

I. Summary

The people of the eastern Democratic Republic of Congo, buffeted by years of war, endured more armed conflict and related violations of international law in 2006 and 2007. Horrific attacks on civilians—including murders, widespread rape, and the forced recruitment and use of child soldiers—increased following political agreements that were supposed to bring these abuses to a halt. Hundreds of thousands of people have been displaced from their homes in the past 10 months. Abusive forces have not been disarmed, but on the contrary have consolidated their authority.

The Congolese government, backed by the international community, tried several short-term solutions to the fighting but failed to deal with the underlying causes of conflict. The inability of the state to protect its citizens from attack, the claims of armed groups to control parts of the territory and exploit its wealth, and the near total impunity for perpetrators of crimes, all remain unsolved.

Following fighting in August 2007 between Congolese army troops and renegade soldiers under former general Laurent Nkunda, United Nations leaders and representatives of the United States, the United Kingdom, France, Belgium, and South Africa acknowledged the risks of wider conflict and committed themselves to finding political solutions to the crisis. But even as parties agreed to seek a special envoy to facilitate discussions between Congolese President Joseph Kabila and Nkunda, Kabila gave indications that he was bent on further military action against Nkunda. A previous round of fighting between Nkunda's forces and the Congolese army was supposed to have been ended by a Rwandan-facilitated agreement at the beginning of 2007 for integration of their forces, but this collapsed within months.

The government policy towards a second armed group, the Forces for the Liberation of Rwanda (FDLR), has also followed a confusing and contradictory course, with the army sometimes supporting, sometimes attacking this group composed largely of Rwandan combatants. The FDLR is supposedly committed to overthrowing the current government of Rwanda, but in recent years its members have attacked Congolese civilians more than they have engaged the Rwandan military.

The shifting configurations of the conflict in the past year have variously seen all forces fighting each other: Nkunda's forces fighting the Congolese army, the FDLR fighting the Congolese army, and Nkunda's forces—under Congolese army authority in “mixed brigades,” and separately—fighting the FDLR. Although crimes by all parties constituted violations of international humanitarian law, virtually none has been investigated let alone actually prosecuted.

Underlying the military conflict was a struggle for control over one of the richest regions of Congo. Nkunda, who claimed political leadership of his own movement, the National Congress for the Defense of the People (CNDP), set up a parallel administration in parts of North Kivu, installing his supporters in administrative, police, and intelligence services. The FDLR, less centralized and more geographically scattered than the CNDP, made less pretense of administrative control but nonetheless exercised political dominance in substantial parts of North Kivu. It sought to profit from exploiting local resources, taxing trade, and extorting goods from Congolese who lived near its bases.

The struggle over North Kivu was embittered by ethnic hostilities, with Nkunda and his movement identified with Tutsi, while many other North Kivu residents, as well as most FDLR combatants, were Hutu. Both Tutsi and Hutu remembered past discrimination and violence against people of their ethnic group in Congo, and in neighboring Rwanda and Burundi. Both groups asserted the need to protect themselves from the other.

Rwanda, a major force in eastern Congo, regularly gave rhetorical support to Nkunda, saying he served a vital role in protecting Tutsi in North Kivu. On occasion some Rwandan officials allowed Nkunda to recruit new combatants, including children, inside Rwanda.

Further combat, whether involving two or all three of the parties, is likely to generate more crimes against civilians. Political action is urgently needed to resolve the fundamental issues of assuring protection to all Congolese peoples, and delivering justice for the horrendous crimes of the past. What is clear is that unless political will is found to address these core issues, it will be the people of North Kivu who will suffer most.

II. Recommendations

To the Congolese Government

- With the assistance of MONUC human rights investigators, direct law enforcement personnel to conduct detailed, impartial, and credible investigations into serious violations of national and international humanitarian law committed in North Kivu by all parties. Ensure that perpetrators are held to account in trials that meet international fair trial standards.
- Provide full political and logistical support to the civilian and military judicial systems. Ensure that no amnesty is granted for any grave violation of international humanitarian law. Ensure that officers are properly trained to deal with survivors of sexual violence, including women and children, and that female officers are recruited, trained, and deployed for these as well as other investigations.
- Direct military commanders to work with MONUC in assuring the security of civilians, particularly in case of any further military operations.
- Direct military commanders to immediately implement orders to remove all children from military units and return them to civilian life, and give adults who were recruited before age 18 the option to leave. With the assistance of international partners provide for the reintegration of such persons into civilian life. Arrest and bring to justice those responsible for recruitment of children under the age of 18.
- Direct civilian and military services to cooperate fully with efforts by UN agencies, MONUC, and other international partners to prevent crimes of sexual violence, to prosecute perpetrators of such crimes, and to provide all needed assistance to survivors of such crimes.

- Provide adequate financial and material support for members of the armed forces and see that soldiers and police officers actually receive such support. Direct commanders to enforce laws against pillage and looting of civilian property.
- Continue efforts to create a fully national army, ensuring that all members of the armed forces enjoy equal rights and protections, regardless of their ethnic affiliation.
- Establish an effective system to vet applicants for integration into the national army to ensure that those accused of serious human rights violations not be integrated until accusations against them have been investigated. Persons found to have committed serious human rights violations should be referred to the criminal justice system and should not be approved for integration into the army.
- Restore fully state operations, including police, intelligence, and taxation, in areas now controlled by renegade forces loyal to Laurent Nkunda or the FDLR and other combatant groups.
- Promote dialogue among parties in conflict in the Kivus, ensuring the participation of women and women's organizations. Denounce all hate speech, especially if used by officials, and ensure that citizens of all groups are treated with equal respect by all agents of the government.

To MONUC

- Denounce publicly violations of international humanitarian and human rights law, including attacks on civilians, sexual violence, and the recruitment and use of child soldiers. Support fully all investigations into such violations and make public their results.
- Continue making the protection of civilians the priority for peacekeeping operations in North Kivu and develop detailed plans for how protection measures will be implemented. Increase the numbers of mobile bases in

areas affected by recent conflict, implement frequent patrols and place protection officers in areas where civilians are at risk to facilitate a rapid response when required.

- Cooperate fully with other UN agencies, Congolese government agencies, and national and international NGOs in providing the greatest possible protection and assistance to child soldiers and to all persons threatened by, or survivors of, crimes of sexual violence.
- Avoid any public appearances in company of those accused of being implicated in serious violations of human rights that might suggest MONUC endorsement of the conduct of such persons.

To the Government of Rwanda

- Halt all military recruitment of children and adults in Congolese refugee camps in Rwanda and cooperate fully with UNHCR in this effort. Arrest and bring to justice those responsible for such activities.

To the Forces of Laurent Nkunda

- Cease all attacks on civilians. Deliver to appropriate Congolese army judicial authorities all soldiers of the national army guilty of such attacks and hold accountable any other member of your forces who carries out such attacks.
- Immediately stop all recruitment of children under the age of 18, release all children currently in your forces to appropriate child protection agencies, and give adults who were recruited before age 18 the option to leave. Cooperate fully with efforts to provide rehabilitation and reintegration assistance to former child soldiers.

To the FDLR

- Cease all attacks on civilians and hold accountable any member of FDLR forces who carries out such attacks.

- Immediately stop all recruitment of children under the age of 18, release all children currently in your forces to appropriate child protection agencies, and give adults who were recruited before age 18 the option to leave. Cooperate fully with efforts to provide rehabilitation and reintegration assistance to former child soldiers.

To UNHCR

- In collaboration with Rwandan authorities, immediately implement efforts to halt the military recruitment of children and adults in Congolese refugee camps in Rwanda.
- Before signing any agreement to assist the return of refugees from Rwanda to Congo, establish benchmarks to ensure that all returns are voluntary and safe, in accordance with best practices and international refugee law.

To the International Community

- Increase diplomatic pressure for and provide all necessary support to efforts to resolve the crisis in North Kivu without further military operations.
- Ensure the proposed special envoy for eastern Congo develops concrete measures to deal with human rights abuses and accountability for past crimes.
- Support the Congolese government in efforts to promote accountability and end impunity for serious violations of national and international humanitarian law. In determining assistance to the Congolese government, take into account the efforts made in this domain as well as more general improvements in governance.
- Assist the Congolese armed forces in implementing a vetting process to ensure that persons found to have committed serious human rights violations are not integrated into the army but are instead referred to the criminal justice system.