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**Special Report**

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**MONUC Human Rights Division**

**Office of the United Nations  
High Commissioner for Human Rights**

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**SPECIAL INQUIRY  
INTO THE BAS CONGO EVENTS OF FEBRUARY AND MARCH 2008**

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## 1. Executive summary

1. A Human Rights-led multidisciplinary team<sup>1</sup> was dispatched to Bas Congo from 17-28 March 2008 to carry out an investigation into the violent incidents involving the *Police nationale congolaise* (PNC) and the Bundu Dia Kongo in Matadi and the territories of Luozi, Seke-Banza and Lukula. Over 150 persons were interviewed by the Team. The investigation covered over 2000 kilometres by road and conducted investigations in over 30 villages and towns in the province, mainly along the routes between the townships of Matadi-Tshela, Matadi-Luozi and Luozi-Tshela (see Map, Annex I). Visits to Muanda, Seke-Banza, Kinkenge and Kibunzi were conducted by helicopter.

2. Since October 2007, tensions had been registered in Bas Congo between BDK members and local authorities in several villages and towns, mainly in the territories of Seke-Banza and Luozi. The presence of the PNC in many areas was very weak and the BDK had effectively taken over State functions in several villages. Local police commanders were reportedly beaten up by BDK members in Kinkenge and Mbanza Mueembe and BDK members obtained the release of all prisoners from Luozi prison after allegedly threatening the local authorities. On 24 and 25 February 2008, two men were burnt alive by the BDK in two different incidents in Kinkenge and Bethelimi after being accused of sorcery. A delegation sent by local authorities to investigate the case was taken hostage for a few hours in Kinkenge. On 1 March 2008 an FARDC officer was killed in Kibunzi by the BDK while he was there on private business. The BDK has also been branded a “terrorist organization” and accused, by some local authorities, of satanic rituals and other strange practices, such as collecting human skulls and decanting fluids from deceased human bodies in order to make a substance called *eau de cadavre*, which was allegedly used in the aforementioned rituals. The Team did not find any evidence to support these latter claims.

3. On 28 February, the Government launched operations to restore State authority throughout Bas Congo. These operations were carried out by the PNC, in particular by units of the *Police d’Intervention Rapide* (PIR, including the so-called Simba Battalion) and the *Unité de Police Intégrée* (UPI), dispatched from Kinshasa. According to the *Inspecteur Général de la Police nationale congolaise*, John Numbi, the operations were originally aimed at carrying out the arrests of BDK members responsible for the murders in Bethelimi and Kinkenge, but took on a broader scope in the face of what General Numbi referred to as “organized resistance”. According to Interior Minister Denis Kalume, the operations were aimed at re-establishing the State’s authority throughout Bas Congo. The size and composition of the PNC force deployed, the comprehensive geographical dimension of the operations, the type of weapons and ammunition used, the excessive use of force employed and the arbitrary executions that were carried out, the systematic destruction of BDK temples and houses and the large number of arbitrary arrests all suggest that the authorities may have intended to considerably reduce the operational capacity of the BDK movement.

4. A police force arrived in Luozi and clashed with BDK members gathered in front of their temple on 28 and 29 February. The authorities in Luozi acknowledged that seven BDK members lost their lives in these incidents. Local witnesses claim that the loss in human life was in fact much higher and that a number of bodies were dumped in the Congo River. However, there is insufficient evidence at hand to confirm such claims. In Luozi, the BDK temple (known as a “*zikwa*”) and around twenty houses were destroyed by the police, who set them alight.

5. In the following week, the police force moved west from Luozi towards Tshela, passing through a number of small villages and through the towns of Mbandakani, Lufuku, Sumbi and Mbata Siala, where incidents followed a similar pattern to those in Luozi. In these principal towns, large numbers of BDK followers had gathered around their temples or around barricades set on the main road. The police force, composed of around

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<sup>1</sup> Led by MONUC Human Rights Division and composed of staff from the Human Rights Division / United Nation Human Rights Office; MONUC Child Protection, JMAC and UNPOL. Hereinafter “the Team”.

25-30 vehicles and roughly 150 men, stopped about 75 meters from the gathering and called for surrender. The BDK, armed with stones, nuts, sticks and pieces of wood fashioned in the shape of weapons, refused to surrender and continued to chant war cries. In some localities, BDK followers began to throw stones or manifest other signs of readiness for combat with the police, who responded with tear-gas and live ammunition, mainly 7.62mm rounds, presumably fired from AK 47 assault rifles and light machine guns. The Team collected evidence in these locations suggesting that the PNC opened fire or continued to fire in situations where the BDK had taken refuge inside buildings or could no longer be assessed as presenting any imminent threat to the PNC.

6. It is important to mention that the BDK believed that their weapons could be transformed, by spell or incantation, into instruments capable of causing much greater damage than their actual physical properties would have allowed. The overwhelming majority of weapons found by investigators were very limited in terms of their capacity for inflicting harm on a well-armed police force (e.g. relatively blunt, knife-shaped pieces of wood, stones and palm and cola nuts which the BDK believed could be magically transformed into explosive grenades).

7. The official death toll of the incidents was 27, including three policemen<sup>2</sup>. The investigation concluded that at least 100 people, mainly members of the BDK movement, were killed during PNC operations which were launched on February 28 2008 in Bas Congo province. As stated above, the operations were mainly executed by a large force of the PIR and the UPI, sent from Kinshasa in response to a series of criminal acts perpetrated by BDK members, including murder, assault, and the usurpation of the State's authority in some parts of the province.

8. The high death toll resulted, in large part, from unwarranted or excessive use of force by the PNC<sup>3</sup>, and in some cases from arbitrary executions. Particularly worrying are these instances of arbitrary execution of prisoners or persons who could not be classed as posing a threat to the police. Also of concern is the fact that the PNC dumped a large number of bodies in a river in an attempt to destroy evidence (see below). The PNC was responsible for the systematic destruction of over 200 buildings (BDK temples and residences belonging to BDK and non-BDK alike) in numerous villages in Bas Congo and the widespread looting of private houses throughout the province. The destruction and looting of private property was widespread and systematic and cannot be justified on any legal or operational grounds. Over 150 BDK members were arrested in connection with the events. A number of them were victims of torture or cruel, inhuman and degrading treatment.

9. Each of the clashes in Sumbi, Lufuku, Mbandakani and Mbata Siala left a high number of casualties, who were mainly, but not exclusively, BDK members.

10. The Team has concluded that at least 35 people were killed in Sumbi, including a seven-year-old girl from a non-BDK family. In Sumbi, the Team collected strong evidence and eyewitness testimony of the arbitrary executions, by the PIR, of two wounded BDK members who were being held in police custody. Another BDK member was executed not far from the site of the main confrontation, as he lay incapacitated by a bullet wound to the leg.

11. In Mbata Siala at least 16 persons (among which 2 minors) were killed in the clash. In Mbandakani at least 15 people were killed and in Lufuku a further 36 persons lost their lives.

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<sup>2</sup> During his address to Parliament, Interior Minister Denis Kalume affirmed that 21 BDK members, three non-BDK members, one FARDC officer and three policemen were killed. The Team was only able to confirm two PNC deaths, but does not rule out the possibility that there was a third.

<sup>3</sup> This report uses the term "PNC" (*Police nationale congolaise*) to refer to the various units of the Congolese police force that carried out the operations, except where there was confirmation of the specific involvement of one particular unit, such as the PIR. PNC already on the ground before the operations are referred to as "local police".

12. The Team found large, freshly dug graves in Sumbi, Mbandakani, Mbata Siala and Luozi, which concordant witness testimony confirms are mass graves containing the bodies of persons killed in these locations. In Lufuku the local Red Cross collected 36 bodies that were later allegedly thrown by the PNC into the River Luwala. Two of these bodies, which had remained entangled in branches close to the river bank, were located and photographed by the Team. In Manterne, near Boma, an alleged mass-grave site was investigated by local authorities. Although no bodies were found, physical evidence and witness testimony suggest that bodies may have been buried there and later removed<sup>4</sup>.

13. Other locations where a loss of human life was alleged to have occurred include Matadi (where a two-year-old boy was killed by a stray bullet); several small villages in Luozi territory that could not be visited by the Team due to the state of the local roads or time constraints; Lemba (where there were reports of casualties but insufficient evidence to confirm the allegations); Kibunzi and Seke-Banza.

14. In addition to these clashes which took place in the larger localities, in almost every village visited by the Team along the Tshela-Matadi and Luozi-Tshela axis, the police force had looted and then systematically destroyed (by fire) houses belonging to BDK members and non-BDK members alike. The local population was particularly affected in those towns along the main road where large groups of BDK members from distant villages had gathered for strategic reasons. As a result, many of the houses burnt and much of the property destroyed or looted belonged to persons with no affiliation whatsoever to the BDK. The Team documented the arson of over 180 houses, although the actual number of houses destroyed almost certainly exceeds 200. The PNC also systematically destroyed every BDK temple that they encountered *en route* during the operations. It is unclear whether or not the decision to destroy all BDK temples was an integral part of the PNC's mission order from the start, but the systematic nature and scale of the destruction would tend to confirm this hypothesis.

15. As stated above, arrests of over 150 BDK members were carried out throughout the province. The charges against them range from murder to threatening State security (*attentat à la sûreté de l'Etat*). Most detainees were transferred to Matadi and Mbanza Ngungu. Some prisoners were victims of torture or cruel, inhuman and degrading treatment, including beatings and burning. A BDK local leader, who was allegedly arrested and beaten by the population of Kibunzi was brought alive to Luozi hospital by the police but subsequently died while in police custody.

16. The Team received numerous reports claiming that, while all participants in the operation were wearing police uniform, foreign or national military units were deployed during the operations. In particular, several witnesses interviewed by the Team alleged that some of the men deployed in the operations were heard communicating in Portuguese. However, the Team did not find any solid evidence tending to prove allegations of foreign or national military involvement. The reports concerning the presence of foreign troops could be explained by the fact that PIR agents trained in Angola sometimes use Portuguese as a working language. With respect to allegations of military involvement, it should be noted that all 300 elements from the PIR Battalion "Simba" are ex-military. The deployment and actions of the Simba Battalion are discussed in more detail below.

17. Some days into the operations, BDK leader and Member of the Congolese National Parliament, Ne Muanda Nsemi, addressed two letters to the Secretary General of the United Nations<sup>5</sup>, the first demanding auto-determination for the Kongo people and the second calling for an international investigation into the operations, which he claimed amounted to genocide under international law.

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<sup>4</sup> Similar allegations, reported in connection with the mass graves discovered in Sumbi (see below) are currently being verified.

<sup>5</sup> Dated 1 and 3 March 2008.

## **2. Methodology and difficulties encountered**

18. The Team was formed soon after the events and conducted verifications and inquiries in the territories of Tshela, Seke-Banza, Lukula, Luozi, Madimba, Muanda and Mbanza Ngungu and in the *villes* of Matadi and Boma. The Team interviewed over 150 persons, including police, intelligence and administrative authorities at local and provincial level; military and civilian justice officials; prison authorities and detainees; witnesses and victims; journalists, local NGOs and other civil society sources. The Team was equipped with the necessary tools of professional human rights investigation including digital cameras, satellite phones and GPS navigation apparatus.

19. The investigation covered over 2000 kilometres by road and conducted investigations in over 30 villages and towns in the province<sup>6</sup>, mainly along the Tshela-Luozi axis and the Matadi-Tshela axis. Visits to Muanda, Seke-Banza, Kinkenge and Kibunzi were conducted by helicopter. The Team visited various detention sites, including the prisons of Luozi, Mbanza Ngungu and Matadi, as well as Kin Maziere police station in Kinshasa. The Team also visited hospitals and medical facilities, graveyards and a riverside location where bodies which had allegedly been dumped further upstream had become stranded.

20. It is expedient to recall at this point that the Team's investigation was not a judicial or criminal investigation, and does not in any way obviate the duty of the Congolese authorities to carry out their own, independent investigation into allegations of serious crimes and human rights violations committed during the events under review. To this end, it should be remembered that the Team had no powers to summon witnesses for questioning, carry out forensic examinations or exhumations of bodies, or compel the authorities to permit its access to all locations of interest in the inquiry. The Team's findings, therefore, should be considered as *prima facie* evidence of those criminal acts and human rights violations discussed herein. For the purposes of this report, a "confirmed" allegation means that compelling evidence was found to support the claims under investigation. Compelling evidence is evidence which strongly supports a particular allegation, including eyewitness and corroborating testimony, physical evidence (such as fresh, unmarked grave sites, damage to buildings caused by gunfire and corporal lesions observed on victims' bodies) and documentary evidence (such as hospital and morgue registers).

21. The Team visited all locations where credible reports indicated that very serious incidents had occurred. Some of the less serious allegations were not investigated due to operational or time constraints which prevented the Team from visiting the locations where the alleged incidents took place. Where such unconfirmed allegations are discussed in this report, it is explicitly stated that the Team was unable to visit the relevant location.

22. Cooperation by the authorities with the investigation was poor. However, the Team did not encounter any real obstructions, despite initial fears that the investigation could be hampered by police and local authorities as had been the case with a previous humanitarian assessment mission<sup>7</sup>. The Governor of Bas Congo, Mr. Simon Mbatshi Batshia, met investigators in Matadi before they deployed further in the province. He proposed that the mission be accompanied by agents from the Provincial Government. The Team leader explained that being accompanied by State agents would compromise the independence of the investigation. The Governor accepted this explanation and, seemingly, instructed local authorities to cooperate. Local and judicial authorities were open

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<sup>6</sup> Many parts of Bas Congo visited by the team were accessible only by unsealed or dirt roads. The difficult terrain and the necessity for the team to be accompanied by a security escort throughout the mission meant that a significant amount of travel time was sometimes necessary from one locality to another.

<sup>7</sup> An interagency mission composed of OCHA, UNHCR, UNFAO, MONUC/CAS, UNICEF, UNFPA, WHO and UNOPS was conducted in Bas Congo between 10 and 14 March 2008. The members of this humanitarian mission denounced the attitude of the PNC, who followed the team, questioned their presence in the area and limited their freedom of movement and interaction with the population.

to discuss abuses committed by the BDK but were less forthcoming regarding the police operation. PNC Provincial Inspector, General Raus, was offered the chance to provide the Team with his version of the operation but refused to receive the Team, declaring that he had not been instructed by his superiors to do so. PNC General Inspector, John Numbi, received the Human Rights Division in Kinshasa and provided the PNC assessment of the operation.

23. The investigation was complicated by the prevailing security situation in Bas Congo in the aftermath of the events. Many victims and witnesses were reluctant to meet with the Team or were impossible to locate. Large numbers of BDK followers had fled their villages and were hiding in the bush during the period of the investigation, including the majority of the families of the victims. Moreover, as most BDK followers who were killed were buried in locations other than their place of residence, it was not always possible for eyewitnesses to provide the exact identity of the victims. Accordingly, while the team obtained the names of some victims, the names of many others remain unknown, although investigators are continuing their efforts to identify these persons.

### **3. Context and overview of the events**<sup>8</sup>

#### **3.1 Context and main BDK criminal acts**

24. The BDK is a semi-political, semi-religious movement that was created in 1969. The BDK's vision promotes the "renaissance" of the African people and their spiritual, cultural, moral and social values; the re-appropriation of resources in the geographical region defined by the BDK as the Kongo Kingdom<sup>9</sup>, as well as the reunification of the Kingdom's people; and the establishment of a decentralized political and administrative system which would give the Kongo people more control over their political and economic destiny. The spiritual or religious dimension of the group includes the holding of regular rituals and a "Holy Book"<sup>10</sup>. The BDK has several thousand members, the majority of whom live in Bas Congo.

25. Since 2000, several fatal incidents have been recorded between this group and the Congolese authorities, usually as a result of the State's failure to properly address the BDK's provocative and often violent actions, which have historically included illegal acts ranging from murder to usurpation of the State's authority.

26. On 30 June 2006, FARDC soldiers from the 2<sup>nd</sup> Military Region used unwarranted and excessive force against BDK demonstrators in the city of Matadi. At least 13 people were killed during the events, when FARDC soldiers fired live rounds at BDK followers. The soldiers allegedly opened fire on the BDK crowd when a military police officer was disarmed and shot by BDK members.

27. In January-February 2007, at least 105 people were killed in the province of Bas Congo when BDK demonstrations were violently repressed by FARDC and PNC forces. The victims died mainly as a result of excessive use of force and arbitrary executions committed by the security forces.

28. On 5 January 2008, the BDK and State security forces clashed once again. On this occasion, six persons were killed in Seke-Banza territory when negotiations broke down between the PNC and the BDK, who were protesting against the arrest of two of its members. The PNC reportedly opened fire on a large BDK crowd and subsequently ran over several BDK members in an attempt to flee the scene by vehicle. All the above incidents were investigated by MONUC. MONUC recommended that the Congolese Government fully equip its

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<sup>8</sup> The political, economic and social aspects of the Bas Congo question are not addressed by this report, which focuses on human rights violations committed during and after the PNC operations.

<sup>9</sup> This kingdom encompassed, before colonization, the entire Bas Congo province as well as parts of present day Congo-Brazzaville, Gabon, Bandundu and Angola (including the enclave of Cabinda).

<sup>10</sup> "*Le Volumineux Livre Sacré de la Sagesse Kongo*", which was written by Ne Muanda Nsemi himself.

police force with non-lethal means (e.g. rubber bullets, shields, batons, tear gas and masks, stun guns) to deal with crowds without firearms, and to ensure that PNC personnel receive adequate training to utilize this equipment.

29. Against this backdrop, increasing tensions had been registered since October 2007 between BDK members and local authorities in several villages and towns of Bas Congo, mainly in the territories of Seke-Banza and Luozi. PNC presence in many villages was very weak. In some of the larger villages, only a handful of police officers (often untrained and poorly equipped<sup>11</sup>) were present. The BDK was consequently able to carry out State functions in several small villages, establishing “traditional” tribunals which dispensed “traditional” judicial remedies, and which were supported by a group of “enforcement agents” commonly known as Minkenge or simply Makesa (followers). Local authorities reported that the BDK’s establishment of a parallel justice system included the delivery of “sentences” and the imposition of fines and physical punishments with a whip or “*fouet*”. According to the authorities, the BDK members known as Minkenge<sup>12</sup> who were the “armed” wing of the movement<sup>13</sup> and acted as a BDK police force, allegedly underwent limited paramilitary training and were in charge of carrying out physical punishments delivered by BDK “judges”.

30. It is important to underline that, although the Team spoke with numerous reliable witnesses who confirmed that the BDK had been carrying out such activities, it was clear that this phenomenon was limited to small villages with a weak State presence, and it is unclear whether or not the majority of BDK activities in this connection could be considered as a part of a formalized policy to usurp State authority.

31. In Kinkenge (60 km west of Luozi, Luozi territory) a police officer named Bernard Muchipai, Commander of Kinkenge police station was beaten up in November 2007. In Tshela territory, Ngoma Vemba, Commander of the Mbanza Muembe Police Station, was also reportedly “arrested” and beaten up by the BDK. He received medical treatment in the Catholic Convent in Tshela and was later transferred to the Hospital of Kibunzi.

32. In Luozi town a BDK “tribunal” was established. On 25 February 2008, a group of around eight BDK followers approached the Prosecutor’s Office to request the release of three people sentenced to imprisonment by an ordinary court, claiming that the judgment had been unconstitutional. They surrounded the Prosecutor’s Office and asked for the Prosecutor (*Chef de Parquet*) of Luozi. Present among the BDK group were three or four Minkenge from outside Luozi and five political leaders from Luozi town. Given the weakness of the police force in Luozi the Prosecutor was obliged to follow the instructions of the BDK followers and release the men. The remainder of the inmates took advantage of the situation, and also left the prison. However, once again it is important to consider these events in their context: Luozi prison – a dilapidated building constructed in 1905 – is a facility which was in no way adequate for the secure detention of its inmates. Indeed, the prison’s detainees were actually present on a voluntary basis<sup>14</sup>. It is impossible to consider this incident as a violent usurpation of State authority, although the act was certainly carried out in defiance of the State.

33. On 24 February, a group of around 15 BDK followers arrested, “sentenced” and burnt alive a man from Kimbala Zolele called Jean Marie Luzende Evadi, in the village of Kinkenge (60km from Luozi). The man,

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<sup>11</sup> For example, in Mbata Siala the Team met a police force of six, of whom only one was a trained policeman. The remainder were locally recruited youth armed with knives and two AK47 assault rifles (for which they lacked ammunition). Even after the PNC operations, local police did not dare to raise the national flag or keep the police station open to the public.

<sup>12</sup> Or “Kenge” in its singular form.

<sup>13</sup> The Team found no evidence that the BDK used or were armed with firearms during the incidents. The type of weapons used by the movement is discussed in more detail below.

<sup>14</sup> By the admission of local authorities themselves, the prison provided a « *régime de détention volontaire* ». Due to the lack of any budget for the nourishment of inmates, prisoners are normally left free during the day to work in the fields, only returning to sleep in the prison in the evening. Following the operations, the situation in Luozi remained the same. During its visit of Luozi, the Team observed a group of around eight BDK “prisoners” crossing the town on foot, under no form of restraint whatsoever, and under the sole escort of an unarmed prison clerk.

accused by the BDK of being a sorcerer, was allegedly killed on the orders of a local BDK leader called Mbuta Mansueki Zumbel. Local authorities from Luozi sent a delegation to Kinkenge to investigate the events. The delegation was composed of the Territorial Administrator of Luozi, Mr. Jean Germain Kapula, his Deputy, 8-10 PNC officers from Matadi (under the command of a Major “Flori”<sup>15</sup>) and BDK leaders from Luozi. Upon arrival in Kinkenge the delegation was taken hostage by the local BDK and only released the following day.

34. On 25 February, a man called Nestor Masanga (also known as “Tshiamali”) was also burnt alive in Bethlemi (10km from Luozi) by BDK followers from the nearby village of Ndekolo. Masanga was apparently a suspect in the disappearance of a man from Ndekolo. The family of the man had accused Masanga of witchcraft, and, according to witnesses, the victim admitted the allegations against him under interrogation by the BDK. At that point, he was burnt alive in a public square<sup>16</sup>.

35. On or around 1 March 2008, an FARDC captain called John Kalima Birico, who was on private business in Nsundi-Kibunzi, was “arrested” by BDK followers. The BDK reportedly suspected the captain of being a government spy. He was taken to Kibunzi, where he was killed by BDK followers in a place called Mbatakay, where he was buried. The execution was reportedly ordered by another BDK leader from Kibunzi, called Dani Mawanpengui.

### 3.2 Command and composition of the PNC involved in the operations

36. On 28 February, the Government launched operations to restore State authority throughout Bas Congo. These operations were mainly carried out by a PNC detachment sent from Kinshasa and officially composed of one 7<sup>th</sup> Battalion company of the *Police d’Intervention rapide* (PIR) and one company of the 2<sup>nd</sup> Battalion of the *Unite de Police intégrée* (UPI). Within the PIR company were men belonging to the so-called *Battalion Simba*, a battalion composed entirely of former Air Force soldiers who were loosely drafted into the PIR as part of the Antiterrorist Unit. It is possible, but not confirmed, that elements of the “official” Antiterrorist Unit, the *Battalion Cobra* (11<sup>th</sup> Battalion of the PIR) also joined the operation. This joint police force progressed from Kinshasa to Luozi (via Matadi). From Luozi the police operation progressed over the course of several days, towards Tshela, stopping in almost all villages along the Luozi-Tshela axis, including Mbandakani, Lufuku, Sumbi and Mbata Siala. The operation also visited locations outside this axis, most notably Kinkenge, Kibunzi and Seke-Banza.

37. A second police force, composed of PIR anti-riot units (from the 3<sup>rd</sup> and 7<sup>th</sup> Battalions), participated in operations in Kisantu (see below) and other locations.

38. The police force was presumably under the operational command of the PNC Provincial Inspector of Bas Congo, General Raus. In Luozi, the force was accompanied and probably commanded by Colonel Vumi, General Raus’ 2nd Deputy from the Matadi PNC. Colonel Vumi, was possibly replaced by a certain Colonel Mikia at some point in the operations. Major Flori, from the Matadi PNC (see above), participated in operations in Kinkenge area. The General Prosecutor of Bas Congo and the General Military Prosecutor of Bas Congo were also present in Luozi. *Battalion Simba* was commanded by Major Christian Ngoyi, an ex-Air Force officer. Local authorities along the Luozi-Tshela axis identified Major Ngoyi as the *de facto* commander of the operation. The dynamics between the PIR/UPI/Simba elements remain unclear, as does the question whether they utilized a common chain of command. In Luozi town, the company commander of the 2<sup>nd</sup> UPI Battalion was Captain Magovo and the 7<sup>th</sup> Battalion of the PIR was commanded by Captain Lumwamu. The PIR detachment in Kisantu was commanded by Major Fidèle Essale.

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<sup>15</sup> Probably Major Floribert Fwakiadi, Political Counsellor to General Raus.

<sup>16</sup> The Team visited the site of the public execution and the area where the body was buried, and interviewed witnesses of the killing.

39. The PNC moved in a convoy of 25-30 utility or “pick-up” vehicles and several heavy trucks, all painted blue and marked with police signs. In Kisantu the force was seen to be accompanied by FARDC trucks (green and with the FARDC’s lion emblem) driven by uniformed FARDC soldiers. The PNC explained that vehicles and drivers had been requisitioned from the FARDC due to a lack of police vehicles. This fact (along with the quasi-military character of the *Simba* Battalion), offers an explanation for the recurrent allegations received by the Team that military units had participated in the operation<sup>17</sup>.

40. It should be noted that most abuses cited in this report are attributed, in a generic fashion, to the PIR, which was the principal force officially deployed for the operations. However, sources inside the PNC have alleged that most acts of excessive or unwarranted use of force were committed by the *Simba* Battalion, which has received limited anti-riot police training, if any, and which was equipped with weapons more suited for use in military operations than police work.

#### **4. Human rights violations committed during and after the operations**

41. The Team was able to confirm that the violence in Bas Congo claimed the lives of around 100 persons including BDK followers, non-BDK civilians, one FARDC officer and two policemen.

42. Excessive and reckless use of force, arbitrary executions, looting, destruction of property and arbitrary arrests, on some occasions followed by cruel, inhuman and degrading treatment, were the main human rights violations committed during and after the events. Isolated cases of sexual violence were also reported.

##### **4.1 Excessive use of force**

43. This section of the report discusses concerns related to the use of force by the PNC during the Bas Congo operations. It is not in doubt that BDK members and the BDK as a group committed serious criminal offences. The investigation does not question the necessity of some form of police action to address the problems created by the BDK in certain villages. However, the investigation uncovered clear evidence that the PNC used excessive force in the execution of these operations, in violation of Congolese law and the relevant international principles.

44. According to the relevant Congolese legal provisions<sup>18</sup>, police officers may only use force when it is absolutely necessary to defend themselves, their post or position, or the persons under their care or custody. Before any use of firearms, three warnings must be issued<sup>19</sup>.

45. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>20</sup> constitute another useful framework with which to analyze the Bas Congo operations. The Basic Principles provide that, whenever the lawful use of firearms is unavoidable, law enforcement officials shall:

- a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- b) Minimize damage and injury, and respect and preserve human life;

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<sup>17</sup> The only confirmed deployment of a military unit was on 14 March when, following riots in Kisantu, a Republican Guard detachment was sent there on a reconnaissance patrol from Mbanza Ngungu. As the situation was already under control, the patrol went back to their base once their intervention was deemed to be unnecessary.

<sup>18</sup> *Décret-Loi 002-2002 26 janvier 2002 portant institution, organisation et fonctionnement de la police nationale congolaise.*

<sup>19</sup> See Articles 9-10 from the *Décret-Loi* above.

<sup>20</sup> Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

- c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.<sup>21</sup>

46. In order to apply these principles to the facts uncovered on the ground, it is expedient to make some observations related to the composition of the PNC involved in the operations, the type of weapons and ammunition used by the PNC, the manner in which it was used and, finally, the weapons which were in the hands of the BDK.

#### 4.1.1 The decision to deploy the “Simba” Battalion in the operations

47. As stated above, the Simba Battalion is entirely composed of ex-Air Force troops who served under General John Numbi (the former Air Force Commander and current Police Commissioner<sup>22</sup>). The decision to utilize special force police troops with predominately armed forces training, was at best misguided, at worst a deliberate decision to conduct a military-style operation aimed at punishing the BDK and severely reducing its capacity as a group. The PNC could have used police from any one of at least four PIR Battalions who were theoretically available for the operations, which had received international anti-riot police training and which could have been expected to exercise a higher degree of restraint than a Battalion of ex-military troops<sup>23</sup>.

#### 4.1.2 The choice of firearms and other weapons used in the execution of the operations

48. The investigative team found a large number of spent 7.62x54mm cartridge cases in some localities (most notably Sumbi and Mbata Siala). This indicates that the PNC used light machine guns, probably the PK3 or another machine gun from the PK family in the operations against the BDK<sup>24</sup>. The PK3 is a belt-fed<sup>25</sup> weapon with a rate of fire of 600 rounds per minute and an effective range of 450m. The weapon is designed, and normally used, for military operations where a large amount of firepower is required to overcome an armed enemy. It is totally inappropriate for operations aimed at the arrest and detention of persons who are not carrying firearms.



49. Of even more concern is the finding by the team that the PNC brought high explosive 40mm grenades (capable of being fired from the AK 47 or AK 74 fitted with a grenade launcher).

<sup>21</sup> See General Provisions, 5(a)-(d).

<sup>22</sup> *Inspecteur Général de la Police nationale congolaise*.

<sup>23</sup> The 4<sup>th</sup> and 7<sup>th</sup> Battalions of the PIR have received French training while the 5<sup>th</sup> and 11<sup>th</sup> Battalions of the PIR have received Angolan training. The 1<sup>st</sup> Battalion (French trained) is not usually deployed outside Kinshasa as it is responsible for security during official State visits, etc., while the 6<sup>th</sup> Battalion (Angolan trained) is reportedly in Mbuji Mayi.

<sup>24</sup> The AK47 assault rifle uses 7.62x39mm ammunition, whereas the larger, 7.62x54mm ammunition is used for the PK light machine gun.

<sup>25</sup> Since a belt-fed weapon does not require a magazine change every 30 odd rounds (as is the case for the AK47, for example), the weapon allows for an even higher intensity of fire. The weapon is capable of firing 200 rounds in a matter of twenty seconds.

These are offensive grenades capable of being fired from a range of 400m and of killing or maiming human beings within 6-10 metres of detonation. The Team recovered one such grenade in Sumbi town (see photo). Under no circumstances can this type of grenade be considered appropriate in a police operation of this type.

50. The PNC also used the AK 47 in the operations. This weapon, although almost standard issue in the PNC<sup>26</sup>, is also inappropriate for law enforcement operations conducted against persons who are not utilizing firearms. It is a military assault rifle with a high rate of fire (450 rounds per minute) and an effective range of 300m.

51. The team also recovered a smaller number of 9x19mm empty cartridge cases, suggesting the use of handguns or pistols, such as the Browning, or sub-machineguns like the Uzi. While handguns would be an appropriate choice of weapon in the context of an operation against a group with a proven violent track record (such as the BDK), the Uzi is a weapon with a very high rate of fire (450 rounds per minute), designed to rapidly neutralize an armed and dangerous enemy.

52. Finally, the PNC used tear gas and had batons and shields in some locations. The use of these non-lethal equipment is not called into question by this report, except to the extent that non-lethal means were not utilized sufficiently by the PNC.

#### 4.1.3 The actual use of force by the PNC

53. A very high number of rounds from military-style assault rifles and other weapons were fired at BDK members who were not armed with firearms<sup>27</sup>. The Team found that these weapons were fired at BDK members from distances of up to 100m, when the BDK posed no imminent threat to police officers' lives.



54. The BDK, with their mainly wooden weapons and complete lack of firearms, could not possibly have posed a lethal threat to a large, well-armed police force, especially not in situations where they found themselves sheltering from fire inside a building. In Mbata Siala, for example, the police fired a very high number of rounds at BDK members who were inside the former offices of the *Chef d'encadrement*. Over 100 rounds had visibly struck the *Bureau d'encadrement* (see photo).

<sup>26</sup> The AK47 is ubiquitous in the DRC and many other countries due to its low cost, reliability and durability. While it is an inappropriate weapon for law enforcement officers in the context of these operations, the PNC is unfortunately not equipped with more suitable weapons (for example pistols such as the Glock19, that are popular with law enforcement agencies in other countries).

<sup>27</sup> The Team found no evidence to support claims by the authorities that the BDK was in possession of home-made 12 gauge hunting rifles. Such rifles, in any event, are not automatic weapons and are of no comparison to assault rifles such as the AK 47 in terms of effective range (maximum 40m) and rate of fire (they must be reloaded every time they are fired).

4.1.4 Weapons at the disposition of the BDK

55. The BDK followers involved in the clashes were almost all men. These men, armed with stones, nuts, sticks and pieces of wood fashioned in the shape of weapons, refused to surrender to the police. Instead, the BDK continued to chant war cries and in some cases began to throw stones or manifest other signs of readiness for combat. It is important to mention that the BDK believed that their weapons could be transformed, by spell or incantation, into instruments capable of causing much greater damage than their actual physical properties would have allowed. The overwhelming number of weapons found by investigators were very limited in terms of their capacity for inflicting harm on a well-armed police force (e.g. relatively blunt knife-shaped pieces of wood (see photo below), stones and palm and cola nuts which the BDK believed could be magically transformed into explosive grenades).

56. Local and police authorities repeatedly claimed that BDK followers were armed with home-made 12-caliber hunting rifles. The Team did not find any evidence to support allegations that the BDK used firearms against the police. Local inhabitants of some of the villages explained that, during post-operation looting of private houses, the police seized 12-caliber rifles, but not necessarily from BDK members' residences. This type of rifle is relatively common in the province for protection or hunting purposes. Although it cannot be ruled out that the police seized the most dangerous or effective BDK



weapons before the Team's arrival on the ground, those weapons found by investigators lacked any real capacity to threaten a well-armed police unit. The fact that only two fatalities were confirmed on the police side also suggests that such allegations were unfounded. The two policemen who lost their lives were caught in a situation whereby they were vastly outnumbered and without ammunition. They were stoned to death before reinforcements could arrive<sup>28</sup>.

4.1.5 Conclusions on use of force issues

57. The choice of the Simba Battalion for these operations, as discussed above, was not in conformity with an intention, on the part of the authorities, to minimize damage and injury during these operations, as required by principle (b) above.

58. The decision to bring and utilize such weapons as light machine guns and 40mm high explosive grenades could be considered evidence of a premeditated plan to use lethal force against the BDK. In any event, it is, *per se*, in clear contravention of principles (a) and (b) above, which require the PNC to act in proportion to the seriousness of the offence<sup>29</sup>, minimize damage and injury, and respect and preserve human life.

59. The use of the AK47, while also inappropriate, is more understandable in the Congolese context, where they are standard police equipment. However, the way in which it was used (against BDK members without firearms, sometimes from long range, on automatic burst) and the number of rounds fired at BDK

<sup>28</sup> See below: incidents in Seke-Banza, 3 March 2008.

<sup>29</sup> In many cases it is unclear what legal offence the BDK members who were killed or injured by gunfire had committed.

members and non-BDK members from these weapons was clearly also in breach of principles (a) and (b) above. Perhaps the clearest indicator of excessive use of force is the simple fact that although over 100 persons were killed during the operations, only two were police officers. This stark contrast demonstrates the inequality of the clashes in terms of the force that each side was able to utilize.

60. With respect to the PNC's obligations to ensure injured persons received medical assistance (principle (c) above) and to inform family members of injured and affected persons (principle (d)), it is quite clear that the PNC did not fulfil its obligations in these respects. In all locations visited by the Team, the local population, Red Cross and hospitals had the primary or sole responsibility for caring for the wounded, burying the dead or informing family members. The Team even received allegations that PNC forces deliberately executed incapacitated BDK members in the aftermath of the operations (see below).

61. Governments are to ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law<sup>30</sup>. The Government has shown no signs of ensuring that those policemen who used excessive force be punished according to the law. This could suggest tacit approval of the methods employed (which resulted in a death toll in excess of 100 people) or indeed that the Government explicitly ordered the criminally excessive use of force by the PNC.

#### 4.2 Arbitrary executions

62. Allegations of at least three arbitrary executions (two in the Sumbi *Camp d'Etat* and one in Sumbi hospital, see below for details) were received by the Team. These allegations were sufficiently corroborated by reliable witnesses and are considered as confirmed.

63. The pattern of the operations suggests that other executions may have taken place. In particular, it is unclear how many BDK members killed during clashes near roadblocks and around temples put up any real, physical resistance to the police. In some locations, such as the Mbata Siala *Bureau d'encadrement* (see below) BDK concentration points were literally sprayed with bullets, both inside (see photo this page) and out (see photo page 12). In such circumstances, where the BDK were no longer offering any resistance, there can be



no operational justification for the utilization of lethal force, and the use of military-style assault rifles set to automatic burst may demonstrate an intention to execute BDK members rather than a mere excessive use of force. Moreover, some witnesses provided accounts of narrow escapes from execution (for example, the Sumbi Kimbanguiste followers who were taken for BDK members and ordered to lay on the ground, apparently in preparation for their execution: see below).

64. In Lufuku, the Team found 9x19mm empty cartridge cases a matter of metres from BDK positions (much closer to the BDK than the initial firing positions of the PNC). The fact that these cartridges were found in

<sup>30</sup> See General Provision 7.

discrete groups of two or three, would suggest the use of handguns<sup>31</sup>. This observation, together with witness testimony alleging that the police had “finished off” dying or wounded BDK members (some with machetes) is of serious concern. However, without further testimony or exhumation and forensic analysis of the corpses the Team cannot draw definitive conclusions on this point.

#### 4.3 Looting and destruction of property

65. The looting of over 200 BDK temples and houses, private non-BDK houses, shops, at least two hospitals, one local pharmacy and one Catholic Church was confirmed. Although in almost every village visited by the police the BDK houses and temples were looted (and destroyed), certain locations were looted in an egregious fashion. Such is the case of Mbandakani, where the police entered the Parish Sainte Thérèse and looted the adjacent hospital (where the entire stock of medicine was stolen along with



technical material such as a microscope) or the pharmacy of the *Centre de Santé de Référence de Sumbi*, where, once again, every single item was stolen by the PNC (see photo).

66. Another striking example encountered by the Team was the village of Nyenge Nyenge, where all nine houses were burnt down, despite the fact that there were no BDK followers in the village.

#### 4.4 Mass arbitrary arrests, illegal detentions and cruel, inhuman and degrading treatment inflicted upon persons in detention

67. More than 150 people, mainly BDK followers, were arrested by the police. It is unclear how many of these detainees participated in the clashes or whether they had committed any criminal infraction. Some claim that they were arrested for the simple fact that they were BDK members. Several detainees reported that they were beaten by the police while in detention. One prisoner was beaten with a stick in Nsundi Muemba (*secteur* Kimumba), while another prisoner was beaten with police batons and kicked in the head before red-hot charcoal was applied to his skin in Kailonde. One of his fellow prisoners in Kailonde had his hand broken by police.

68. A BDK supporter arrested in Kavakala (15km from Matadi) on or around 15 March 2008 reported that he was tortured both by the police of Kavakala and the police of Sanda (where he was transferred to). He was tied and beaten with whips and sticks. He did not receive any food until he was transferred to Matadi prison, two days after his arrest. Other prisoners in Matadi were held for up to six days without being provided with any food.

69. BDK followers and civilians claiming to be non-BDK were arrested by the PNC in Tshela, Mbata Siala, Lemba and several other towns and transferred to Matadi (often via other locations). These persons were arrested despite assurances given to the PNC from local authorities that they were not part of the violent core of the BDK. Some of these prisoners reported being beaten with batons and rifle butts by the police during their

<sup>31</sup> See above: this type of ammunition could have been fired by either the Uzi or by a pistol. However the Uzi is a weapon usually fired on automatic burst, and the discovery of two lone cartridges suggests that the bullets were probably fired from a pistol.

transfer and upon arrival at the Police Special Services in Matadi. Prisoners from Sumbi initially transferred to Luozi also reported being beaten with rifle butts and cut with bayonets in Sumbi Secteur, Kinzau Mvuete, and on the way to Luozi. In Matadi, at Police Special Services Headquarters, one prisoner who asked for water was allegedly showered with urine.

#### **4.5 Rape and sexual violence**

70. Although nothing suggests that rape and sexual violence were used in a systematic or targeted way during the events, the Team received allegations of several isolated episodes in which people were raped or nearly raped by policemen. Two local Seke-Banza policemen have been sentenced to life in prison for rapes committed after the main operations were terminated, while another policeman from Luozi is currently on trial in Mbanza Ngungu on sexual violence charges.

### **5. Details of main incidents by location**

#### **5.1 Incidents in Luozi**

71. The police force arrived in stages in Luozi (125km north-east of Matadi<sup>32</sup>) on 28 February 2008; the ferry from the south bank of the River Congo only allowing for a very limited number of vehicles to cross at any given time. Once in Luozi, it was reported that part of the convoy left directly for Kinkenge, while the remainder stayed in Luozi town. In Luozi, the police clashed with BDK members gathered in front of their temple on two occasions; on 28 and 29 February. During the night of the 28-29 February, the BDK held a “*veillée d’armes*” in front of their temple during which they sang and made summonses. There were clashes with the police during the night, during which a number of persons were injured and a police vehicle was burnt and destroyed by BDK followers.

72. On 29 February the Luozi Territorial Administrator went to the BDK temple to try to calm the BDK members and make them surrender. However, they replied that they were ready for war (*mvita*). After this refusal, the police attacked the temple. Local authorities acknowledged that seven BDK members lost their lives in these incidents (including a local BDK leader). One police officer was injured.

73. Six unidentified corpses and six wounded persons were taken by the PNC to the local hospital (*Hôpital de Référence de Luozi*). However, one of the injured (a certain Gerard Nlandu) subsequently died. Another body, found in the city at a later stage, was also brought to the hospital. Hospital sources give a final death toll of nine, including the BDK local leader Dani Mawanpengui, who was brought seriously injured from Kibunzi but later died in police custody. The bodies were buried by the Red Cross in Luozi cemetery, except the corpse of Mawanpengui, which was buried in an unknown location near the Hospital. Reports that two other corpses were discovered in nearby bushes could not be confirmed.

74. The hospital declared that a total number of 14 persons were injured, two of whom died (see above). Two others were transferred to the police after receiving medical treatment, two were still in the hospital at the time of the investigation, and eight persons escaped from the hospital out of fear of arrest as soon as they were well enough to do so.

75. Local witnesses claim that the loss in human life in Luozi was in fact much higher than the official toll, and that a number of bodies had been dumped in the river. There is insufficient evidence at hand to support such claims. However, it has been confirmed that the ferry connecting Luozi and Banza Sanda was, exceptionally,

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<sup>32</sup> Except where expressly stated, all geographical distances cited in this report are as the crow flies, according to GPS readings.

kept functioning until well into the night, in order to transport police vehicles, which were carrying cargo covered by tarpaulins or other materials, back and forth across the river.

76. In Luozi, the BDK temple and around twenty houses were destroyed by the police, who set them alight.

77. The police also looted several private residences. During one looting incident, a man was injured when the police entered his house and shot him while he was in bed. Another woman, apparently suffering from a psychiatric disorder was also injured when the police, who mistakenly took her for a BDK follower, fired at her.



78. Sixty people were initially arrested but many of them were released after a short time. Twenty-two people were transferred to the prison of Mbanza Ngungu (along with a further 18 people from the rest of Luozi territory). These persons have been charged with murder and criminal conspiracy<sup>33</sup> by the Prosecutor's Office (*Parquet de Grande Instance*). BDK followers arrested at a later stage (including a group that took shelter during the operations in neighbouring Republic of Congo/Brazzaville and subsequently returned to the DRC) were in Luozi at the time of the investigation, awaiting transfer to Mbanza Ngungu. Three PNC officers from Luozi were arrested<sup>34</sup> and transferred to Mbanza Ngungu prison.

## 5.2 Incidents in Mbandakani

79. The police force arrived in Mbandakani (117km north-east of Matadi) on 1 March 2008 from the direction of Luozi. The police encountered the BDK (from Kinkenge, Mbanza Muembe and other villages) in the vicinity of the Lukasu Bridge, which BDK members burnt to prevent the police from crossing. The police fired their weapons and around 16 people died in the incident. Fourteen bodies, with bullet and machete wounds, were found between the village of Koweit and the bifurcation leading to the Mbandakani Catholic Mission. They were collected and buried in a mass grave in Camp Pula (1.5 km from Mbandakani) (see photo above). A woman called Julienne Mantadi (also known as Maman Nzuzi), who was not a BDK member, was killed in the incidents and buried in her home village, Kingila.

80. The village of Koweit, situated around 100m west of the turn off for Mbandakani, was burnt down almost in its entirety by the police, who made no distinction between BDK and non-BDK houses. Almost all the houses (a total of 32) were burnt down. The police also extorted money from civilians who had remained in their houses (the majority had already left the area towards the bush). Looting was also perpetrated in the town of Mbandakani, particular at the Catholic Mission (Parish Sainte Thérèse) and the adjacent hospital and institute. Thirty-two houses were also burnt down by the PNC in Mbandakani. A man was wounded in the legs by policemen who stole his telephones. Another man was injured by a policeman with a machete who looted his house. In another incident, a policeman entered a private house and tried to sexually abuse a young girl. Fortunately his colleague, who arrived on the scene, ordered him to stop. The PNC also burnt down the house of

<sup>33</sup> *Association de malfaiteurs*.

<sup>34</sup> One was charged with rape, another with possession of marijuana, and third with breach of orders and illegal possession of military ammunition.

the Chief (or Duc) of the village. The police subsequently poured gasoline over his body and threatened to light it, but other locals intervened in favour of the Chief and the police commander ordered his men to stop.

### 5.3 Incidents in Lufuku

81. On or around the morning of 1 March 2008, a rumour (apparently originating from local radio), spread among the population of Lufuku (110km north of Matadi) that a police force was passing through every village to “protect the population from the BDK”. At around 0900 hours, a group of BDK followers came from the villages of Yangala, Ndamba and Kinkenge and took up positions in Lufuku to reinforce local BDK, led by a certain Djani Bakulu Mundienga, who had apparently been harassing the local population and taking justice into his own hands.

82. The local non-BDK population started fleeing towards the nearby fields. Gunfire was heard from around 1500 hours until 1530 hours. When the firing ceased, the population, who could see flames from the fields, began to return to their village.

83. The clash took place in the main road 1 March, not far from the entry of School Lufuku I, where the BDK had occupied a house and set up a roadblock. The police initially fired in the air and then began to shoot directly at the BDK members. The police killed 35 people from this group. According to eyewitnesses, the police executed those wounded BDK followers who had fallen to the ground. Some people were killed by machete blows. Following the incidents, the local Red Cross collected the bodies and grouped them near the roadblock. A 36<sup>th</sup> body was found in the fields near the village and buried some distance outside the village. None of the 36 victims was a resident of Lufuku. Some BDK members managed to escape and crossed the border to Congo-Brazzaville.

84. Policemen broke into a local shop and looted almost everything inside. The police entered a number of private houses, from where they stole a hunting rifle and four pieces of wood which were later used to fix a bridge. The police also entered and looted a local school. Twenty houses were burnt down by the police.

85. On 2 March, policemen passing through the village ordered the local population to bury the bodies. The population refused, on the basis that they lacked the means to transport the bodies. That same day, a police truck arrived from Kinkenge (allegedly already transporting corpses), to collect the Lufuku bodies. The bodies were reportedly transported to Luwala Bridge, where they were dumped in the River Luwala. The population of Luwala village has since been unable to consume the river water. The Team verified the existence of two decomposing bodies entangled in branches floating roughly four metres from the south bank of the river.



86. On 5 March 2008, Bas Congo Vice Governor Deo Nkusu and PNC Provincial Inspector General Raus visited Lufuku. The Vice Governor allegedly offered the village 30,000 Congolese Francs (\$US60) for the damage caused by the operations, but warned the local population that « *il ne faut plus prier dans l'église du BDK* » (“You must not pray in the BDK Church any longer”). General Raus and the Vice Governor also reportedly instructed the population not to speak to anyone about the number of persons killed during the incidents. They were instructed to simply state that they were hungry and needed food and other assistance. On 3 March, the *Chef de Secteur* issued a communication requesting that all BDK members living in the area present themselves at the Office of the *Chef de Secteur* for administrative purposes. Only two out of five remaining BDK in Lufuku complied with the request.

#### 5.4 Incidents in Sumbi

87. Following news of police action against BDK followers in Luozi, a large number of BDK members (from several nearby villages, including Mbutu Nanga, Dimalangu, Kynianga, Makabi, Kinzadi and Tsekepambu) concentrated in Sumbi (95 km north of Matadi). In total, they amounted to around 300 followers, grouped around the BDK temple in Sumbi. According to local population, prior to this, only nine BDK members were present in Sumbi (including Nawami Kisome, around 40 years old, who was killed during the incidents).

88. On 3 March 2008, at around 1330 hours, a contingent of PIR came from the direction of Luozi in a convoy of around 20 vehicles. The vehicles stopped about 100m past the *Camp d'Etat*<sup>35</sup>, in the main road that crosses the town. The BDK were concentrated at the other end of the road, in front of their temple. Many were wearing hand-made BDK uniforms (blue shirts and red berets) and carrying stones and pieces of wood cut in the shape of weapons. The BDK had blocked the road. The BDK leader had reportedly advised the population to run away, as the police force was approaching.

89. The police reportedly asked the BDK to surrender. Upon their refusal, the police began shooting down the road from a distance of around 50-75m with both tear gas grenades and live ammunition. The police advanced along the road<sup>36</sup> and confronted the BDK at their temple. The police continued shooting at the open church and the buildings behind it. The majority of BDK members killed in Sumbi probably sustained fatal injuries at this time.

90. One of the BDK followers wounded during the clash in the BDK church escaped in the direction of the nearby hospital. Four PIR policemen arrived at the hospital, where they threatened hospital staff and looted the pharmacy and other buildings. Upon seeing the injured BDK member, who was by this time incapacitated by the bullet wound to his leg, they executed him by firing three rounds at his chest.

91. During the incidents, some policemen entered the grounds of the Kimbanguiste Church (unconnected with the troubles<sup>37</sup>), where some Kimbanguiste followers living in the premises (two priests, the secretary and six children) had taken shelter in the residence of the priest at around 1500 hours. The shooting outside had temporarily stopped when this group of policemen entered the compound and opened fire at the door of the residence. A seven-year-old girl called Astride Nsoki Bwandi was killed by one of the bullets that struck her in the thorax. A second bullet injured her mother in the leg. A policeman ordered everybody out of the house and forced them to lie on the ground. The policemen, under the impression that the people were BDK, told them that

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<sup>35</sup> Grounds containing the main administrative buildings, including the *Bureau du Secteur*, and the local police station.

<sup>36</sup> The Team found bullet shells concentrated in large numbers at an initial point and then dispersed from the initial firing position towards the area immediately in front of the BDK temple.

<sup>37</sup> BDK leader Ne Muanda Nsemi claims to be the heir of the prophet Simon Kimbangu, whose disciples formed the Kimbanguiste Church in the DRC. However, the Kimbanguiste Church has not associated itself in any way with the BDK, its political aspirations and the often violent acts of its members.

their movement had reached its end. However, a police commander who saw the Kimbangiste flag and realized his colleague's error sent the injured woman to the hospital. Astride Nsoki Bwandi was buried in Sumbi cemetery in an unmarked grave (see sketch, annex II).

92. According to witnesses, the shooting in Sumbi lasted between 25 and 45 minutes. After the incident, the PIR called the population and showed them the bodies of the BDK members who had been killed. They were told to collect the bodies and bury them. Thirty-two BDK followers were buried in one mass grave in Sumbi cemetery marked with BDK paraphernalia (in two groups of 29 and three bodies respectively: see photo below). A separate grave contains the bodies of two other BDK followers executed days later (see below). Astride Nsoki Bwandi is buried in a single grave, separate from the BDK graves (see sketch, annex II) The only bodies identified by the population of Sumbi were those of Astrid Nsoki Bwandi, Nawani Kisome, Tsundi Kilangu, and a certain Kibenga<sup>38</sup>.



93. One BDK member who was injured during the clashes managed to escape from Sumbi. His body, later found in the bush in a state of advanced decomposition, was left where it lay. Other people managed to escape into the bush and eventually returned to Sumbi or were arrested by the local population after the departure of the PIR. At least four of them were injured and were kept in custody by the local police at the holding cell in the Sumbi local administration offices (*Camp d'Etat*).

94. On 5 or 7 March<sup>39</sup>, two of these four prisoners were arbitrarily executed by PIR agents who were passing through the town in direction to Tshela. According to eyewitnesses, at around 1830 hours, two pick-up vehicles belonging to the PIR arrived at the *Camp d'Etat* and went into the cell to look for the four injured prisoners. Two of the prisoners had minor wounds and were taken to the vehicles, apparently for transport to Tshela. The other two were seriously injured (one, called Tsundi Kilangu, had a broken leg and the other, called Kibenga Ngonda Maka was immobilized by a bullet wound to his upper body). Two of the PIR agents shot them

<sup>38</sup> BDK prisoners from Sumbi sector currently detained in Matadi provided the name of other victims: a certain Luamba from Kinianga, Mbuku from Kimbuela, Tsumbu from Kinziuki, Mbungu Mbungu and Kaza Kaza, both from Tsundi and the aforementioned Nawami from Sumbi.

<sup>39</sup> Witnesses gave both these dates in their testimony.

dead inside the cell. Witnesses could not specify how many PIR elements were in the two cars but confirmed that at least one of them was an officer. This execution was witnessed by local PNC and the Chef de Secteur.

95. During and after the operation, PIR elements looted numerous houses and shops in the village.

### 5.5 Incidents in Mbata Siala

96. In Mbata Siala (95km north of Matadi), incidents followed a very similar pattern to those in Sumbi. The police arrived on 4 March 2008, between 1900 and 2000 hours. The main confrontation in Mbata Siala occurred near the residence or Administrative office of the *Chef d'Encadrement* where BDK followers coming from several villages had congregated. The building had become a *de facto* BDK temple. The BDK threw stones and were unwilling to disperse as demanded by the police. The police started shooting at the building, mainly with live ammunition, and presumably faced the BDK temple. The police then advanced, still firing at the building. The majority of BDK followers killed in Mbata Siala probably died in and around this area, which came under sustained fire by the police. The building and adjacent open area that served as BDK temple bear numerous indentations caused by bullets (see photo below) fired from AK-47 and mainly (according to the proportion of shells found) from light machine guns. Bullet impacts were also found inside the building, in inner walls and on the floor.

97. There were 16 fatalities, including two minors. All were BDK followers. Another corpse was later found in nearby bushes. On 5 March, the PNC arrived and buried the corpses with the assistance of the local Red Cross and local villagers. The only identified corpse was a certain Sanjo from Mbata Siala. The Team visited and photographed the cemetery where 16 bodies are allegedly buried, distributed in a series of unmarked graves.



### 5.6 Incidents in Matadi

98. Information in Matadi (263km south-west of Kinshasa) was particularly difficult to gather for the Team. This was mainly due to the stronger presence of local authorities in the provincial capital and the consequent lack of witnesses who could be located by the team.

99. On 8 March 2008 the PNC conducted an operation in the Belvedere neighbourhood of Matadi. The operation was aimed at destroying of the BDK “temple” in that neighbourhood, which consisted of a series of tents built around a small brick structure and the remains of some disused vehicles. The PNC refused to give any information to MONUC observers (Milobs and GhanBatt) who tried to approach the area during and after the operations. However, the MONUC observers reported that an attempt had been made to conceal blood stains by covering them with flour.

100. According to Provincial Minister of Information, Justice and Human Rights, two people died (one adult and one child, killed by stray bullets) and six people were injured in the Matadi events. Other sources reported the death of up to 15 people during the operation, including three children.

101. Following the operation, the PNC carried out a search of the neighbourhood for hidden BDK members. At this time, the police looted several houses in the area.

102. Two policemen entered the house of one woman and demanded her money and valuables. They shot their weapon between her legs to scare her and the rounds struck her two-year-old boy, killing him and seriously injured her five-year-old child. The police then looted her house.

103. A man was beaten and cut in the head with a machete by policemen who entered his house in the belief that he was a BDK member.

104. Since the operations, a detachment of local police has remained in position at the site where the temple used to be. At the time of the investigation, these policemen had occupied private houses and kiosks, which they were utilizing as offices and for accommodation. This detachment acknowledged that they were “obtaining” food from the local population, as they had not been provided with rations. Their presence in the area rendered interviews with witnesses in the Belvedere neighbourhood difficult or impossible.

#### 5.7 Incidents in other locations

105. The PNC passed through a small village called **Nyenge Nyenge** (6km from Mbandakani) on 1 March 2008, burning down all nine houses in the locality (see photo). No BDK members were living in of Nyenge Nyenge.



106. On the night of 13 March, the police took possession of the already empty BDK temple in **Kisantu** (198 km north east of Matadi). On 14 March BDK followers, marching to their temple, were prevented access by the PNC who had to shoot in the air to disperse the crowd. Later in the day the PNC arrested a BDK member. The BDK followers allegedly retaliated by beating a policeman. According to one source, a group of eight of them marched towards the police station to release their friend. However, three of them were allegedly arrested and killed by the police. Their bodies were reportedly thrown into the River Inkisi. This allegation could not be confirmed by the Team.

107. In **Lemba** (around 60 km north-west of Matadi), the police destroyed the BDK temple during the night of 9-10 March. Then a group of policemen searched houses for BDK followers. They were accompanied by members of the local population, who collaborated in identifying BDK followers’ residences. At around 0900 hours, BDK members managed to set up a roadblock outside Lemba by cutting trees and placing them across the road. The police attacked the BDK at the roadblock. Local hospitals did not register any dead or injured, but there were some reports of bodies transported away in a police pick-up truck.

108. The Team received allegations of the existence of a mass grave, in **Manterne** (20km from Boma). An official exhumation of the grave by the Prosecutor of Boma, who was accompanied by a delegation of members

of the regional parliament and other authorities<sup>40</sup> found no bodies in the site. However, there were several indications that would suggest that the site had been tampered with. Both during the official exhumation and during the visit of the Team to the site, a pungent odour of decomposition and an abundance of worms were noted. The site which was alleged to have served as a grave was filled with dry charcoal and witnesses who had seen the site before the official exhumation declared that the earth had been moved a matter of hours before the arrival of the delegation. The doctor who accompanied the exhumation was summoned for questioning by the Prosecutor and the Boma office of the *Agence nationale de renseignements*<sup>41</sup> when he inquired as to the chain of custody for a piece of evidence (a piece of tissue thought to be human skin) that he had requested be sent to a laboratory for analysis.

109. In **Seke-Banza town** (75km north-west of Matadi), during the morning of 3 March, BDK supporters coming from Kinkenge (10 km from Seke-Banza) and Lutala-Mbeko (20 kms from Seke-Banza) congregated near the local Administrative Offices to face the police. A group of four PIR policemen just arrived in Seke-Banza repeatedly requested them to disperse. The PIR opened fire (reportedly killing one BDK member) but were overpowered by the BDK who responded by throwing stones. Two policemen were stoned to death and beaten with sticks. The BDK followers then ransacked the PNC Offices and the home of the PNC Commander. Between 1500-2000 hours, Seke-Banza was controlled by the BDK until a section of police reinforcements arrived. On 4 March the PNC burnt down the BDK temple. Several people were allegedly killed by the police on this day, and their bodies dumped in the river. However, witness testimony is inconclusive with respect to the number of bodies allegedly disposed of in the river. A non-BDK victim called Mabalaka was killed by a stray bullet and was buried by family members. Ten people (of which four minors) were admitted to the Seke-Banza Hospital with injuries sustained during the clashes (nine of them with bullet injuries). Five of the wounded later escaped the hospital. Three were transferred to Matadi. On 9 March, the police took two of the wounded, Mambueni Nlandu and Tulunda Tsumbu to an unknown location. The hospital also prepared for burial the bodies of the two policemen killed during the events (one from the PIR Kinshasa and the other a local police officer from Seke-Banza).

110. By the time the PNC arrived on 1 March in **Kinkenge** (60km from Luozi, reportedly a BDK stronghold), part of the population had already left the village out of fear of possible violence. Clashes did not occur in this location, although it is possible that some of the victims of the Lufuku incidents may have come from Kinkenge. Four injured BDK members were received in the local hospital. The BDK temple and at least six houses (including the house of the local BDK leader) were burnt down by the PNC.

111. The PNC passed through **Kibunzi, Nsundi-Kibunzi and Kanga-Kibunzi** on 3 March 2008. The PNC asked the *Chef de groupement* to summon the population. A PNC Commander addressed the crowd, reportedly ordering everybody out of their houses and instructing them to seize all guns in hands of the BDK members. The PNC Commander further allegedly told the population not to hesitate to kill and bury the BDK if necessary. It should be noted, once again, that despite the PNC Commander's instructions, the Team found no evidence that the BDK carried or used firearms against the police. A young BDK follower, Diakabana Lukela, was killed in his house in Kanga-Kibunzi when the police shot at his residence. According to witnesses, at least eight houses were destroyed in Kibunzi *groupement* and some dwellings were looted. A BDK leader called Madiata, from Nsundi-Kibunzi, (alleged the perpetrator in the murder of an FARDC officer) was chased and killed by the population of Kibunzi (around 75 of them) who stoned him and beat him with sticks. The population of Kibunzi also captured BDK leader Dani Mawanpengui in Gombe Mbaya and brought him to Kibunzi where he was beaten by the population and the local police chief, Commander Bazin. He was later taken to Luozi where he died in police custody.

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<sup>40</sup> Six members of the Provincial Parliament, the Mayor of Boma, the Commander of the PNC/Boma, the Head of the ANR/Boma, the *Chef de Cité de Manterne*, the Deputy *Chef de Secteur de Boma-Bungu*, a political advisor to the Governor, three journalists, Red Cross staff, a medical doctor (*Médecin chef de zone de Boma-Bungu*) and a MONUC Milobs Team).

<sup>41</sup> National Intelligence Agency, ANR.

112. In **Banza Bulu** (also written Mbanzabulu, 117km north from Matadi) fourteen houses were looted and destroyed by fire by the PNC on 1 March 2008. Only three of the fourteen houses belonged to BDK members. The BDK temple was also destroyed. Live ammunition was fired at some houses during the operations (see photo below).

113. In **Kwakwa** (23km from Matadi) a number of houses were destroyed (reportedly 25, however the Team was unable to visit this location) and three people were arrested on 7 March. Two people were allegedly killed in **Bundi** and one in **Vunda**, but once again, this information could not be verified without a site visit.

114. In **Lolo-Beni**, two BDK members were reportedly killed by the police (a man called Tsimba Tsinton and an unknown man). The Sumbi Red Cross reportedly buried these men. However, the Team did not visit Lolo-Beni and, once again, these deaths cannot therefore be confirmed in conformity with the methodology used for this investigation.



115. In **Kinsemi** the PNC operation took place during the morning of 1 March 2008. Seven people were arrested and the Team documented the destruction of 36 houses by fire. Around 12 of these belonged to BDK members. In addition the entire stock of the local pharmacy was looted. In Kinsemi, no one was reported injured or killed.

116. In **Tshela** (110km north-west of Matadi) the abandoned BDK temple was burnt by the police on 6 March 2008. The adjacent house, which did not belong to a BDK member, was also destroyed. Eight people were arrested in Tshela, two of whom were released promptly without charge.

117. On 14 March 2008, at around 2300 hours, 20-25 jeeps and three trucks (type IVECO) loaded with men wearing PIR uniform arrived in the coastal town of **Muanda** (210 km west of Matadi by road). The men were armed with rifles, batons, tear gas and axes. At 0430 hours on 15 March, two vehicles arrived in the BDK neighbourhood of Muanda (Itonde Mbeleka, Quartier Ocean). The men rapidly descended from the vehicles and burnt down the Zikwa. They also burnt down the house of Mbenza Mbenza, the local BDK priest.



118. Two BDK members were arrested, allegedly beaten and forced to identify houses in Muanda belonging to BDK members. The police proceeded to burn down a total around 25 houses, including the houses of non-BDK members. The Team visited Itonde Mbeleka, Quartier Ocean and documented and photographed a number of houses and the zikwa, which had been destroyed by fire (see photo). Some residences were looted. In total, the team documented 18 houses, including

that of Mbenza Mbenza, as well as the BDK church, which had been gutted by fire, but due to time constraints, the team was unable to investigate all areas of Muanda where the BDK claimed that houses had been destroyed.

119. MONUC personnel who attempted to reach the affected neighbourhood during these operations were prevented from doing so and threatened by the police<sup>42</sup>. On 16 March, the majority of the troops left, but a small team was left to carry out arrests of any returning BDK members. In **Kanzi** (on the road Muanda – Boma), a further seven houses were burnt down.

120. On 11 March 2008, around 25 PNC vehicles crossed **Boma** (45km west of Matadi) in the direction of Muanda. On 12 March, the PNC burnt down two BDK temples and two houses in Boma (one temple and one house in Mbangu, the second temple in Boma Ville and the second house 8km outside Boma, on the main road). Nobody was killed or injured in Boma, but several people were arrested. Three of them are currently detained in Boma prison.

## **6. Conclusions and Recommendations**

### **6.1 Main Conclusions**

121. The principal conclusions of the Investigative Team are as follows:

- At least 100 persons, possibly more, lost their lives during the police operations, which were ostensibly aimed at re-establishing State authority throughout Bas Congo;
- The police used force in an excessive or unwarranted manner during the operations;
- At least three BDK followers who were arrested or incapacitated and who presented no threat to the police were arbitrarily executed by the police;
- The police, acting on orders from Kinshasa, were sent on an operation which was marked by the destruction of over 200 houses and every BDK temple that the police encountered. These temples were destroyed in a systematic and widespread fashion. There was no legal basis whatsoever for the destruction of private property, much of which did not belong to BDK members;
- The police carried out widespread looting of BDK and non-BDK houses, shops, hospitals and other establishments throughout the course of the operations;
- Arbitrary arrests and illegal detentions took place during and after the clashes. A significant proportion of detainees were the victims of cruel, inhuman and degrading treatment in detention centres or at the hands of the police.

### **6.2 Recommendations**

122. **MONUC recommends that:**

- **The Congolese Government take urgent measures to ensure that the PNC is adequately equipped and trained to manage such situations as that which arose in Bas Congo;**
- **The Congolese authorities undertake a thorough and impartial investigation into the serious crimes and human rights violations discussed in this report. Such an investigation should be a judicial investigation in order that those found to have perpetrated criminal acts might be tried and sentenced in accordance with the law. The victims of the events who lost family members, who were injured, or whose property was damaged by police officers who broke the law, would have the right**

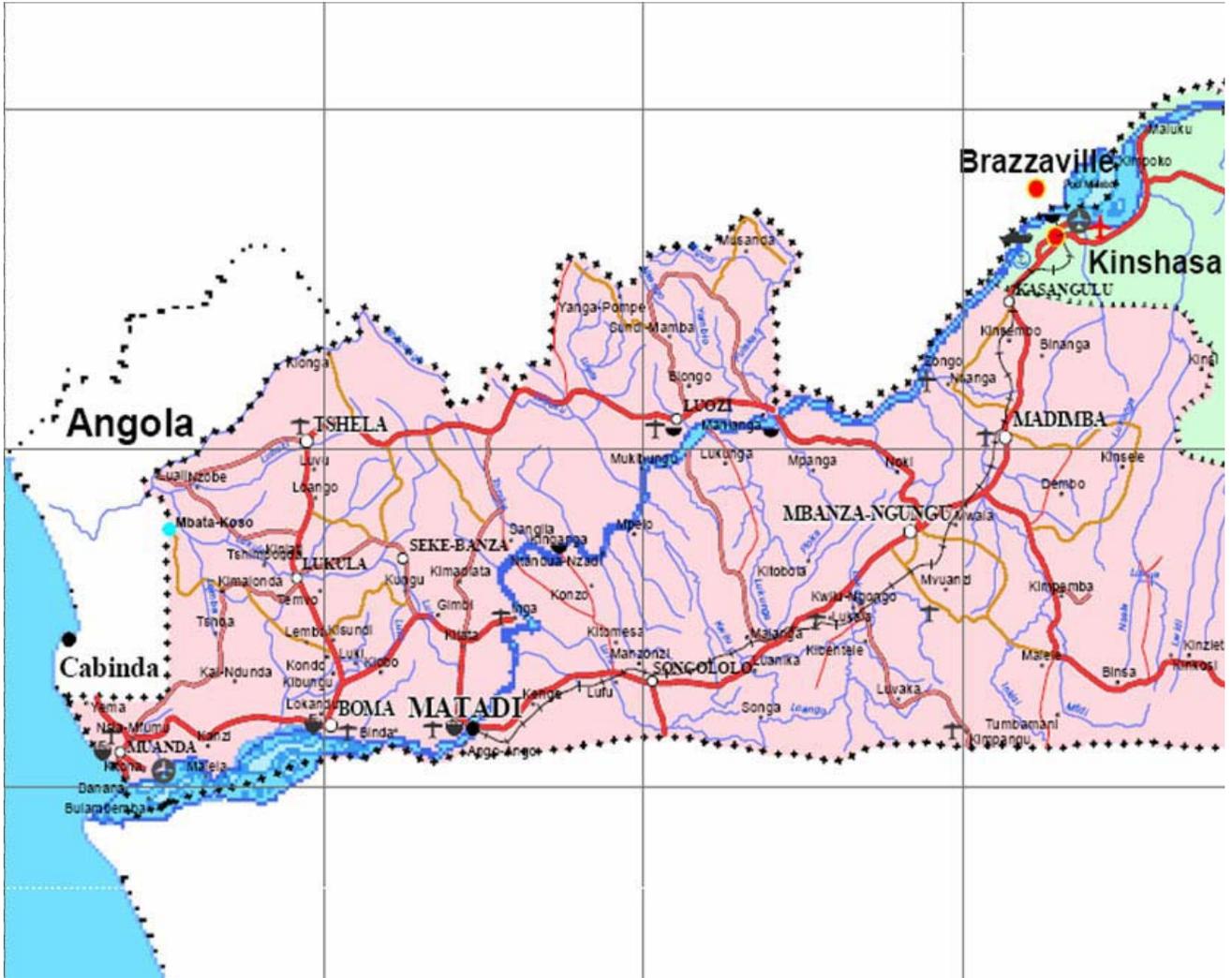
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<sup>42</sup> See MILOB Team 107 Report of 14 March.

**to sue for compensation by joining themselves as civil parties to any such proceedings, in accordance with the applicable Codes of Civil and Penal Procedure. The principle of command responsibility should be taken into account in any such investigation and subsequent prosecutions. MONUC stands ready to assist and to provide information in this endeavour;**

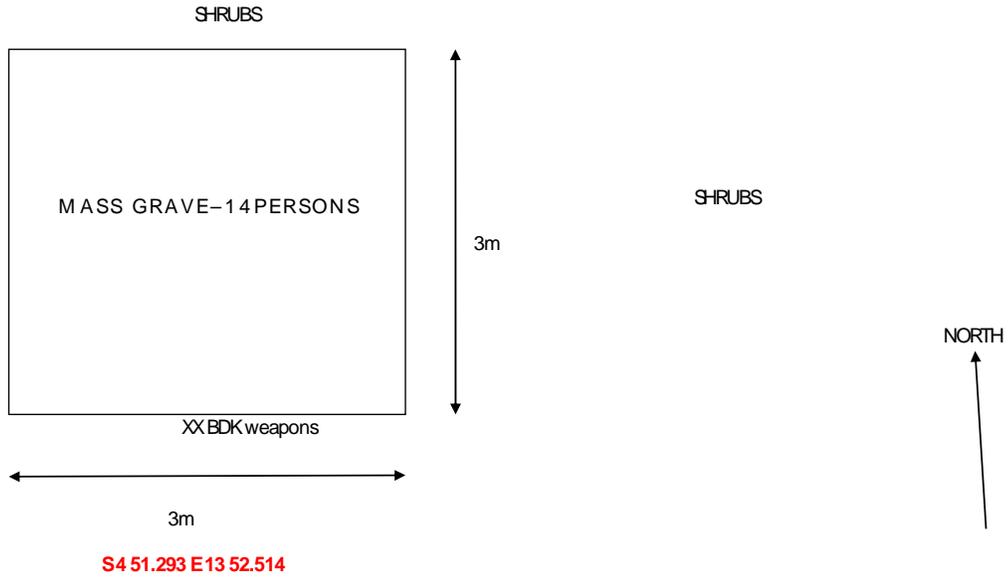
- **The political leadership of the BDK movement acknowledge the legitimacy of the Congolese Government and authorities. The BDK should take measures to ensure that its followers respect the law, and should further denounce the serious criminal offences committed by some of its followers.**

7. ANNEX I  
Map – Area of operations, province of Bas Congo



**8. ANNEX II**  
**Location of mass grave sites and sites where bodies were discovered**

**SKETCH OF MASS GRAVE IN CAMP PULA, NEAR MBANDAKANI (NOT TO SCALE)**  
**GPS POSITION S 4 51.293 E 13 52.514**

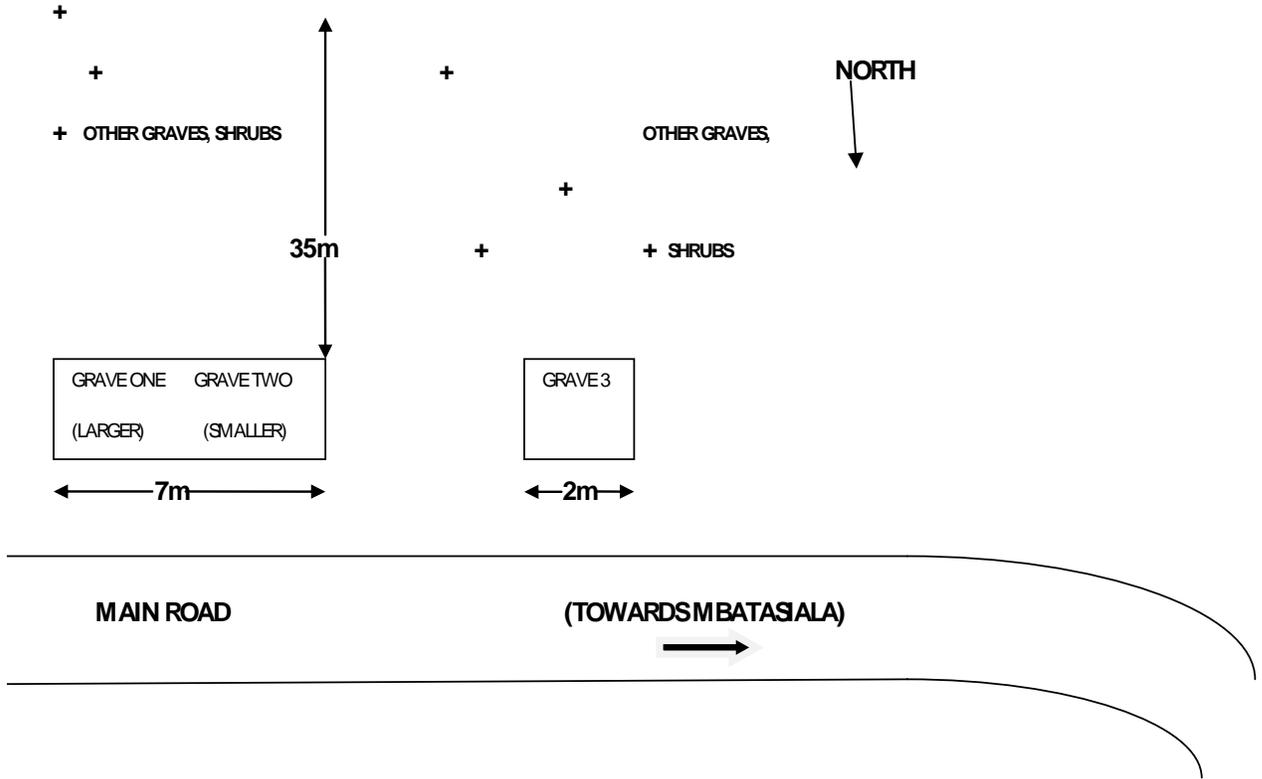


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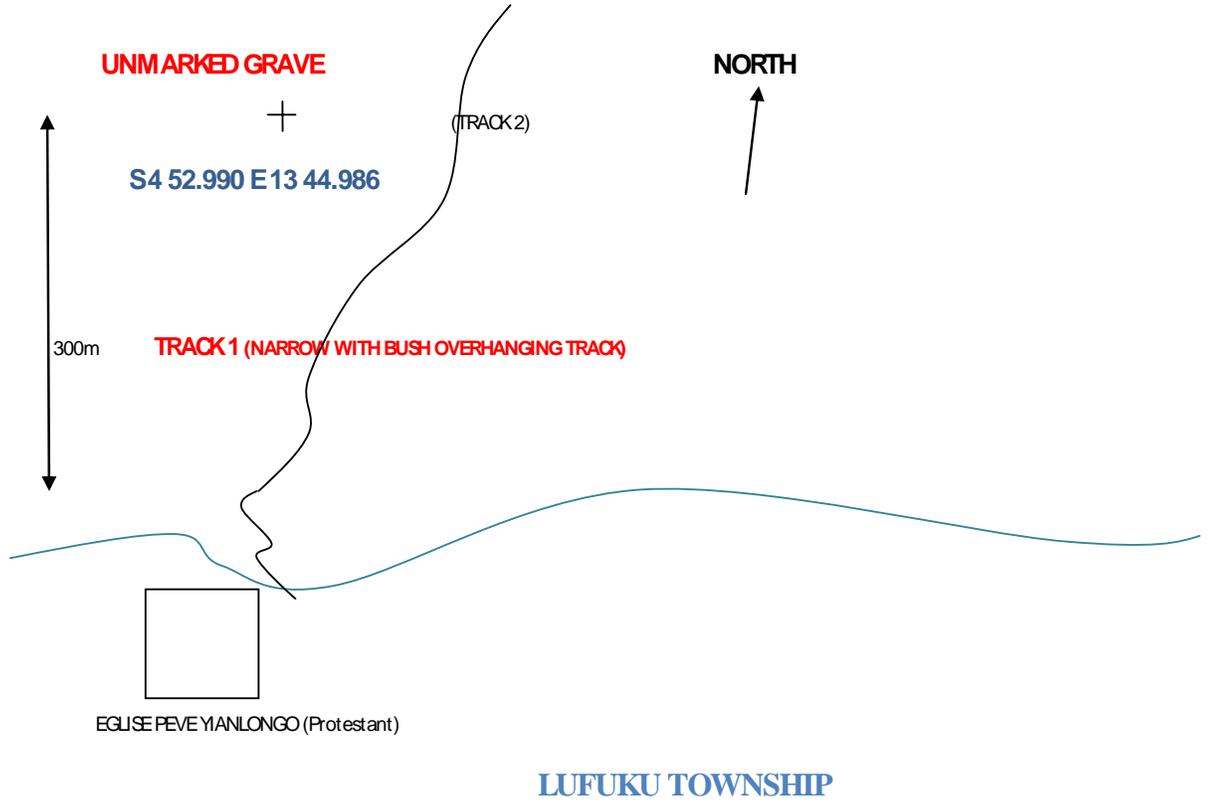
MAIN ROAD, MBANDAKANI - LUOZI

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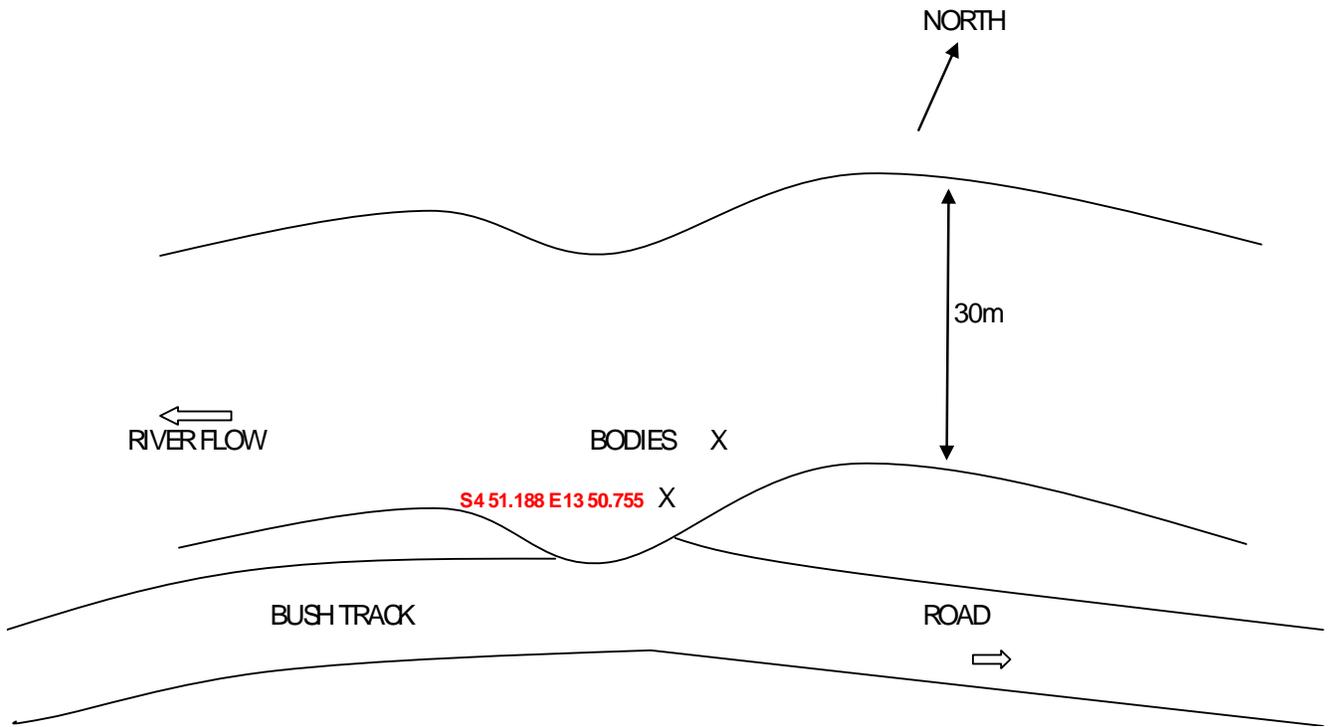
SKETCH OF MASS GRAVES IN SUMBI (NOT TO SCALE)  
GPS POSITION S 4 57.353 E 13 19.636



SKETCH OF UNMARKED GRAVE IN LUFUKU GPS POSITION S 4 52.990 E 13 44.986



SKETCH OF LOCATION OF DECOMPOSING BODIES IN RIVER LUWALA  
GPS POSITION S 4 51.188 E 13 50.755



SKETCH OF LOCATION OF BUSH TRACK LEADING TO BODIES IN RIVER LUWALA  
GPS POSITION S 4 51.122 E 13 50.950

