



D.R. Congo: War Crimes in Bukavu

Human Rights Watch Briefing Paper, June 2004

Overview

Since the establishment of the Government of National Unity in Kinshasa 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. For millions of Congolese citizens who live in the highly populated eastern region and face daily struggles for survival, there is no peace.

Rebellious factions of former rebel groups plus 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, perhaps seeking to keep all options open should the peace process not bring the desired dividends. The Kinshasa transitional authorities have been unable to meet the political challenges and have failed to stop the violence.

Human Rights Watch researchers have documented war crimes and other human rights abuses including summary executions, of which some were committed on an ethnic basis, rape, and looting by all the fighting groups since May 26, 2004 as well as in the previous months.

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-G) 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 Mbuba Mabe. At least one soldier from Mabe's forces was killed in the fighting. Over the following two days other 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.¹

The Banyamulenge are Congolese people whose ancestors migrated from Rwanda and Burundi generations ago to the high plateau area in South Kivu and are often referred to as Congolese Tutsi. 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 often justified its presence in DRC in part as an effort to protect the Banyamulenge people, though this was challenged in 2002 when they attacked the Banyamulenge homelands killing scores of Banyamulenge civilians, shooting some of them from Rwandan helicopters.

Brigadier General Laurent Nkunda, another RCD-G 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 he “wanted to protect his people.” There had been some killings of Banyamulenge people, as well as of other civilians, but the claim that the military operation was motivated solely by this concern seems unlikely. In the ongoing struggle for power in eastern DRC, ethnicity frequently serves to cover other motives for action.

Public news reports in Rwanda exaggerated the threat against the Banyamulenge claiming that massacres were taking place and that “genocide” was planned. Some members of the Banyamulenge community may have welcomed action by Nkunda and Mutebutsi, but others denounced the actions of the two renegade commanders, saying in a press statement that they have “no need of these criminals for their defense.”²

Serious Human Rights Crimes

Human Rights Watch researchers have documented continued widespread human rights abuses in significant pockets of eastern DRC, including war crimes carried out by pro-government soldiers under the command of General Mabe and those carried out by forces under General Nkunda and Colonel Mutebutsi in Bukavu over the last two weeks.

Cases of human rights abuses by soldiers of the Tenth Military Region under the command of General Mbuba Mabe

¹ Brigadier General Laurent Nkunda is a Congolese Tutsi from North Kivu, one of the group known as Banyarwanda and not from the Banyamulenge group. Colonel Jules Mutebutsi is from the Banyamulenge, a pastoralist group who speak a version of Kinyarwanda. They are a distinct sub-group whose history differs from that of Congolese Tutsi of North Kivu who migrated to Congo in a later period.

² “RDC Province de Sud Kivu Communiqué Shikama/Banyamulenge”, Enock Ruberangabo Sebinezza, Member of the National Assembly, E-mail distribution, June 2, 2004.

Soldiers of the Tenth Military Region killed at least fifteen civilians, most or all of them Banyamulenge, between May 26 and 28 in Bukavu. 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, in at least one case after having first detained them in a container located at Place de l'Independence, more commonly known 'Place du 24' in the center of town. Two witnesses claim General Mabe visited this site of detention on May 27 and 28. MONUC later visited the detention center and closed it down freeing the remaining people still being held.

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 so in the cases cited below nor in others where victims were women and children.

The following events all happened on May 27:

- At around 10 a.m. soldiers brought four young Banyamulenge university students including two student leaders, from their home to a major intersection in Bukavu. Soon after they brought two younger students, also Banyamulenge. Soldiers undressed them, tied them together, and beat them severely. Soldiers then brought them to a nearby field, apparently to prevent passing UN peacekeepers from seeing what was happening. They beat the students to death and threw the bodies into a shallow grave. The victims included Mahoro Ngoma, Mande Manege and Rushimisha Mahirwe Manege.
- Soldiers paraded two unarmed Banyamulenge boys in civilian clothes near the same major Bukavu junction. Soldiers stripped off the victims' shirts, tied their hands behind their backs and then opened fire on them. An eye witness reported that they sprayed their bodies with bullets and then gave a thumbs-up sign to the local population.
- Early the same day soldiers questioned sixteen crew members of a boat that had arrived in Bukavu from Goma the previous afternoon. According to a witness, they separated crew members of Banyamulenge or Tutsi origin from the rest. They beat them and questioned them, including about weapons. They shot and killed Tony Nsengumuremyi and took four others to the detention area at 'Place du 24'.
- Soldiers searched homes known to belong to Banyamulenge in the Nyawera neighborhood, supposedly looking for weapons, and forced some fifty people to come from their hiding places. About 20 soldiers escorted these Banyamulenge civilians to the centre of town, claiming they were taking them to safety. There soldiers from another groups fired on the civilians killing a three-year-old girl named Ani Murama Nyabeyi, a thirteen-year-old boy

named Ngabo Kabatiza, and two adult men. At least five others were seriously injured, including two girls, one woman, and two men. Some fled, but the rest were taken to the empty home of a police officer, himself one of the Banyamulenge. The civilians were initially guarded and prevented from leaving the house but representatives of the group were later brought to General Mabe, who agreed to release them to UN peacekeepers. They were taken to the border and crossed into Rwanda as refugees.

- Assailants searching homes in the Iranbo neighborhood near the Saio Military Camp, a predominately Banyamulenge section of town, shot and killed three Banyamulenge in three separate homes. The dead included an eight-year-old boy, a thirty-four-year-old woman, and a seventeen-year-old boy. In one of the three cases, family members identified the assailants as armed civilians, who were probably using the cover of the military to carry out their own operation as part of the attacks.
- About fifty people took shelter in a church compound on May 26 and were discovered by soldiers on May 28. The soldiers demanded that the Banyamulenge whom they called “Rwandans” pay money for their safety. The group then fled to the home of a local person not of Banyamulenge origin. Soldiers also appeared there and demanded more money, which was given by the owner of the house. MONUC evacuated the group the next day.

Representatives of the UN High Commissioner for Refugees (UNHCR) reported that almost 3,000 civilians, most of them Banyamulenge fled to Rwanda as a result of the violence in Bukavu. UNHCR reported that some of the refugees had suffered gunshot wounds and others had machete or knife wounds. Although not all of those injuries can be attributed to pro-government soldiers, they were most likely responsible for many of these injuries.

In several cases persons who were not themselves Banyamulenge intervened to save those targeted by soldiers. These cases included the one mentioned above and that of a soldier who protected Banyamulenge against his fellow soldiers.

International humanitarian agencies were also attacked by soldiers. On May 27, 2004 soldiers entered the compound of one international organization based in Bukavu. One soldier raped a female aid worker and shot another, before fleeing with money and phones.

Local sources report General Mabe may have tried to stop the killings of Banyamulenge after May 28 and to have arrested some of those responsible. Human Rights Watch has no confirmation of this information. General Mabe was in the area when the killings and rape took place and was in a position to know about such acts, prevent and punish them.

Cases of human rights abuses committed by forces loyal to Brigadier General Laurent Nkunda and Colonel Jules Mutebutsi

The two renegade commanders claimed 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. In the town of Minova local sources alleged that killed two women and one young girl while in Babamba they killed a further three people. In Bukavu, rebel soldiers shot a fifty-five year old man in his home while looting it; the man reportedly died later in the hospital. Several other killings of civilians were reported during the period when these commanders had control of the town.

International and local sources reported dissident forces going from house-to-house raping and looting. Many women and girls were so fearful of being raped they went into hiding. In the neighborhood of Kadutu, some one hundred women and girls took refuge in a local church, adding on additional layers of clothing as a disincentive to potential rapists.

- In Bukavu, soldiers raped a mother and her three-year-old daughter on June 3 in the center of town. The mother was gang raped by six soldiers in front of her husband and other children, while her young daughter was raped by another soldier. After the rape, the soldiers looted the house taking most of the family's possessions.
- One local organization documented twelve cases of rape committed between June 2 and 4, including three girls of three-years-old and five girls in their teens. In one case, on June 3 soldiers entered a home where four teen-aged girls were hiding. The soldiers demanded money, asked their ethnicity, and questioned them on the whereabouts of pro-government soldiers. Each of the girls was then raped more than once.
- In another case, twelve women and girls had taken refuge together in the same home for safety. On the evening of June 4, six soldiers entered the house. They said to the women: "we're going to show you that these girls are women like you." They then raped two three-year-old girls and did not rape the others.

One witness reported what was a typical case of looting committed by dissident troops.

"On Thursday June 3 two Banyamulenge soldiers came to my house. They pointed their gun at my head and asked for money. We were five men in the house, and my little sisters were in the back room. They asked for phones, and demanded \$100 from each of the men. So I gave them \$75 and a telephone, because we had heard there had been other killings.... Then they locked the men in a room and went to the girls' room. They attacked my seventeen-year-old sister. I heard her

screaming.... One soldier came back into the room and said: "until you accept the Banyamulenge as Congolese, there will be no calm in Bukavu. Mbuba Mabe killed our mothers, sister and uncles. We leave you with that message..."

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.³ Soldiers responsible for acts of sexual violence have committed war crimes. Yet soldiers involved in such actions are rarely held accountable for their actions. As long as the climate of impunity persists in eastern DRC, women and girls will continue to be targeted as the events in Bukavu illustrate.

General Laurent Nkunda and Colonel Mutebutsi as commanders of these dissident forces have the responsibility to prevent, investigate and punish such abuses committed by their troops and bear responsibility for the war crimes committed.

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, a MONUC patrol in North Kivu was stopped by 400 Rwandan soldiers and asked to withdraw to its base.⁴ Rwanda has denied the presence of its troops in eastern DRC.

The dissident activity of elements of RCD-Goma has raised the question once again of the extent of Rwandan political and military support for groups 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 for Past Crimes

Widespread abuses of human rights will not stop as long as those who commit them are not held responsible for their acts. A recent report from the UN Secretary General on the protection of

³ See Human Rights Watch, "The War Within The War: Sexual Violence Against Women and Girls in Eastern Congo", June 2002.

⁴ "UN mission says Rwandan troops 'illegally' entered DR Congo", *Agence France Presse*, April 24, 2004.

civilians in armed conflict stated that societies in conflict expect and deserve the fruits of peace, not merely an end to fighting. It went on to argue that justice is critical to that peace; impunity can be a dangerous recipe for sliding back into conflict.⁵ The DRC transitional government has referred the serious human rights crimes in DRC to the office of the prosecutor of the International Criminal Court.

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 was a commanding officer over RCD-Goma soldiers who indiscriminately killed civilians, committed numerous rapes and carried out widespread looting in Kisangani.⁶ Despite condemnation of these crimes by then U.N. High Commissioner for Human Rights Mary Robinson, 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 were implicated in war crimes and crimes against humanity over the past years. The national military leadership accepted the nomination of Nkunda, although Nkunda himself refused to report to Kinshasa. Although he did not take up the post, the message had been sent that authors of such crimes would be rewarded with government positions and not be punished.

MONUC's Reaction to Events

UN peacekeeping troops require increased capacity to effectively deal with the escalating violence. In Bukavu, UN forces rescued hundreds of individuals who were under threat of violence by relocating them, but failed to take further action under their Chapter VII mandate. The UN Security Council mandated MONUC to, among others, “protect civilians and humanitarian workers under imminent threat of physical violence and “use all necessary means to fulfill its mandate.”⁷ MONUC forces carried out limited patrols in Bukavu but took no military action to stop the renegade commanders from taking control of the city from pro-government forces. With only some 700 troops present in Bukavu MONUC officers appear to have given a narrow reading to the Chapter VII mandate.

The UN Secretary General and his Special Representative in the Congo, Ambassador William Swing highlighted the shortcomings of the Congolese peace process and their concerns for the future in recent months. In March 2004 they indicated that progress toward peace in DRC was not yet irreversible and that the increasing factionalism amongst members of the transitional government was disquieting. They pressed the international community, donors and the U.N. to do more. The

⁵ Report of the Secretary-General to the Security council on the protection of civilians in armed conflict, S/2004/431, May 28, 2004.

⁶ See Human Rights Watch short report on DRC, “War Crimes in Kisangani: The Response of Rwandan-backed Rebels to the May 2002 Mutiny”, vol. 14, No. 6, August 2002.

⁷ UN Security Council Resolution 1493, July 28, 2003.

response to their concerns has been muted as the focus of the international community moves elsewhere, to Iraq and Darfur. Most governments continue to be pleased that there is 'peace in Congo' and ignore the obstacles that remain. The cumbersome power sharing agreement and distrust among the groups taking part in the transition - as well as those who are outside it - are likely to result in further violence and human rights abuses in the future.

Recommendations:

- ***To the DRC transitional government:*** Investigate immediately war crimes and other violations of international human rights and humanitarian law committed in eastern DRC - some of which have been documented in this briefing note - and bring to account, in accordance with international standards of justice, those found to be responsible. Seek international assistance and expertise for this effort, including possibly from the International Criminal Court, if required.
- ***To MONUC:*** Complete as rapidly as possible the MONUC human rights investigation of these incidents and publish the results. Urgently review MONUC's rules of engagement in DRC to ensure a broad interpretation of its Chapter VII mandate to protect civilians and contribute to the improvement of security conditions.
- ***To members of the UN Security Council:*** Increase the number of MONUC troops in DRC when the MONUC mandate is reviewed in July 2004. 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 which states that no assistance, advice, training or arms should be given to any armed groups operating in North or South Kivu and Ituri.
- ***To the UN members states, Department of Peacekeeping Operations (DPKO), and international donors:*** Provide more ground troops to MONUC rather than just officers in select positions and increase logistical support to MONUC including air surveillance capabilities. Provide technical and financial support for the transitional government to carry out investigations into war crimes committed in Bukavu including support for a mobile investigative team if appropriate to bring to justice those responsible and break the culture of impunity. Increase technical support and financing to MONUC for its information gathering and analysis operations.
- ***To the unified national army, RCD-Goma and all other former rebel groups:*** Exercise greater control and discipline over armed elements and demonstrate full commitment to the transitional process agreed at the Inter-Congolese Dialogue in December 2002 and fully respect international humanitarian law. Screen soldiers set to join the newly integrated army

to ensure that no one who is apparently implicated in serious violations of international humanitarian law is included in the new army.

- ***To the Congolese government, MONUC and UNHCR:*** Facilitate the voluntary return in safety and dignity of Banyamulenge and other Congolese refugees in Rwanda as soon as security conditions permit.