

Briefing to the African Union Member States

Third Summit of the African Union

July 2004

| | |
|---|----|
| INTRODUCTION | 1 |
| DARFUR, SUDAN | 2 |
| Human Rights Concerns..... | 2 |
| Action by the African Union..... | 5 |
| Recommendations to the African Union..... | 6 |
| COTE D’IVOIRE | 7 |
| Human Rights Concerns..... | 7 |
| Regional Impact | 8 |
| Action by the African Union..... | 8 |
| Recommendations to the African Union: | 9 |
| DEMOCRATIC REPUBLIC OF CONGO | 10 |
| Human Rights Concerns..... | 10 |
| Justice and Accountability | 12 |
| Action by the African Union..... | 13 |
| Recommendations to the African Union..... | 14 |
| CONCLUSION | 14 |

INTRODUCTION

Member States have gathered for the Third Summit of the African Union (A.U.) in Addis Ababa, Ethiopia from June 29 through July 8, 2004. Since its inauguration in 2002, the A.U. has played an increasingly important role in addressing conflict situations across the continent.

The A.U.’s architects have articulated the paramount importance of a continental commitment to take full responsibility for improved peace and security. The Constitutive Act of the African Union includes “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity,”¹ and “respect for the

¹ African Union, *Constitutive Act of the African Union* (Lome: July 11, 2000), Article 4(h).

sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities.”²

Human Rights Watch is encouraged by the efforts of the A.U.’s newly established Peace and Security Council to address conflicts in Africa. The A.U. has developed plans for an African Standby Force, consisting of five regional brigades that will be deployed under the authority of the Peace and Security Council (PSC). The Economic Community of West African States (ECOWAS) has already committed to establishing a force of 6500 for West Africa. Plans are also underway to develop a Continental Early Warning System that would enable preventative diplomacy. In February 2004, at an extraordinary summit of the A.U., the Assembly considered a draft Non-Aggression and Common Defense Pact that includes the possibility of intervention in cases of inter-state and internal conflict.

Human Rights Watch commends the A.U. for undertaking a commitment to peace and security. Having committed to these necessary and laudable goals, the A.U. now bears a daunting burden. We believe that through constructive involvement, the A.U. can play a critical role in preventing and stemming conflict and in protecting human rights.

Deliberations within the current Assembly of the A.U. will include discussions to address the state of peace and security on the African continent. We respectfully draw the Assembly’s attention to three crises that have been characterized by widespread abuses against civilians and that threaten to escalate rapidly if not urgently addressed: Darfur, Sudan; Côte d’Ivoire; and the Democratic Republic of Congo (DRC). We urge the A.U. Member States to use this opportunity to discuss these crises and take decisive action to address them.

DARFUR, SUDAN

Human Rights Concerns

In Sudan, a final peace agreement between the government and the Sudan People’s Liberation Movement/Army (SPLM/A), facilitated by the regional Inter-Governmental Authority on Development (IGAD), should soon end the twenty-one-year conflict. The present human rights and humanitarian crisis in the western region of Darfur is too recent to have been included in the peace talks to end the SPLM/A-government conflict, which centered on the resolution of the north-south crisis. However, the use of crimes against humanity and ethnic cleansing by the Sudanese government in its efforts to quell the rebellion in Darfur casts serious doubt on its commitment to sustained peace and human rights in any part of Sudan.

² Ibid, Article 4(o).

Government forces and their allied Janjaweed militias have committed crimes against humanity and atrocities amounting to war crimes in Darfur. Large swathes of western Sudan that were well populated by productive farming communities of Fur, Zaghawa, and Masalit African ethnic origin are now emptied of their inhabitants and burned to the ground, after being thoroughly looted. The civilians were targeted because they share the same ethnicity as the rebels—a vicious exercise in “ethnic cleansing” of more than one million people, with thousands dead. Aid agencies estimate that hundreds of thousands more will soon die as a result of starvation and disease if unimpeded humanitarian access and full funding is not provided immediately. This is the most egregious conflict in Africa today. It demands effective A.U. action.

Government and Janjaweed Abuses

The Sudanese government and the Janjaweed militias have committed massive, systematic violations of international human rights and humanitarian law that constitute crimes against humanity and “ethnic cleansing.” The Janjaweed and government forces—through massacres, rapes, starvation, and disease resulting from forced displacement and denial of humanitarian access and protection—have killed and abused thousands of civilians; more than one million people have been violently driven from their homes.

The government has done nothing to restrain or disarm the Janjaweed, despite its promise to “neutralize” them. On the contrary, since the beginning of the “ethnic cleansing” campaign in Darfur in 2003, the government has provided the Janjaweed with new arms and uniforms, training, barracks, and offices. The government has also coordinated and directly participated in attacks on the population with communications equipment, vehicles, and its ground troops and air force. It uses its attack helicopters and Antonov airplanes to target, conduct aerial surveillance, and bomb civilian villages. It has prevented some police from enforcing the law against the Janjaweed, and has given the Janjaweed power superior to that of all police authorities in Darfur.

Although the people of Darfur are all Muslims, in the majority Africans, the Janjaweed have gone out of their way to desecrate mosques in their campaign to destroy Fur, Masalit, and Zaghawa villages.

The government of Sudan employs in Darfur the same counterinsurgency strategy it used in southern Sudan and the Nuba Mountains: 1) targeting civilians from the same ethnicity as the rebels; 2) arming and supporting an ethnic militia with existing rivalries with the targeted group; 3) giving that militia impunity for any crimes committed; 4) encouraging and helping the militias to attack the targeted civilians, with scorched earth tactics backed up by government ground troops and air power; 5) killing, raping, abducting, looting, and forcibly displacing the targeted civilian population, destroying its economy; and, 6) denying humanitarian access to the subsequently impoverished

civilians. This pernicious strategy stirs up ethnic hatred that is not easily forgotten, a devastating legacy for a country as diverse as Sudan—with nineteen major ethnic groups and some 600 subgroups, speaking more than one hundred languages and dialects.

Famine now looms in Darfur as a direct result of the Sudanese government's policy of "ethnic cleansing." The emerging famine could kill up to 350,000 victims in the next nine months unless immediate action is taken. Janjaweed scorched earth campaigns have destroyed hundreds of farming communities in North, West, and South Darfur—roughly two million of its six million inhabitants are now at risk of starvation.

The government's denial of any humanitarian or other crisis in Darfur is patently rebutted by nutritional surveys and assessments, by extensive testimony from Darfurian refugees in Chad and the displaced in Darfur, and by satellite photos of the former villages. The photographs, assembled by the United States Agency for International Development from commercial images, show that almost 600 villages were totally or partially burned in the 2003-04 period, corroborating testimonies from the displaced and from refugees.

At least 158,000 people have fled across the border into Chad as refugees. Janjaweed militias are now launching assaults across the border into Chad, attacking and looting livestock salvaged by refugees from Darfur, as well as Chadian livestock. Human Rights Watch has documented at least seven cross-border incursions into Chad by the Janjaweed militias since early June; those living on the border are of the same ethnicity as the Sudanese targets, Zaghawa or Masalit. Chadian self-defense groups and the Chadian military have reportedly clashed with the Janjaweed militia. The shadow of Darfur is stretching across Chad, threatening further destabilization.

Rebel Abuses

The Sudan Liberation Army/Movement (SLA) announced the beginning of armed operations in early 2003, demanding an end to the discrimination and marginalization of the people of Darfur, and seeking a greater level of autonomy and power. The Justice and Equality Movement (JEM) was formed slightly later with similar goals. Neither the SLA nor the JEM, the two rebel groups operating in western Sudan, was involved in the twenty-one-year conflict which took place mostly in southern Sudan, the Nuba Mountains, and eastern Sudan; neither was a party to the IGAD-mediated peace agreement.

The SLA and JEM successfully attacked a government military target in El Fashir, capital of North Darfur, in April 2003. There is now evidence that this attack caused many civilian as well as military casualties. The JEM has allegedly been guilty of incidents of torture of suspected informants. Both groups have been accused of using child soldiers.

The SLA took sixteen humanitarian aid workers captive in June, a direct violation of international humanitarian law. Three of the workers were expatriates and thirteen were Sudanese. They were released unharmed after three days.

Government officials and some Arab groups in Darfur accuse the SLA and JEM of targeting civilians and destroying their villages, and have provided Human Rights Watch with a list of ceasefire violations and attacks on villages. The rebels have denied the allegations. Since access to the government-held areas of Darfur is limited, Human Rights Watch has not yet been able to substantiate these or other allegations.

Action by the African Union

President Idriss Deby of Chad, in concert with the African Union, has mediated dialogue between the parties to the sixteen-month-old conflict in Darfur. The European Union and the United States have also assisted this process. On April 8, 2004, the government of Sudan and the two Darfur rebel groups signed a Humanitarian Ceasefire Agreement. All parties agreed to provide full humanitarian access and the government agreed to “neutralize” the Janjaweed. The government has clearly failed to comply with the ceasefire agreement. Human Rights Watch has been unable to determine whether both rebel groups have complied.

The ceasefire agreement establishes a 120-person A.U. ceasefire monitoring commission, including 270 A.U. troops to protect the monitors, if needed. The PSC has authorized “all steps deemed necessary to ensure an effective monitoring,”³ but the total numbers of the A.U. ceasefire monitors and protectors are not sufficient to ensure that the government and rebel groups comply with their agreement not to commit acts of violence against the civilian population.

At this point, large military actions are not the biggest threat to civilians: smaller-scale attacks on civilians are. Addressing these attacks requires the kind of protection that must come from the police or from the relocation of all Janjaweed out of the area. The Sudanese police have not been able to protect these civilians. Janjaweed have superceded the police in some places, or they have even been retained as police by the government in other places—an affront to the victims of their abuses.

The ceasefire mandates the A.U. not only to “[ensure] the implementation of the rules and provisions of the ceasefire” but also to “[develop] adequate measures to guard against [violations of the ceasefire] in the future.”⁴ Future violations will only be

³ Peace and Security Council of the African Union (PSC), *Communiqué* (Addis Ababa: May 25, 2004), section A(6).

⁴ African Union, *Agreement With the Sudanese Parties on the Modalities for the Establishment of the Ceasefire Commission and the Deployment of Observers in Darfur* (Addis Ababa: May 28, 2004), section III.i.

prevented if these measures go beyond simply neutralizing the armed forces to include protecting civilians on the ground.

In view of the situation on the ground and the nature of the current dangers to civilians, the A.U. monitoring force is not large enough to provide any real protection to civilians across the Darfur region—an area the size of France, but lacking good roads. Most transportation infrastructure is useless during the rainy season, which lasts from June through September and has already started. If the A.U. does not undertake a policing effort, then it should monitor the disarmament and relocation of the Janjaweed militias to their areas of origin—and establish mechanisms to verify that no Janjaweed participants are rewarded with government positions.

Recommendations to the African Union

- Increase the numbers of monitors and post them at concentrations of displaced persons and locations of targeted ethnic groups not yet displaced to ensure that there is a continual presence in areas of concern. Ensure that the monitors have full capacity to travel without notice throughout Darfur and into Chad where there have been clashes and raids from Darfur. Monitors should regularly and publicly report their investigations and findings.
- Post monitors at barracks, camps, and offices of the Janjaweed militia to monitor their activities and their disarmament, disbandment, and withdrawal. Monitors should regularly and publicly report on the numbers, locations, armaments, and activities of the Janjaweed, and any persons or entities working or coordinating with the Janjaweed. Compile a roster of all members of the Janjaweed, and the military formation, unit, or group to which they belong, with names of commanders as well as relationship to any entity or person in the Sudanese armed forces.
- Work with the Sudanese government and regionally specialized national and foreign anthropologists and historians, as well as with representatives chosen by the affected civilian communities (Fur, Masalit, Zaghawa, and others affected, as well as Janjaweed communities) to identify and regulate use of land for grazing by the nomadic peoples from which the Janjaweed draw their forces.
- Include the monitoring of human rights violations in the A.U.-led ceasefire commission's mandate and publish regular reports on violations by all parties to the conflict.
- Gather and preserve evidence of crimes committed by any armed group, including Sudanese armed forces, Janjaweed or other militia, and rebel groups, in violation of the rules of war and international human rights standards.

- Impose targeted sanctions, such as suspended voting rights within the A.U., on the Sudanese government if it does not fully cooperate with the A.U. ceasefire mission and comply with the terms of the ceasefire agreement.
- Work with the UN Security Council to adopt an international plan that would ensure that the effects of the ethnic cleansing are reversed in 2004, with compensation for the victims and the voluntary return of displaced and refugees to their homes in safety and dignity.

COTE D'IVOIRE

Human Rights Concerns

The conflict in Côte d'Ivoire that broke out in September 2002 nominally ended in July 2003, several months after the signing of the Linas-Marcoussis Agreement. However, the country has made little progress towards long-term peace. The peace process is not only deadlocked, it is unraveling. Since the beginning of 2004, Côte d'Ivoire has become a more deeply divided and dangerously polarized society. At present, Côte d'Ivoire is effectively split in half, with government-held areas in the south and territory controlled by rebels in the north. Civilians continue to suffer at the hands of both sides and their associated militias, and from the economic hardship engendered by the conflict.

Ivorian military, gendarmes, police forces and pro-government militias continue to commit serious abuses in Abidjan and other parts of the country with total impunity. Most recently, security forces violently cracked down on a demonstration by opposition groups in March 2004. The crackdown lasted days and, according to a United Nations report, resulted in 120 deaths, many caused by indiscriminate fire from security forces. The Ivorian government admitted that those responsible for the deaths included government-backed militias it termed "parallel forces."

Human Rights Watch is concerned about the escalation and commission of egregious violations by Ivorian government-backed militias, drawn mainly from youth supporters of President Gbagbo's party. Since 2000, the government has increasingly relied on government-backed militias for policing and, since 2002, for combating the rebellion. These groups have served as a lightly-veiled mechanism to intimidate and abuse political opposition and those, who by virtue of their religion, ethnicity and/or nationality, are thought to oppose the government, most notably Muslims, northerners and West African immigrants mostly from Burkina Faso, Niger, Mali and Guinea. Some of these militias have reportedly been armed and trained by the country's security forces.

The militias have often operated in tandem with government security forces. Under the umbrella group name of the "Young Patriots," these civilian militias have been reputed to have close links to the Presidency and possibly to the cocoa industry. Militias have

been active in Abidjan and other urban settings as well as in the rural areas, particularly where there has been ongoing violence against the immigrant communities who are the primary source of labor on cocoa and coffee plantations.

Since 2002, thousands of militant youth, many from President Gbagbo's Bete ethnic group, have enlisted in the state security corps, including the gendarmerie, the police and the military. It has been reported that some radical members of these institutions have disobeyed orders from their hierarchy. We are told President Gbagbo's administration has promoted these so-called patriotic elements within the military and the gendarmerie at the expense of more moderate members of the hierarchies. The regime increasingly deploys all three corps to enforce security. This has led to a confusing picture regarding responsibility and accountability of security forces for recent abuses, particularly since perpetrators generally did not wear identifying insignia.

The general breakdown of law and order and the proliferation of armed groups in the northern, rebel-controlled area of Côte d'Ivoire have also led to abuses of civilians. There have been specific threats to particular groups such as Liberian refugees and members of ethnic groups perceived to support the Ivorian government.

Regional Impact

Credible sources have reported that, in anticipation of a resumption of hostilities, both the Ivorian government and the rebel coalition known as the Forces Nouvelles (New Forces) have been recruiting combatants from Liberia, Guinea, Sierra Leone, and Burkina Faso, including children and refugees. State and non-state actors alike can all too easily buy the allegiance of these combatants with the promise of looted goods or a few dollars. These militias, private armies of thugs, and roving groups of fighters routinely commit abuses against, and often terrorize, civilians.

Despite considerable effort by the international community to bring about sustainable peace and stability within the sub-region, a chain is only as good as its weakest link, and today that link is Côte d'Ivoire. If the situation in Côte d'Ivoire is not brought under control, it could draw in roving combatants from neighboring countries. A return to all-out war in Côte d'Ivoire could threaten many lives and jeopardize the United Nations' efforts to stabilize both Sierra Leone and Liberia. The Linas-Marcoussis agreement, meant to bring about an end to the conflict in Côte d'Ivoire, was signed nearly one and a half years ago and yet a return to war seems more and more possible.

Action by the African Union

The A.U. has issued statements condemning the deterioration of peace in Côte d'Ivoire and the related abuses. On March 27, the PSC called for parties to "exercise restraint,"

resume dialogue, and adhere to the Linas-Marcoussis agreement.⁵ On April 13, the Chairperson of the Commission of the A.U. issued a report calling for an end to impunity and appealing “to the Government of and the Forces Nouvelles to take the necessary measures to bring the perpetrators of human rights violations to justice.”⁶

The PSC Communiqué of May 25 reiterated the call to resume dialogue; requested the African Commission on Human and Peoples’ Rights to carry out an investigation in human rights violations committed on March 25-27, 2004; and supported the U.N. High Commission for Human Rights in its decision to investigate human rights violations committed since the start of the crisis in 2002. It also mandated ECOWAS “to take necessary action to ensure full restoration of operations of state.”⁷

Significantly, the Chairperson’s report also recognized the role that criminal activity and third-party involvement have played not only in the Côte d’Ivoire conflict but also in the region as a whole: “...the crisis in Côte d’Ivoire and other conflicts in West Africa (Liberia and Sierra Leone) are inter-related. The factors of instability, particularly the circulation of, and trafficking in, small arms and light weapons, the phenomenon of child soldiers and the use of mercenaries, have all a regional dimension; hence the need for a global approach to find lasting solutions to the prevailing instability in the region.”⁸

Recommendations to the African Union:

- Condemn all violations of international human rights and humanitarian law that have taken place in Côte d’Ivoire during and since the 1999 military coup and call on the Ivorian government and rebel forces to end all ongoing abuses.
- Insist that the Ivorian government disarm and disband pro-government militias and youth groups, and that individuals alleged to have committed abuses are investigated and held accountable for criminal acts perpetrated by them by a competent judicial body.
- Speak out on the imperative of accountability for abuses committed since the 1999 military coup.
- Urge the government to restrain from using hate-speech that could inflame violence towards individuals based on their ethnicity, nationality, political affiliation or ethnic group.

⁵ PSC, *Communiqué* (Addis Ababa: March 27, 2004), paragraph 3.

⁶ Chairperson of the Commission, Report on the Situation in Côte d’Ivoire (Addis Ababa: April 13, 2004), section V(40).

⁷ PSC, *Communiqué* (Addis Ababa: May 25, 2004), C(7).

⁸ Chairperson of the Commission, Report on the Situation in Côte d’Ivoire (Addis Ababa: April 13, 2004), section V(41).

- Insist that governments in West Africa fully comply with the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons to curb the flow of weapons to all sides of the Ivorian conflict. The exemption process should be made fully transparent and any and all exemptions granted should be on the public record.

DEMOCRATIC REPUBLIC OF CONGO

Human Rights Concerns

Since the establishment of the Government of National Unity in Kinshasa (the Transitional Government) in June 2003, peace has eluded eastern parts of the Democratic Republic of Congo (DRC), particularly in Bukavu and the wider Kivu region, Ituri and Northern Katanga. The recent fighting in Bukavu is only the latest event in a pattern of deteriorating security and massive violations of international human rights and humanitarian law.

Rebellious factions of former rebel groups and other armed groups that have not joined the transitional process use violence to oppose integration into the new DRC army and to challenge the authority of the fragile DRC transitional government. Leaders of the former rebel groups have apparently encouraged or tolerated these challenges even while taking part in the Transitional Government. The Kinshasa transitional authorities have been unable to meet the political challenges and have failed to stop the violence.

The cumbersome power sharing agreement and the distrust among the groups taking part in the transition—as well as those who are outside it—are likely to result in future violence and human rights abuses. The situation may become even more threatening as the Congolese approach the elections set for mid-2005. Failure to meet these challenges will increase the chances of a new crisis in the DRC and a return to conflict, likely destabilizing the entire Central Africa region. This outcome, however, is not inevitable. Progress can be made in the DRC if there is an increased and consistent commitment from the international community and the African Union.

Violence in Bukavu

The violence against civilians in Bukavu, the capital of South Kivu province, followed the May 26 clash between soldiers loyal to Colonel Jules Mutebutsi, a commander from the Rally for Congolese Democracy-Goma (RCD-Goma) who had been suspended from the integrated national army in late February 2004, and pro-government forces of the newly created Tenth Military Region under the command of General Mbuza Mabe. At least one soldier from Mabe's forces was killed in the fighting. Over the following two days, soldiers from Mabe's forces killed civilians of the minority Banyamulenge ethnic

group in apparent reprisal for the killing of their fellow soldier. Some Banyamulenge were apparently targeted because they were of the same ethnicity as Mutebutsi.

The Banyamulenge, often referred to as Congolese Tutsi, are Congolese people whose ancestors migrated generations ago from Rwanda and Burundi to the high plateau area in South Kivu. Relations between the Banyamulenge and other Congolese groups have been strained and are frequently manipulated by politicians in both Rwanda and the DRC. The past six years of war have contributed to hostility against them, as they are increasingly identified as “Rwandan” by other Congolese. Rwanda has partially justified its presence in the DRC as an effort to protect the Banyamulenge people. This justification was significantly undermined, however, when in 2002 they attacked the Banyamulenge homelands killing scores of Banyamulenge civilians, shooting some of them from Rwandan helicopters.

Brigadier General Laurent Nkunda, another RCD-Goma commander based in North Kivu, moved some one thousand of his forces south to support Mutebutsi in taking control of Bukavu on June 2. Nkunda claimed that he “wanted to protect his people.” Some Banyamulenge people, as well as other civilians, were killed but it seems unlikely that the military operation was motivated solely by this concern. In the ongoing struggle for power in eastern DRC, ethnicity frequently serves to cover other motives for action.

A large number of DRC army troops have since been deployed to eastern DRC, following DRC government accusations that Rwanda had amassed troops along the border. The UN High Commissioner for Refugees has reported that by June 18 over 25,000 Congolese had fled into Burundi.⁹

Abuses by soldiers of the Tenth Military Region under the command of General Mbuza Mabe

In Bukavu, Soldiers of the Tenth Military Region killed at least fifteen civilians, most or all of them Banyamulenge, between May 26 and 28. They were said to have killed some of these civilians during searches for hidden weapons and Banyamulenge soldiers. In several cases, they rounded up small groups of young Banyamulenge men and summarily executed them.

Soldiers of the Tenth Military Region and some people who were not Banyamulenge suggested that the people killed were armed and preparing to fight on the side of Colonel Mutebutsi. But this was not the case in several incidents verified by Human Rights Watch, among them incidents involving women and children. Soldiers also attacked at least one international humanitarian agency in Bukavu. Local sources reported that General Mabe may have tried to stop the killings of Banyamulenge after

⁹ “20,000 Government Troops in East, UN says”, *UN Integrated Regional Information Networks (IRIN)*, June 22, 2004.

May 28 and to have some of those responsible arrested. Human Rights Watch has no confirmation of this information.

Abuses committed by forces loyal to Brigadier General Laurent Nkunda and Colonel Jules Mutebutsi

Nkunda and Mutebutsi claimed that they took control of Bukavu to stop the killings of Banyamulenge people, but their own forces also killed civilians and carried out widespread sexual violence and looting. As Nkunda's soldiers marched from Goma to Bukavu, they attacked numerous villages along the way. Several other killings of civilians were reported during the period when these commanders had control of Bukavu.

International and local sources reported that dissident forces went from house-to-house raping and looting. Many women and girls were so fearful of being raped that they went into hiding. Individual soldiers or groups of soldiers raped women and girls, including several three-year-old girls.

Human Rights Watch has previously documented in detail how brutality against civilians, and specifically sexual violence, is an integral part of the war in eastern DRC. Soldiers responsible for acts of sexual violence have committed war crimes.

Rwanda's Involvement

Rwanda has been the chief supporter of the RCD-Goma since this movement began its rebellion against the Congolese government in 1998. General Nkunda was trained in Rwanda and had close ties with the Rwandans while serving with the RCD-Goma. In October 2002, Rwanda withdrew its troops from DRC, but reports persist about the continued involvement of Rwandan forces in eastern DRC. On April 21, 2004, 400 Rwandan soldiers stopped a MONUC (U.N. Mission in the Democratic Republic of the Congo) patrol in North Kivu asked it to withdraw to its base. Rwanda has denied the presence of its troops in eastern DRC.

In Bukavu, local sources alleged that elements of the Rwandan military were present during recent events. They claimed to have identified commanders they knew from the previous Rwandan occupation and also claimed to have been able to distinguish vehicles, weapons and uniforms as those of the Rwandan army. Following these reports, President Kabila accused Rwanda of colluding with the rebels in their efforts to take Bukavu. The Rwandan government has angrily denied the accusations and closed its border with the DRC on June 6.

Justice and Accountability

The abuses committed in Bukavu demonstrate what can happen when past crimes go unpunished. As an August 2002 Human Rights Watch report documented, General Nkunda commanded RCD-Goma soldiers who indiscriminately killed civilians,

committed numerous rapes, and carried out widespread looting in Kisangani.¹⁰ Despite condemnation of these crimes, neither General Nkunda nor other officers were investigated or charged. To the contrary, Nkunda was proposed by the RCD-Goma to help lead the unified army, as were a number of officers from other former rebel groups who have been implicated in war crimes and crimes against humanity over the past years. Although Nkunda did not take up the post, the message had been sent that authors of such crimes would be rewarded with government positions and would not be punished.

Action by the African Union

The Chairperson of the Commission and the PSC have condemned the recent violence in Eastern DRC. On June 11, the Chairperson denounced the attempted coup and noted that he had twice dispatched envoys to the DRC to consult with the parties on A.U. actions to facilitate the peace. The Chairperson and the PSC have also acknowledged the increasingly strained relations among members of the Transitional Government and have called upon all parties to cooperate fully with the peace process. On June 4, the PSC also condemned “incitement of ethnic hatred and any other act likely to generate discord among local communities”¹¹ and called upon regional governments, especially the DRC and Rwanda, to make efforts to improve relations.

The PSC has called upon the U.N. Security Council to increase the size of MONUC and to provide it with the resources it needs to effectively implement peacekeeping operations. It also asked all A.U. member states to “stand ready to provide troops to the U.N. to strengthen MONUC.”¹²

The Chairperson of the Commission has decided to dispatch an envoy to the DRC and Rwanda. The PSC has supported this decision and encouraged him to “to take any other initiative he would deem necessary to overcome the current crisis.”¹³

Most recently, on June 25, President Olusegun Obasanjo mediated talks between President Kagame and President Kabila. The two Presidents agreed to work towards defusing tensions. They also agreed to a joint mechanism to monitor border activities for compliance with the 2002 peace agreement and Kagame has called for international support for the mechanism. In a joint statement following the talks, Kagame and Kabila said they would work together to disarm and repatriate Rwandan militia troops in eastern DRC.¹⁴

¹⁰ See Human Rights Watch short report on DRC, *War Crimes in Kisangani: The Response of Rwandan-backed Rebels to the May 2002 Mutiny* (New York: HRW, August 2002).

¹¹ PSC, Communique (Addis Ababa: June 4, 2004), section A(3).

¹² *Ibid.*, A(8).

¹³ *Ibid.*, A(10).

¹⁴ “Kabila, Kagame Agree Steps to End Tensions,” *IRIN*, June 25, 2004.

Recommendations to the African Union

- Denounce the widespread abuses of human rights and humanitarian law in the DRC, insist that all such abuses must stop and that commanders accused of such abuses be held accountable for their actions.
- Insist that all army soldiers and former rebel combatants set to join the new Forces armées de la RDC (DRC Armed Forces) be screened to ensure that no individual who has been implicated in serious abuses be included in the new force.
- Complete as rapidly as possible the A.U. investigation into recent events in Bukavu and make public the results of the findings.
- Assist the Government of the DRC and the International Criminal Court to bring to justice the perpetrators of violations of human rights and humanitarian law.
- Recommend to the U.N. Secretary General that he establish a mixed Group of Experts to recommend justice mechanisms to investigate and prosecute war crimes and crimes against humanity committed during the war prior to the entry into force of the International Criminal Court Statute.
- Urge all States, in particular those in the region, to refrain from supporting armed groups in eastern DRC as required by UN Security Council Resolution 1493 and support the UN arms embargo on eastern DRC.

CONCLUSION

Human Rights Watch welcomes the steps taken by the A.U. to create a normative framework for regional conflict prevention and intervention. We urge the A.U. to ensure that the protection of civilians and the fight against impunity is central in all its conflict prevention and intervention initiatives. We believe that the A.U. could successfully establish lasting peace and security if these objectives—protecting civilians and combating impunity—were more explicitly integrated into A.U. organs. In each of the three crises described above, impunity for past abuses has been the rule and contributed to the atrocities of today. We call on the A.U. to actively continue to build on initial measures to prevent and intervene in conflict situations and protect human rights.