall strategy effective prevention based on the promotion, protection and respect of the rights of the human being. This Act learns not only the State to make available and free treatment and HIV, but it strengthens its responsibility at the same time in the fight against the spread of the pandemic in a more coherent policy for effective care of concerned. It particularly addresses the urgent need to see people living with HIV as well as

[136] Article 14(2)(h) provides that States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right o enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

assigned to flourish in a favourable environment and be protected against stigma and discrimination that are conductive of expansion the epidemic.

Moreover, PLHIV, recognised as vulnerable and marginalized groups, General Comment 15 on the right to water specifies the core obligations of States that are of immediate effect and says that States must ensure access to water and sanitation on a non-discriminatory basis and special protection for vulnerable and marginalized groups. The Covenant proscribes any discrimination on the grounds of health status, including HIV/AIDS,[137] which might have the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to water and sanitation.

According to UNAIDS, among the relevant human rights in the context of HIV / AIDS, are in particular the right to non-discrimination, equal protection and equality before the law, the right to life, the right to the highest state of physical and mental health as a human being is capable of achieving.[138] There, addressing HIV / AIDS in terms of human rights, we must take into account the obligations of States (especially the DRC) in the protection of human rights. HIV / AIDS shows the indivisibility of human rights because, in fact, an effective fight against infection and opportunistic diseases in a context of armed conflicts and war in Eastern DRC requires either exercised the economic, social and cultural rights and civil and political rights. This struggle, which is based on human rights, rooted in the concepts of human dignity and equality that is found in all cultures and traditions.

4.1.3 Right to sanitation of IDPs

It is important to mention that IPDs are part of the human beings, and especially part of the people of the eastern part of the DRC. It means that all human rights obligations of the DRC explained above are also applied to IDPs. However, they remain particular people that have been particularly affected by war and armed conflicts in the eastern of the DRC. Therefore, a particular attention towards them must be taken in account in terms of human rights obligations in general, and those in respect of sanitation in particular.

[137] Article 2 (2) provides: 'The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'
[138] Le VIH/SIDA et les droits de l'homme: Directives internationales available on www.unaids.org (accessed 20 June 2013)

IDPs in the Eastern part of the DRC are facing particular challenges to access safe drinking water and sanitation, which have had life-threatening consequences. They are also particularly vulnerable to discrimination, racism and xenophobia, which can further interfere with ability to secure safe drinking water and sanitation. When woman and children have to fetch water at some distance from the camps, they are at risk of sexual violence and rape. Some of them are asked to provide sexual favours in exchange for safe drinking water or sanitation facilities. Even when sanitation facilities are available in camps, these often do not take in account the specific needs of woman, children, old persons or persons with disabilities and more specifically, IDPs living with HIV.

Nevertheless, according to the Guiding Principles on Internal Displacement of 1998, all IDPs have the right to an adequate standard of living; and that, regardless of the circumstances, and without discrimination, competent authorities shall provide IPDs with and ensure safe access to potable water[139] and sanitation.[140] Therefore the principle of availability,[141] quality,[142] affordability (economic access),[143] physical access[144] and especially access to information[145] must be fulfilled by the DRC in a manner that effectively protect IDPs; the principle of non-discrimination[146] and equality must be taken in account to allow IDPs to live their human dignity and humanity.

The core obligations of the DRC with respect of the adequate water include ensuring secure access to the minimum essential amount of safe water that will be sufficient for personal and domestic uses to prevent opportunistic through provision of water and sanitation facilities at a reasonable distance from the household.[147] The DRC have an immediate obligation to

[139] Principle 18(2)(a)
[140] Principle 18(2)(d)
[141] UNCESCR, General Comment 15, para. 12(a) provides that a sufficient and continuous supply of water must be available for each person's personnal and domestic uses, including drinking,personal sanitation, washing clothes, food preparation, and personal household hygiene. Suffiency of water should be calculated taking into account particular requirements arising from health, climate, and work conditions.
[142]UNCESCR, General Comment 15, para. 12(b) provides that water must be both safe and acceptable with respect to color, odor, and taste.
[143] UNCESCR, General Comment 15, para. 12(c)(ii) provides that adequate water facilitie and services must be affordable for all and should not impose direct or indirect costs that compromise the realisation of other rights.
[144] UNCESCR, General Comment 15, para. 12(c)(i) provides that adequate water facilities and services must be within safe physical reach and in the immediate vicinity of each household, educational institution, and workplace.
[145] UNCESCR, General Comment 15, para. 12(c)(iv) provides that IDPs have the right to seek, and impart information on water-related issues.
[146] UNCESCR, General Comment 15, para. 12(c)(iii) provides that adequate water facilities and services must be accessible for all, including the most vulnerable individuals or marginalised sections of the population, without discrimination in fact or in law.
[147] UNCESCR, General Comment 15, para. 37 (a) and (c)

adequate water and sanitation without discrimination of any kind, including on the ground of displacement or residence in informal settlements.[148] Moreover, in situations of displacement, the DRC must make special efforts to provide adequate water and sanitation facilities to IDPs, whether they are located in camps or dispersed in urban and rural areas.[149] The DRC may fulfil that obligation either through direct provision of such facilities and services or through non-state actors, as long as the latter are effectively regulated and provide adequate, safe, and affordable services.[150] The DRC must also fulfil its obligation by seeking, permitting and facilitating international humanitarian support to ensure the availability and accessibility of potable water and sanitary services.[151] Humanitarian water and sanitation provision should be given in priority to those most vulnerable that may endure deprivation of those services, including IDPs in general, and especially IDPs living with HIV that are suffering of double vulnerability.[152]

Finally, according to the General Comment 15, the Committee noted that during armed conflicts, emergencies and natural disasters, the obligations of States (including the DRC) encompass the right to water and the provisions of international humanitarian law relating to water.[153] This includes protecting objects indispensable for the survival of the civilian population, including drinking-water installations and supplies, and ensuring that civilians, internees, prisoners and returnees have access to adequate water.[154] States are not allowed to suspend their obligations in a public emergency. Moreover, in emergencies (Conflicts or post-conflict situations), a basic provision of 7.5 to 15 liters minimum per person per day has been suggested.[155]

[148] Article 2 (2) of the ICESCR; UNCESCR, General Comment 15, para.13-16 and 37 (b)
[149] UNCESCR, General Comment 15, para. 16 (f)
[150] UNCESCR, General Comment 15, para. 24,26 and 27
[151] Article 11 (2) of the ICESCR; UNCESCR, General Comment 12, para. 17 and 38
[152] UNCESCR, General Comment 15, para. 16
[153] The Right to Water available on www.ohchr.org (accessed 12 June 2013)
[154] n 153 above
[155] n 153 above

4.2 NON- STATE ACTORS' HUMAN RIGHTS OBLIGATIONS

The debate around non- state actors (NSAs) in terms of human rights obligations is still far to be achieved and the response to address these actors has been far from uniform.[156] This is due to the fact there is so many approaches to international law but the common approaches rely on the importance of states as the main actor in the international system and the only bearer of human rights obligations under international law.[157] However, it can happen that government is increasingly irrelevant and powerless and that attention should focus on other actors but, according to an author, even though NSAs exist, and in some cases, they have entered into international agreements, these actors do not enter the process of creating general international law in an unmediated fashion.[158] It means that the interactions of NSAs with other and with state do not produce customary international law. Only state interactions can produce custom.

NSAs can be humanitarian agencies, international organisations, transnational corporations and armed opposition groups. However, this mini-dissertation focuses on humanitarian agencies and international organisations that have a direct impact with water and sanitation and on armed opposition groups in the Eastern part of the DRC.

4.2.1 Armed opposition groups' obligations

Most of armed conflicts that take place within the DRC are fighting the state force, the government. In these conflicts, several violations of humanitarian norms have been committed by both state and non-state parties. Therefore, efforts to protect civilian populations and especially IDPs should address both the behaviour of the DRC and these armed groups as NSAs.

It is important to mention that there is no universally accepted definition of NSAs.[159] However, for the purpose of this paragraph, armed groups as NSAs are defined as any organised group with basic structure of command operating outside state control that use

[156] A Clapham *Human Rights Obligations of Non-State Actors* (2006) 25
[157] n 156 above
[158] n 156 above
[159] DCAF and Geneva Call 'Armed Non-State Actors: Current trends and future challenges' available on www.dcaf.ch (accessed 4 Jun 2013)

force to achieve its political objectives.[160] Some may have clearly defined political objectives, or may control territory and have established administrative structures parallel to or instead of those of the state, or may operate in rural areas conducting guerrilla type warfare.[161]

This paragraph will focus on the one and recent armed group that operates in the eastern part of the DRC, and especially in North-Kivu, which is called M23.

The M23 is a new rebellion directed against the Congolese's government, which broke out in April 2012 in the Eastern part of the DRC. This rebels group is composed of about six hundred combatants, in which, previously, most of them were part of a rebel group called CNDP (*Congres National Pour la Defense du Peuple*).[162] The CNDP, after several years of insurrection in North and South Kivu, has been integrated in the Congolese army (FARDC) through a peace agreement on 23th March 2009. The high officer of the M23 is General Bosco Ntaganda, a war chief accused by the international criminal court for the recruitment of children soldiers and crimes against humanity.[163] He occupied a major post in the national army for more than three years after the signature of the peace agreement of 2009, exerting a factual control on the whole military operations of the North and South- Kivu. However, the exact function that Ntaganda played in the M23 rebellion is still ignored.[164]

Since April last year, fighting between the Congolese army and the rebels of M23 has caused the displacement of more than 220.000 civilians for the North Kivu only. All the attention turned on the FARDC at the time of the rebellion, insecurity appeared elsewhere in some areas of both kivus.[165] The same rebels group is still fighting with the FARDC, and the fights are still caused displacement, death of so many civilians (especially women and children), and sexual violence. Some international organisations and NGOs have received a high demand of access to medical care, food, shelter, water and sanitation. Unfortunately, the fights do not allow them to attend some areas. Some of them have closed their programmes in some villages because of undated fights.

[160]DCAF and Geneva Call 'Armed Non-State Actors: Current trends and future challenges'(n 159 above)
[161] n 160 above
[162] FAQ: situation actuelle dans l'est de la République Démocratique du Congo, Aout 2012, available on www.irinnews.org/report/95715/DRC-Understanding-armed-group-M23, and www.pole-institute.org/site%20web/echos/echos173.htm (accessed 8 July 2013)
[163] n 162 above
[164]n 162 above
[165] n 162 above

The Eastern part of DRC and especially is still in conflict, and the right to water and sanitation is still in a dismal state. Armed conflict is considered like one of the primary obstacles to the realisation of the right to water and sanitation in the Eastern of the DRC. The lack of this vital element has had critical impact on civilians, has forced displacement of people and has eventually affected freshwater, sanitation and cause severe harm to civilians and to the environment. Therefore, it is important to have a look to the human rights obligations of the M23 as NSA with respect to the right to water and sanitation.

Considered as a conflict area, international humanitarian law (IHL) is particularly applicable in the eastern part of the DRC, especially in the both Kivu's. The IHL is the body of the law specifically applicable in situations of armed conflict and governs the conduct of parties to such conflicts. This paragraph will identify those provisions of humanitarian law that apply to the protection of water and sanitation in time of war and armed conflict, and those that allow for the respect of the human right to water and sanitation of persons affected by armed conflicts.

The Geneva Conventions and their Protocols set out general and particular rules to protect water and facilities that supply water to human populations, as well as sanitation.[166] However, it is important to notice that IHL does not contain any specific rules regarding the right to water or sanitation, and more, that IHL's purpose is not to protect water or water facilities but rather the human population that is dependent upon them for the survival. Therefore, IHL should be seen as a complement to human rights law dedicated to the right to water and sanitation.[167]

Article 54 of the Protocol I specifically states that it is prohibited to attack, destroy, remove or render useless drinking water installations and supplies, and irrigation works in international armed conflicts. The same rule also applies to non-international armed conflicts pursuant to Article 14 of the Protocol II.[168] Starvation of civilians as a method of warfare (in

[166]'The Human Right to water and Sanitation in Emergency Situations, the legal framework and a guide to advocacy' available on www.humanitarianreform.org?WASH (accessed 26 June 2013)
[167] n 166 above
[168] It says: Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove and render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

a way to weaken a population) is expressly prohibited in both international and non-international armed conflict and may be considered a war crime.[169] The Rome Statute of the International Criminal Court (ICC) actually defines three types of war crimes that may relate to water and sanitation: the use of starvation as a method of warfare, the attack of civilian objects and the deterioration of the environment.[170]

As part of the natural environment, water resources are essential. Therefore, the environment must be protected during armed conflict. Article 35 of the Additional Protocol I states that 'it is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment'. Article 55 of the same Protocol focuses on the survival of civilian populations and states that '1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population', and '2. Attacks against the natural environment by way of reprisals are prohibited'.

It is crucial to mention that although neither of these provisions directly mentions water and sanitation, it can be assumed that water and sanitation are afforded protection under these rules, as well as those established to protect the environment.[171] Moreover, to date, parties in conflicts and especially the M23 have not consistently adhered to these provisions.[172]

4.2.2 Human rights obligations of UN agencies, international organisations and NGOs

The Humanitarian Charter defines the ethical and legal framework to the Protection Principles of Core standards and minimum standards.[173] In terms of legal rights and obligations, it summarises the core legal principles that have most bearing on the welfare of

[169] Additional Protocol I, article 54(1): Starvation of civilians as a method of warfare is prohibited. And Additional Protocol II, Article 14: Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove and render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.
[170] Article 8(b) (xxv)
[171] 'The Human Right to water and Sanitation in Emergency Situations, the legal framework and a guide to advocacy' available on www.humanitarianreform.org?WASH (accessed 26 June 2013)
[172] n 139 above
[173] The Humanitarian Charter, available on www.ocha.org (accessed 5 August 2013)

those affected by disaster or conflict. It attempts to capture a consensus among humanitarian agencies as to the principles which should govern the response to disaster or conflict, including the roles and responsibilities of the various actors involved. It is partly the expression of rights and legal obligations.[174]

Humanitarian agencies share the same conviction that is to ensure that all people affected by the disaster or conflict have a right to receive protection and assistance to ensure the basic conditions for life and dignity.[175] They believe that the principles described in the Humanitarian Charter are universal, applying to all those affected by disaster or conflict wherever they may be, and to all those who seek to assist them or provide for their security. These principles are reflected in international law, but derive their force ultimately from the fundamental moral principle of humanity: that all human beings are born free and equal in dignity and rights. Based on this principle, humanitarian agencies affirm the primacy of the humanitarian imperative: that action should be taken to prevent or alleviate human suffering arising out of disaster or conflict, and nothing should override this principle.[176]

UN agencies and international organisations concerned with water and sanitation have obligations and responsibilities.[177] It means that they have a role to play. According to the Humanitarian Charter : 'We recognise the primary role and responsibility of the affected State to provide timely assistance to those affected, to ensure people's protection and security and to provide support for their recovery. We believe that a combination of official and voluntary action is crucial to effective prevention and response, and in this regard National Societies of the Red Cross and Red Crescent Movement and other civil society actors have an essential role to play in supporting public authorities. Where national capacity is insufficient, we affirm the role of the wider international community, including governmental donors and regional organisations, in assisting states to fulfil their responsibilities. We recognise and support the special roles played by the mandated agencies of the United Nations and the International Committee of the Red Cross.'

[174] The Humanitarian Charter (n 173 above)
[175] n 174 above
[176] n 174 above
[177] 'The Human Right to water and Sanitation in Emergency Situations, the legal framework and a guide to advocacy' available on www.humanitarianreform.org?WASH (accessed 26 June 2013)

In short, humanitarian agencies summarise all those duties, responsibilities and role in three core rights as follows: the right to life with dignity, the right to receive humanitarian assistance and the right to protection and security.[178]

When it comes to water and sanitation, General Comment 15 urges them to cooperate and make their competence and expertise available to Member States to assist them to put the right to water and sanitation into practice.[179] Those obligations are summarised in three main obligations as follows: cooperate effectively with States parties (especially the DRC) in all matters related to the implementation of the right to water; incorporate human rights law and principles into both policy and action; give priority to the most vulnerable (such as IDPs) and marginalised population groups (such as PLHIV) in the provision of aid and the distribution and management of water and water facilities.[180] General Comment 15 actually expects that States parties (and the DRC in particular), NGOs and international organisations, including the Red Cross Movement, to apply the right to water and sanitation as well.[181] However, when it comes to emergency situations, paragraph 60 of the General Comment 15 reaffirms the central role that humanitarian aid agencies, the Red Cross and Red Crescent Movement and international organisations are playing, but obligations of these actors are not precisely described.[182]

[178] The Humanitarian Charter (n 173 above)
[179] 'The Human Right to water and Sanitation in Emergency Situations, the legal framework and a guide to advocacy' available on www.humanitarianreform.org?WASH (accessed 26 June 2013)
[180] n 179 above
[181] n 179 above
[182] Paragraph 60 states that: 'United Nations agencies and other international organisations concerned with water, such as WHO, FAO, UNICEF, UNEP, UN-Habitat, ILO, UNDP, the International Fund for Agricultural Development (IFAD), as well as international organisations concerned with trade such as the World Trade Organisation (WTO), should cooperate effectively with States parties, building on their respective expertise, in relation to the implementation of the right to water at the national level. The international financial institutions, notably the International Monetary Fund and the World Bank, should take into account the right to water in their lending policies, credit agreements, structural adjustment programmes and other development projects (see General Comment 2 (1990)), so that the enjoyment of the right to water is promoted. When examining the reports of States parties and their ability to meet the obligations to realise the right to water, the Committee will consider the effects of the assistance provided by all other actors. The incorporation of human rights law and principles in the programmes and policies by international organisations will greatly facilitate implementation of the right to water. The role of the International Federation of the Red Cross and Red Crescent Societies, International Committee of the Red Cross, the Office of the United Nations High Commissioner for Refugees (UNHCR), WHO and UNICEF, as well as non-governmental organisations and other associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies. Priority in the provision of aid, distribution and management of water and water facilities should be given to the most vulnerable or marginalised groups of the population.'

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

5.1. CONCLUSIONS

As one of the poorest countries of the world, the DRC faces several problems starting at the national level to the local level. Moreover, the DRC, as one of the biggest country in Africa, faces different realities. For instance, the problem that people of the north may face might be totally different from those in the south. However, this mini-dissertation focused on water and sanitation which is a common problem in all the provinces of the DRC.

The DRC is a huge country with poor infrastructure. According to the report done by the USAID, access to improved drinking water and sanitation facilities in the DRC is constrained by poor coordination of, and accountability for, sector activities with responsibilities spread among at least twelve ministries and public bodies.[183] This proliferation of institutions appears to be a waste of human and finance resources. Also, the right to sanitation has not yet been recognised explicitly as justiciable in the DRC's Constitution. In addition to this broad need for institution building, the Eastern part of the DRC's infrastructure is deteriorated and is under-utilized because of war and armed conflicts. Funding is inadequate, and water service providers are weak in terms of human resources and the ability to manage and operate systems.[184] Only 40 per cent of the required funding necessary to meet the DRC's water and sanitation goals is available through planned public investments each year.[185] Such a large funding gap can only be alleviated by bilateral and multilateral donors.[186] Moreover, some areas of the eastern part of the DRC are largely inaccessible because of insecurity, roads, or are totally impracticable. It is often impossible to reach people to provide water and sanitation facilities to them.

Even if the issue is common, the reasons for and extent of the problem differ from province to province. For instance, the main reason for the lack of adequate water and sanitation in the eastern part is the continuous war and armed conflicts since the 1990s. Billions of people have died, some of them were killed, others died from starvation, malaria, and others from

[183] Democratic Republic of Congo: Water and Sanitation profile available on www.usaid.gov (accessed 3 April 2013)
[184] n 183 above
[185] n 183 above
[186] n 183 above

opportunistic diseases related to water and sanitation (including diarrhoea and cholera) during displacement (more than twice in a space 10 years). Especially women and children are affected by these circumstances. Even though the water and sanitation system was poor before the 1990s, it is important to mention that war and armed conflict have made things more difficult because the system has now largely been destroyed. No improvement is seemingly possible. The reality is that only a few people can access adequate water and sanitation because they have the means to do so. Poor people, which represent almost 70 per cent of the population, are just abandoned to their own fate. They have to travel long distances to access water and toilets, with all the risk of being killed, raped, and beaten up. This characterisation is based on the testimony given by women and children in rural areas and IDPs camps, where insecurity still reigns.

When it comes to sick people, the link between water, sanitation and HIV has showed how PLHIV doubly, if not triply, need to live in a safe environment, free from diseases related to water and sanitation. They definitely cannot travel any significant distance to access water and sanitation due to them often being weak and vulnerable. It means that they are exposed to those diseases more than healthy people. Even when they try to access water and sanitation, it is often not enough to satisfy their needs. Therefore, it can be assumed that some PLHIV in the eastern part of the DRC have died or are dying of opportunistic diseases instead of dying of HIV/AIDS.

Moreover, statistics of PLHIV in the DRC are not really accurate; some areas remain inaccessible due to war and armed conflict. It is well known that where there is war, the risk of HIV is also high. Therefore, among people affected by war, especially IDPs, it may be founded IDPs living with HIV who lack access to adequate water and sanitation which has been destroyed by parties in conflicts, and where even some NGOs or international organisations cannot access to help in that way. Their vulnerability can be observed at two levels: as IDPs and as HIV.

When it comes to vulnerable people, the Eastern part of the DRC has a high number of IDPs[187] and a considerable number of PLHIV who are not identified because in a context of

[187]What does the future hold for IDPs living in camps in central Masisi? Return, local integration, and settlement elsewhere in the country, February 2012, available on www.nrc.org (accessed 12 November 2012)

conflicts,[188] it is a bit challenging to have accurate statistics about HIV/AIDS.[189] These two categories of people are not particularly protected by the DRC's Constitution in respect to water and sanitation.

Without water and sanitation, there is no heath either. The DRC, through its Constitution, recognises health as a right. It means that the DRC recognised its obligation to ensure that its citizens are healthy. Moreover, by ratifying several international conventions and treaties that consecrate water and sanitation as human right, the DRC has gone beyond the expectations of its citizens who are not educated enough to estimate the extent of the obligations of the DRC towards them. Unfortunately, the DRC faces the big problem of fulfilment and compliance of this human right. For the eastern part, the priority is not water or sanitation, but security and peace. Since the 1990s, the DRC is preoccupied with the question how to make end to war and armed conflicts. Therefore, all founds and efforts are affected to the military and politic sector. The health sector is forgotten. The question is: How is the dream of peace possible if thousands of people are sick, dying and the number of orphans and PLHIV are growing every day?

Furthermore, where the DRC, as a State, has failed, it cannot be expected that NSAs succeed. The first responsibility to ensure that people are enjoying the right to water and sanitation is that of the DRC. It can be sued when it appears that the right is not respected and protected. It means that NSAs can only support those obligations. Unfortunately, even support from NSAs has been quite challenging. On one hand, instead of protecting, the M23 was somehow abusing the right to water and sanitation by obliging people to walk a distance to access water and sanitation in unsafe areas, and in due to their exposure to the elements, many women and girls have been raped, and men have been killed by rebels. On the other hand, international organisations, NGOs and other actors faced serious difficulties to reach some areas because or were straight oblige to close their programmes in those areas because of insecurity. Yet it seems that DRC had decided to rely on humanitarian aid.

[188] RDC/Kivu: la vie des déplacés dans le camp de Mugunga III demeure difficile-xinhua via Afriscoop available on www.radiookapi.net (accessed 8 August 2013)
[189] n 188 above

In conclusion, we can say in one sentence that most people living in the eastern part of the DRC are not enjoying the highest attainable standard of physical and mental health, especially the right to water and sanitation. However, some improvements remain possible.

5.2. RECOMMENDATIONS

In the preamble of the draft guidelines for the realisation of the right to drinking water and sanitation, the Special Rapporteur on Water and Sanitation considered the importance of water and sanitation by reminding all actors (especially States) of their obligations in respect of these rights. The preamble states as follows:

'*Considering* that water is the source of life,

Considering that the right to drinking water and sanitation is unquestionably a human right,

Considering that all persons have the right to sufficient supplies of water to meet their essential needs to have access to acceptable sanitation facilities that take account of the requirements of hygiene, human dignity, public health and environmental protection,

Recalling the guiding principles expounded by the conferences on water and sanitation held at Dublin, Marrakesh, Paris and Rio de Janeiro and in the Declaration on the Right to Development,

Recalling the International Covenant on Economic, Social and Cultural Rights, in which all States recognise 'the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions' (art. 11, para. 1) and 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' (art. 12, para. 1),

Emphasizing in particular the Convention on the Elimination of All Elimination of Forms of Discrimination Against Women, ratified by 164 States, and the Convention on the Rights of the Child, ratified by 190 States,

Considering that water resources constitute a common heritage and must be used in an equitable manner and managed in cooperation with the users in a spirit of solidarity,

The following draft guidelines are recommended to States and to the international community…'[190] Going a bit further, it is stated that:

[190] ECONOMIC, SOCIAL AND CULTURAL RIGHTS 'Realization of the right to drinking water and sanitation' Report of the Special Rapporteur, El Hadji Guissé Available on www.ochcr.org (accessed 28 October 2013)

- Each level of government in a State, including the national Government, regional governments and the local authorities, has a responsibility to move progressively and as expeditiously as possible towards the full realization of the right to water and sanitation for everyone, using practical and targeted measures and drawing, to the maximum extent possible, on all available resources.[191]
- National Governments should ensure that other levels of government have the necessary resources and skills to discharge their responsibilities.[192]
- States should at all levels of government: Give priority in water and sanitation policies and programmes to the persons without any basic access;[193] Adopt and implement a plan of action for the full realization of the right to water and sanitation which establishes specific targets, indicators and time frames and identifies the necessary national and international resources;[194] Formally recognize the right to water and sanitation in relevant laws and regulations;[195] Refrain, and ensure that private persons and organizations refrain, from interfering with the enjoyment of the right to water and sanitation or any other human rights, unless such interference is permitted by law and includes appropriate procedural protection. No one whose access to water and sanitation may be legally curtailed after the appropriate procedures have been followed should be deprived of the minimum essential amount of water or of minimum access to basic sanitation services;[196] Establish a regulatory system for private and public water and sanitation service providers that requires them to provide physical affordable and equal access to safe, acceptable and sufficient water and to appropriate sanitation and includes mechanisms to ensure genuine public participation, independent monitoring and compliance with regulations.[197]
- States should ensure that no persons or public or private organizations engage in discriminatory practices which limit access to water and sanitation on the grounds of sex, age, ethnic origin, language, religion, political or other opinion, national or social origin, disability, health status or other status.[198]

[191] n 191 above point 2(1)
[192] n 191 above point 2(2)
[193] n 191 above point 2(3)(a)
[194] n 191 above point 2(3)(b)
[195] n 191 above point 2(3)(c)
[196] n 191 above point 2(3)(d)
[197] n 191 above point 2(3)(e)
[198] n 191 above point 3(1)

- States should give particular attention to the needs of individuals or groups who are vulnerable or who have traditionally faced difficulties in exercising their right to water and sanitation, including women, children, indigenous peoples, persons living in rural and deprived urban areas, nomadic and traveller communities, refugees, asylum-seekers, internally displaced persons, migrant workers, prisoners and detainees, as well as other groups facing difficulties with gaining access to water.[199]
- States should give priority to providing water and sanitation services to institutions serving vulnerable groups, such as schools, hospitals, prisons and refugee camps.[200]
- States should enact and implement legislation to protect access by persons to traditional water sources in rural areas.[201]

Therefore, the recommendations towards the DRC are the following:

2.1. At the national level

- The DRC is called upon to mobilise funds through taxes and other sources of external income, to rebuild water and sanitation infrastructure. For the realisation of this goal, the water and sanitation sector must be one of the priorities of the DRC's government, and therefore meet the MDGs for water and sanitation by expanding the coverage up to 71 per cent for water and 55 for sanitation.[202]
- The DRC's government must be committed to institutional reforms as well as the development of a roadmap. On the one hand, REGIDESO (the National Company for Water Supply in Urban Areas) should address the glaring deficiencies in urban service provision, with a special attention for the east part that has been victim of war and conflicts. This may include shifting the focus from utility towards customer service, improving management performance, and increasing coverage in urban areas, particularly in secondary centres and low-income urban settlements. On the other hand, the National Committee for Water and Sanitation (CNAEA) has to work hard in order to extend its Action Plan for sanitation in Kinshasa to other large or medium-sized towns throughout the country, especially the eastern part.

[199] n 191 above point 3(2)
[200] n 191 above point 3(3)
[201] n 191 above point 3(4)
[202] Getting Africa on the Track to Meet the MDGs on Water and Sanitation, A Status Overview of Sixteen African Countries, available on www.wsp.org (accessed 3 April 2013)

- As a conflict country facing opportunistic diseases related to water and sanitation, the need to promote the water and sanitation sector through national strategies is now imminent. For instance, the DRC's Constitution and policy must acknowledge access to sanitation as an explicit basic human right taking in consideration the principles of availability, affordability, accessibility and acceptability (in the sense that sanitation must be culturally acceptable). Moreover, it must considerate the principle of non discrimination towards vulnerable people, especially PLHIV and IDPs.
- The DRC should undertake measures in order to incorporate access to water and sanitation in the law on PLHIV in the DRC.
- The DRC should facilitate the development of a shared goal of diarrhoea prevention through hygiene improvement; and it should develop the capacity of local institutions to implement sound technical approaches that meet international standards in water supply, sanitation and hygiene promotion.[203] In the process, approaches should be kept simple and limit hygiene messages based on the systematic use of formative research; and these approaches should operate through popular participation and through sustainable community-based structures and change-agents.

2.2. At the international level

As a conflict country, the DRC seems to have many priorities, among others to bring to an end war and armed conflicts in the Eastern part. Due to these demands, the DRC may not by itself be able to implement the right to water and sanitation in a limited time in order to meet the minimum international standards. Moreover, in the same context of war and armed conflict, many human rights might be violated by the parties to conflicts, including the right to water and sanitation. I therefore recommend the following:

- UN agencies, international organisations and NGOs should influence the policy of the DRC's government, international donors, and private companies in order to ensure that people's rights (especially people affected by war and armed conflicts) are secured and protected in emergency situations. For instance, they should make sure that greater attention in donor and lending policies is paid to populations caught up in emergencies of any kind; they should advocate for priority in the provision of international aid to the most vulnerable groups of the population, such as IDPs and PLHIV; and they should campaign against embargoes or similar measures that can

[203] The Sphere Project: the Humanitarian Charter and minimum standards of the humanitarian intervention 2011

restrict the supply of adequate water resources or access to water facilities and sanitation.[204]

- NGOs, especially those concerned with water and sanitation, must take every opportunity to bring cases of actual of potential violations of the right to water and sanitation to national and/or regional courts and other available complaints to the African Commission for instance which is a competent organ to deal with such cases.
- UN agencies, international organisations and NGOs must raise international awareness to international standards, government obligations and national legislation that protect the right to water and sanitation of people of the eastern part of the DRC, especially IDPs, through organisation of training with civil societies, lawyers, local communities and other community leaders; to create discussions with national authorities to remind them of their duties and responsibilities under the terms of international law and the treaties ratified by the DRC.[205]
- UN agencies, international organisations, and NGOs must raise awareness to people of the eastern part of the DRC, especially IDPs to their rights in emergency situations and provide information on how the can actually claim their right to water and sanitation.
- The Committee on ESCR must monitor the implementation of the ICESCR by the DRC, by examining reports submitted by the DRC in order to determine whether the provisions of the Covenant are, or are not, being fully and adequately applied by the DRC, and how the implementation and enforcement of the Covenant could be improved.[206]
- The CEDAW and CRC can be alerted particularly when specific groups such as woman and children, who are the first victims of water and sanitation related diseases, are being subjected to violations of those rights in the DRC.[207]
- The DRC should finally take measures in order to ratify the Africa Union Convention for the Protection and Assistance of the Internally Displaced Persons, in order to protect in considerable manner the interest of IDPs as vulnerable group, especially to protect their right to water and sanitation, since the DRC remains one of the countries with the highest number of IDPs.

[204] The Human Right to water and Sanitation in Emergency Situations, the legal framework and a guide to advocacy' available on www.humanitarianreform.org?WASH (accessed 26 June 2013)
[205] n 204 above
[206] n 204 above
[207] n 204 above

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