



Flygtningenævnets baggrundsmateriale

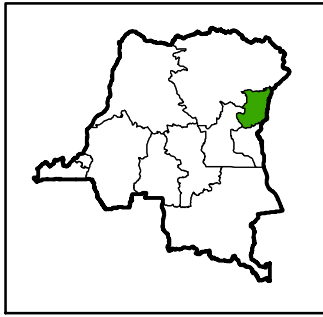
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Democratic Republic of Congo

Civilians attacked in North Kivu

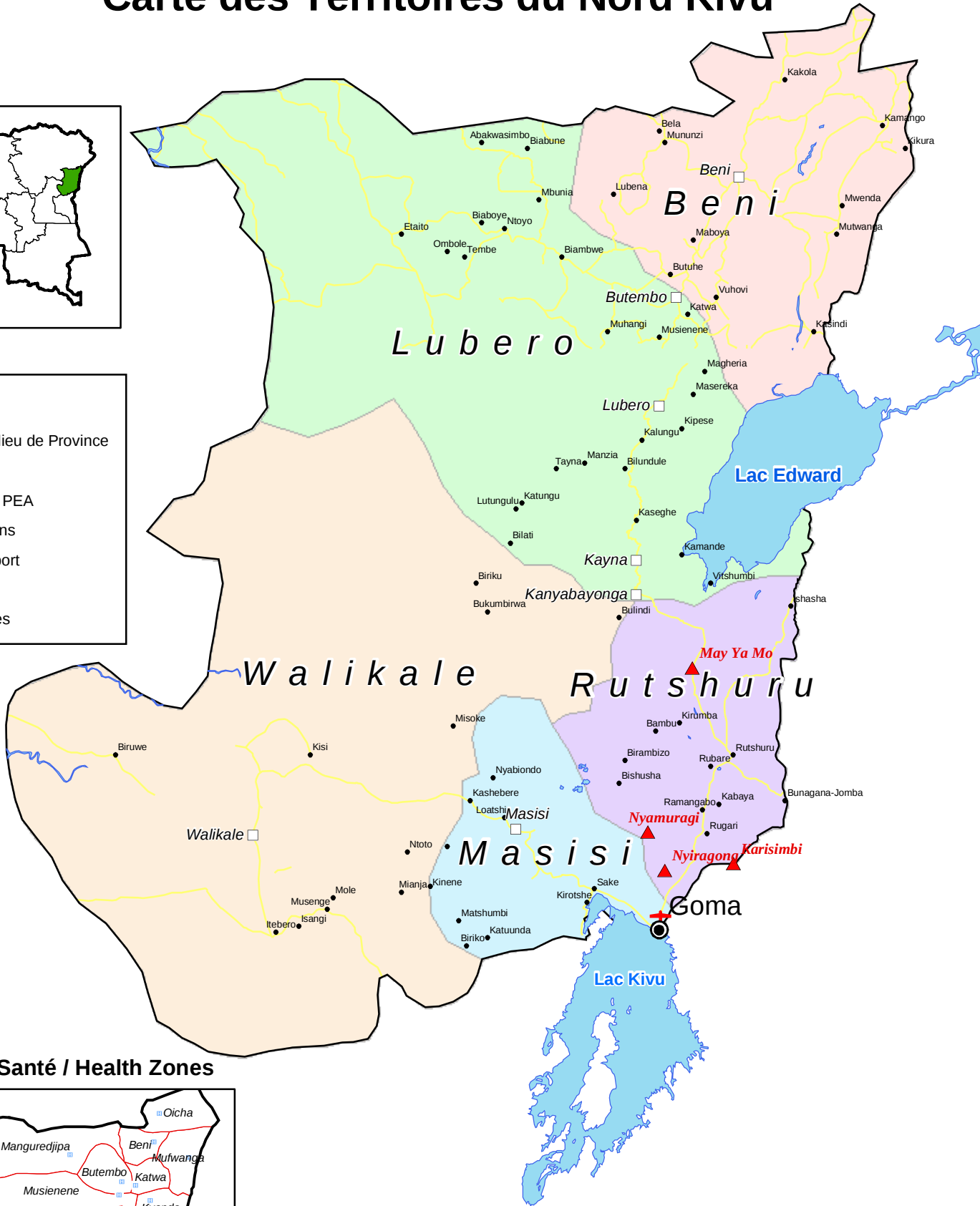
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Carte des Territoires du Nord Kivu



Légende

- Chef-lieu de Province
- Cité
- Ville / PEA
- ▲ Volcans
- ✈ Aéroport
- Lacs
- Routes



Zones de Santé / Health Zones



Sources: DCW, MoI,
OMS, BCD, IGC

The boundaries and names
displayed on this map do not
imply official recognition
by the United Nations

OCHA DRC
Geographic (WGS84)
April 2002

0 25 50 100 Kilomètres



Summary

In December 2004 soldiers of the Congolese national army, (*Forces Armées de la République Démocratique du Congo*, FARDC), attacked and killed at least one hundred civilians and raped scores of women and girls during fighting in North Kivu, a province of the Democratic Republic of Congo (DRC). In some cases ethnic Hutu civilians, armed by local authorities, joined the soldiers in committing these crimes.

The fighting pitted FARDC forces still loyal to the Congolese Rally for Democracy - Goma (*Rassemblement Congolais pour la Démocratie-Goma*, RCD-Goma), against other units of the same army who were opposed to RCD-Goma. Soldiers on both sides of this split deliberately attacked, executed and raped civilians in various incidents throughout the province.

At least two hundred thousand local residents fled the fighting, many seeking refuge in forests where they had no access to food, clean water, or medical help. The armed conflict between the two different factions of the same army illustrated the failure of the Congolese government to integrate the forces of previously belligerent parties at war since 1998. The creation of a single national army was part of the Pretoria agreement of 2002 that led to the establishment of the transitional government in June 2003.

The fighting in North Kivu was linked to political struggles in Kinshasa, the capital, where leaders of the former government and rebel groups jostled to position themselves ahead of national elections planned in 2006. But the fighting also reflected local ethnic tensions. Coming after two other periods of sharp ethnic hostility in June and August, the incidents in late 2004— with their further loss of life and the new involvement of armed civilians— raised ethnic fears and antagonisms to greater heights.

Eugene Serufuli, the governor of North Kivu and an important RCD-Goma leader, ordered the movement of troops on some occasions during these incidents, and would have been in a position to prevent some human rights abuses committed by them. He subsequently established two commissions to investigate some of the abuses committed but neither he nor RCD-Goma military officers insisted that senior commanders implicated in war crimes during the operations be brought to justice. Some thirty soldiers from the group opposed to RCD-Goma, were tried, found guilty and some were sentenced to death for some of these crimes. They have appealed the judgment.

Rwanda, central to the formation of and of continuing importance to RCD-Goma, threatened to invade Congo in November 2004 to disarm Rwandan rebels said to pose a

risk to its security. In response to these threats and continuing resistance to national control by RCD-Goma, the transitional government sent 10,000 troops east, sparking fears that widespread armed conflict could resume. By mid-December, these forces or their local allies had militarily engaged soldiers loyal to RCD-Goma in at least five places in North Kivu.

The U.N. peacekeeping mission in the Congo (known by its French acronym MONUC) has a mandate to protect civilians under imminent risk of physical violence. However, it responded too slowly to save lives or, in some cases, did not respond at all to attacks against civilians. Later the human rights section of MONUC investigated many of the abuses and publicly concluded that soldiers linked to RCD-Goma had killed at least ninety civilians at Nyabyondo and Buramba and that soldiers of this and other factions integrated into the FARDC had raped more than a hundred women in the area of Kanyabayonga.

In the face of the Rwandan threats, important donor nations, grouped in the International Committee to Accompany the Transition (known by its French acronym CIAT, for *Comité International d'Accompagnement de la Transition*), reaffirmed the integrity of Congolese territory. Two donors, the United Kingdom and Sweden, suspended aid payments to the Rwandan government to signal their concern. MONUC also denounced Rwandan threats to the transitional process. However, donor governments and international organizations remained largely silent, at least in public, about the responsibility of officials within the transitional government for the deteriorating situation in North Kivu. Nor did they say much about the crimes against the civilian population and the need to prosecute those who perpetrated them.

Recommendations

To the Congolese Government:

- Take all necessary steps to halt the distribution by North Kivu authorities of firearms or other weapons to civilians, and collect and properly dispose of firearms already distributed. Discipline or prosecute as appropriate any official involved in such activity.
- Take all necessary steps to ensure that the Congolese armed forces act in full accordance with international human rights and humanitarian law. Investigate and fully prosecute serious human rights and humanitarian law violations.
- Ensure the full integration of various factions into the new national army without further delay. Establish a vetting process to prevent persons against whom there is substantial evidence of human rights abuse from being integrated into the national army until accusations against them have been fully investigated. Provide training on the laws of armed conflict to all persons integrated into the national army.

To MONUC:

- Assist the Congolese army in the collection and disposal of illegally distributed firearms, as described above.
- Ensure that MONUC forces operate under clear rules of engagement and have the necessary information to respond promptly and effectively to situations that may imperil civilians.
- Integrate MONUC human rights specialists into all MONUC activities, including patrols and other military operations in North Kivu, South Kivu and other conflict zones as necessary, in order to ensure timely intervention to protect civilians under imminent threat of violence. Ensure that human rights specialists participate in planning of military operations.

To the Security Council and CIAT member states:

- Ensure that MONUC has sufficient troop strength and logistical support to respond promptly and effectively to situations that may imperil civilians.
- Publicly call upon the DRC government to prosecute all persons responsible for serious violations of international humanitarian law.
- Coordinate efforts to influence all Congolese parties to implement treaties and political agreements, including those providing for an integrated national army and for demobilizing armed groups in eastern Congo.
- Continue to urge Rwanda to adhere to its treaty obligations not to have a military presence in the Congo or support any armed groups operating in eastern DRC.

- In assisting the Congolese government to create a unified national army, insist on the establishment of a vetting process as described above for those suspected of serious human rights or humanitarian law abuses.

To donor governments:

- Expand assistance to programs of judicial reform, including by following the model of the European Union-funded pilot program in Ituri.

To the International Criminal Court:

- Consider launching investigations into war crimes and crimes against humanity committed in both North and South Kivu from July 2002 onwards.

Mounting ethnic tensions in 2004

This section describes events that contributed to a rise in tension in 2004 between ethnic communities with Rwandan origins (Hutu, Tutsi and Banyamulenge) and other ethnic communities in eastern Congo prior to the events of December in North Kivu.

Background

The military engagements and abuses against civilians of December 2004 and early 2005 took place following months of increasing tension between ethnic communities with Rwandan origins (Hutu, Tutsi, and Banyamulenge¹) and other ethnic groups in eastern Congo.

Disputes between groups of Rwandan origin and Congolese of other ethnic groups, already serious in the early 1990's, grew worse after the war between Hutu and Tutsi in Rwanda spilled across the border into Congo in 1994. The Hutu-led Rwandan government carried out a genocide of Tutsi civilians in 1994 and then was defeated by the Tutsi-led Rwandan Patriotic Front (RPF) which drove soldiers of the former army and members of a genocidal militia, the Interahamwe, into exile in the Congo and other neighboring countries. The army of the RPF-led government invaded the Congo in 1996 and in 1998 to attack these former soldiers and militia, saying they posed a continuing threat to Rwandan security. The second invasion sparked a war that caused the loss of an estimated 3.8 million people, the great majority in eastern Congo.²

Rwanda withdrew its troops in 2002 and the Congolese government promised to disarm the armed Hutu groups, but failed to do so. In 2004 Rwanda intervened or threatened to intervene in the Congo three times, each time contributing to aggravating disputes between Congolese with Rwandan origins and Congolese of other ethnic groups.

In May and June 2004 Rwanda supported troops loyal to RCD-Goma, led by Congolese Tutsi and Banyamulenge officers, when they mutinied against their FARDC commanders and briefly took control of the important South Kivu town of Bukavu. Some RCD-Goma soldiers committed widespread abuses against the civilian population before leaving the town and the province in the face of opposition by other FARDC troops and pressure from the international community.³ With this military withdrawal from South Kivu, RCD-Goma lost political and administrative control over the province

¹ "Banyamulenge" means literally "the people of Mulenge," an area of South Kivu.

² International Rescue Committee and Burnet Institute, "Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey", December 2004.

³ See Human Rights Watch Briefing Paper, "D.R. Congo: War Crimes in Bukavu", June 2004.

and became increasingly determined to retain its hold over North Kivu, the last bastion of its power.

FARDC troops also committed abuses during the fighting, including summary executions of Banyamulenge civilians. Fearing further attack and feeling vulnerable after the departure of their RCD-Goma protectors, thousands of Banyamulenge fled to Burundi or Rwanda.

In August 2004, more than 160 of these refugees, most of them Banyamulenge, were massacred at Gatumba in Burundi by Burundian Hutu rebels, possibly with the assistance or support of others.⁴

In November 2004 the Rwandan government threatened to send its soldiers into Congo again to disarm Rwandan armed groups, many of them by this time formed into the Democratic Forces for Rwandan Liberation (*Forces démocratique de libération du Rwanda*, FDLR).⁵

Congolese of Rwandan origin living in North Kivu were frightened by the killings of Banyamulenge at Bukavu and Gatumba and by reports that FARDC soldiers of other ethnic groups had summarily executed Tutsi and Banyamulenge soldiers elsewhere in the Congo. They had also heard that FARDC soldiers had attacked Hutu in South Kivu, causing the forced displacement of tens of thousands of people.

Thus concerned about possible future abuse by the transitional government and FARDC soldiers loyal to it, some people of Rwandan origin supported the RCD-Goma determination to preserve a zone of autonomy from central control. Under the direction of Governor Serufu and other RCD-Goma leaders, these people—including previously hostile Hutu and Tutsi—increasingly identified themselves as part of a single group, calling themselves Rwandophones because they speak Kinyarwanda, the language of Rwanda. As people of Rwandan origin increasingly feared and resented national government attempts to control them—carried out by people of other ethnic groups—so people like the Hunde and Nande in North Kivu increasingly feared and resented Rwandophones and the RCD-Goma authorities who controlled that province. Decades

⁴ See Human Rights Watch Briefing Paper, “Burundi: The Gatumba Massacre: War Crimes and Political Agendas”, September 2004.

⁵ Although known in the area as ex-FAR (ex-Rwandan Armed Forces, the former Rwandan national army that lost power after the genocide) and Interahamwe (the Rwandan Hutu militia who assisted in carrying out the Rwandan genocide), the majority of Rwandan Hutu rebels in eastern Congo did not participate in the Rwandan genocide; many were recruited from among Rwandan refugees or even from among the Congolese population. In 2004 the Ralliement-FDLR (RFDLR) split off from the main group; as of mid-2005 both groups operated in eastern DRC. See Human Rights Watch Briefing Paper, *D.R. Congo: Civilians at Risk during Disarmament Operations*, December 2004.

of migration by the Hutu had made the originally predominant Hunde a minority in Masisi and policies of the RCD-Goma government increasingly deprived them of local political power. Governor Serufuli replaced customary Hunde authorities by Rwandophones and others loyal to himself.⁶ The Hunde often looked to local militia, known as Mayi-Mayi, for protection. In 2004 many of the Mayi-Mayi had also been supposedly incorporated into the FARDC but other units retained considerable autonomy. In some situations (see below) Mayi-Mayi fought against troops loyal to RCD-Goma, another example of combat within the ranks of the supposedly unified FARDC.

Integration of the army was stalled throughout 2004 and the first part of 2005 because leaders of the former politico-military groups who made up the transitional government were reluctant to surrender real control over troops loyal to them. Equally important, the transitional government failed to disburse the funds needed for military re-organization to the military hierarchy and to the National Commission on Demobilization and Reinsertion (CONADER). Although army integration sites finally opened in North and South Kivu provinces in March 2005, few RCD-Goma forces reported to the centers and some other groups who arrived deserted soon after because of the lack of adequate housing and sanitary facilities.⁷

Arms distribution to Hutu civilians

In 2004 and early 2005 officials subordinate to Governor Serufuli distributed arms to thousands of Hutu civilians in Masisi and probably also in Rutshuru. This created a new reserve of armed civilians available to implement the governor's orders and to help retain control of North Kivu in the face of possible advances by the transitional government and its troops. Hutu used the weapons in some cases to commit crimes against their neighbors and later to participate in attacks and pillaging during the fighting in December 2004 (see below). Not all Hutu were happy to take arms, and those who resisted the distribution were threatened and in at least one case killed. The presence of the weapons also exacerbated fear and tension between Hutu and other ethnic communities, leading some to flee their communities even before shots were fired. When Serufuli became governor of North Kivu in 2000, a state-organized paramilitary group known as the Local Defence Forces (LDF)⁸ already existed. He expanded its size, at one time claiming the force numbered more than 30,000, and recruited primarily among Hutu civilians. Although the force was supposedly only a quasi-military institution under the control of local administrative officials rather than military officers

⁶ Human Rights Watch interviews, Goma, September 24 and October 10 2003.

⁷ Human Rights Watch interviews, Goma, Bukavu and Mushaki, March and April 2005.

⁸ Generally known as LDF, the groups are officially called Unités d'autodéfense et de développement (UAD). The same kind of force, known as LDF, exists in Rwanda.

as such, elements of the LDF were demobilized or integrated into the FARDC in early 2004. Serufuli, however, was said to retain considerable control over them.

Administrative and security officials handed out firearms in the Masisi countryside in October 2004, according to information provided to Human Rights Watch researchers by local officials, church leaders, civil servants, former RCD officers, and villagers from both the Hunde and Hutu ethnic groups.⁹ One of those who organized and armed Hutu civilians in the Banyungu area was Captain Munyamariba, a Hutu administrative official and FARDC officer from the former RCD-Goma troops who had once been part of the LDF.¹⁰ Dusabe Kashemare and Rukeri Nyange, middle-ranking security agents,¹¹ and Munaba Rukebesha, another administrative official,¹² also participated in the distribution there. Many persons also reported seeing the vehicle of Robert Seninga, an advisor to the governor and organizer of his defunct Local Defense Forces, transporting guns into Masisi.¹³

Officials explained to Hutu civilians that the weapons were for their protection, and sometimes spoke specifically of the need to resist possible attacks by FARDC General Budja Mabe, who was accused of massacring Hutu in South Kivu in July 2004. In other cases, Hutu believed the weapons were intended to defend themselves against the FDLR and other Rwandan Hutu armed groups. When officials did not identify the source of threat specifically, some civilians concluded that the distribution of arms almost exclusively to Hutu signaled a coming ethnic war.

The first large delivery of firearms was in mid-October at Kibabi, Masisi, with distribution carried out from there to numerous villages. According to one Hutu resident:

They [youths] were requisitioned to go pick up arms at Kibabi. The interim *chef de localité* of Banyungu, Rukara Shamba, put together the

⁹ Human Rights Watch interviews, Goma, October 20, November 9, 22 and 23, 2004, February 4, 2005 and Masisi, January 26 to 29, 2005.

¹⁰ Captain Munyamariba was Chef de Poste d'Encadrement de Mianja. Human Rights Watch interviews, Masisi, Jan. 27, 2005.

¹¹ Human Rights Watch interview, Masisi, January 29, 2005. See also Société Civile du Nord Kivu, "Le Nord Kivu à la Dérive", December 2004; and RODHECIP, "Appel à Action Urgente N° 001/2004 : Le territoire de Masisi en province du Nord Kivu/RDC de nouveau à feu : Distribution illicite d'armes à feu aux populations civiles", November 6, 2004 (on file with Human Rights Watch). Albert Semana, a Tutsi from RCD-Goma who is close to Governor Serufuli, is director of the provincial security service and a powerful figure in North Kivu.

¹² Human Rights Watch interviews, Goma, November 9, 2004, and Masisi, January 26 and 29, 2005. Munaba was the secretary of the Poste D'encadrement at Ngomashi.

¹³ Human Rights Watch interviews, Goma, November 9, 2004. See also Société Civile du Nord Kivu, December 2004; and RODHECIP, November 6, 2004.

list.... They came back with guns and. . . the chief gave the weapons to us individually in our houses.... About fifty young men in the four villages of Biholo and many others in the surrounding areas took weapons.¹⁴

A Hunde from one of three villages at Showa, also in Banyungu, confirmed that Rukara went “door-to-door” to tell Hutu youth to come to a meeting near Kibabi in October, where they were given weapons. He said that fifteen youth from his village left in October, with Munaba and Rukara, and in November they came back armed.¹⁵

Another Hutu villager said:

Almost all the population of young men of Kazinga was called early one morning to go to Kibabi. We arrived there at 9.30 p.m. We saw a truck filled with sand; then they removed the sand and underneath were guns.... 150 people got weapons that day. Each person got five guns. They were about one meter long . . . with bayonets. The 150 people were from Kazinga, Katahandwa, Luke, Nyamumbuke, Kitengere, Katchinga, and Mufa. This was the first distribution. After two days, one hundred others from the same villages went. They were given fifteen heavy weapons, destined for the civilian population.... Dusabe and Munaba carried out the distribution.... When we went to get the weapons, we were carefully watched. We left Kazinga with all the people on the list of names; they took us to a classroom and called us by name. I took four guns on my head and one for me slung across my chest. The other four were [to be transported] to the Kazinga depot. They told us to keep our weapons well because they were for our protection and use during the war we bring to the Hundes....¹⁶

According to witnesses, officials gave weapons to boys as young as ten years old, and to men as old as fifty-five years old.¹⁷ Those who received firearms were not well-trained and integrated into a command structure and as a result, insecurity increased in areas where firearms had been distributed. Civilians who had received weapons shot them into the air, initially to show their joy and later to demonstrate their control of this new

¹⁴ Human Rights Watch interview, Masisi, January 29, 2005.

¹⁵ Human Rights Watch interview, Masisi, January 29, 2005.

¹⁶ Human Rights Watch interview, Masisi, January 29, 2005.

¹⁷ Human Rights Watch interviews, Masisi, January 29, 2005.

source of power. Some of them committed armed robberies against their neighbors.¹⁸ According to a local official, a young woman at Ngomashi was shot multiple times in the arm and killed by one of the newly armed civilians on October 13.¹⁹ Some villagers, both Hutu and Hunde, took to spending the night in the forest instead of at home. A Showa villager said, “There was shooting at night because they were pillaging and stealing animals. During the day we would stay in the village, but at night we stayed in the bush.”²⁰ Others who felt threatened moved to larger population centers.

The problems caused by the arms distribution were sufficiently serious that in some cases soldiers loyal to RCD-Goma had to intervene to bring the armed civilians under control. In one incident at Mashaki on October 16, 2004 soldiers exchanged fire with armed civilians and several persons were killed, including civilians not participating in the fighting.²¹ In another case, a small detachment of RCD-Goma soldiers was deployed to Kishonja to control armed civilians, with the understanding that the local population would have to feed them.²²

According to some local Hunde leaders, the newly armed Hutu civilians instigated a campaign of “disobedience” against them, telling people, for example, not to bring disputes to Hunde leaders for resolution.²³ Facing erosion of their authority, several Hunde local authorities left their posts. “When I understood I had no control, I left,” said one of these leaders.²⁴ According to another Hunde, the newly armed said that they could not be ruled by “others.” “They said to us, ‘You Hunde say the locality belongs to you, but from today your limit is the Lwashi river [just west of Masisi town].’”²⁵

Other officials stayed in their posts and made some efforts to bring order back to their villages. According to a local development worker, the territorial administrator of Masisi attempted to restrict the movement of armed men at night.²⁶

¹⁸ Human Rights Watch interviews, Masisi, January 26, 29 and 30, 2005.

¹⁹ Human Rights Watch interview, Goma, November 9, 2004.

²⁰ Human Rights Watch interview, Masisi, January 29, 2005.

²¹ Human Rights Watch interviews, Goma, November 9 and 22, 2004, Masisi, January 29, 2005. The reason for the fighting was unclear but observers believed it might be related to an attempt by some military and civilian officials to control the newly armed Hutu after receiving complaints from the local population, e.g. to prevent them from patrolling at night.

²² Human Rights Watch interview, January 26, 2005.

²³ Human Rights Watch interview, Goma, November 22, 2004; Masisi, January 29, 2005.

²⁴ Human Rights Watch interview, Masisi, January 29, 2005.

²⁵ Human Rights Watch interview, Masisi, January 29, 2005.

²⁶ Human Rights Watch interview, Masisi, January 26, 2005.

In some areas local officials targeted or permitted armed civilians to use violence against Hutu who refused to take firearms. According to one administrative official, the same people who gave out the firearms pillaged property and burned the homes of Hutu who resisted the distribution at Manfe village, resulting in the flight of some Hutu families.²⁷

Another Hutu explained how his family was punished when he refused to take arms:

I said “no” [to the local chief distributing weapons] and he said, “OK, soon I will send my men to arrest you.” I left for Masisi town the next day.... Because of the hunger here, I asked my wife to go back and get food. She was captured by armed men, civilians who had recently received arms from the local chief, who kept her for one week. I went to tell the Territorial Administrator hoping he would save my wife, but nothing happened. When the local chief went on his regular patrols, he found my wife in the hands of his people. He said to release her; but with the message that unless I come back, no one in my family can go into the fields.... She was kept at the post of a man there. I took my wife to the hospital when she got here. She had been beaten so that she would submit to becoming their “wife.”²⁸ I think it was several men.²⁹

In another case, Firigi Zabandora, a Hutu police officer who had been a bodyguard for a Hunde customary leader and who had received a weapon in the distribution, was killed on October 20 when he tried to return his weapon to Dusabe. Dusabe also threatened to arrest other Hutu who had joined Zabandora in trying to return their weapons. When they learned that Zabandora had been killed, they fled the area.³⁰ At the end of December, a MONUC team came to another village in Masisi to investigate the arms distribution. After their departure, at least one person was accused of having given information about the distribution and was arrested. He was released, but after being threatened, he fled his village.³¹

Arms were distributed to civilians again at Luhanga, Masisi, in January 2005 by the local chief, Francois Gahamani and by Major Ngayaberura, the military commander, who were both Hutu, according to a witness. Following losses to RCD-Goma troops in combat in Walikale and Masisi, they recruited Hutu youth and sent them to a small camp

²⁷ Human Rights Watch interview, Goma, November 21, 2004.

²⁸ This is a common euphemism for rape in eastern Congo.

²⁹ Human Rights Watch interview, Masisi, January 29, 2005.

³⁰ Ibid. Human Rights Watch interviews, Goma, November 9, 2004; Masisi, January 29, 2005.

³¹ Human Rights Watch interview, Goma, February 21, 2005.

where they were given ideological training.³² Governor Serufuli had named Gahamani in 2002 to replace a former Hunde chief who had fled the area during earlier ethnic conflict. One of the recruits said that the chief and commander distributed Kalashnikov AK-47 assault rifles to thirty people, including boys less than sixteen years old. According to the recruit,

They said we would fight Hundes, not just Mayi-Mayi but also civilians; we would fight Colonel Akilimali, [a Mayi-Mayi commander] who had captured heavy weapons from RCD-Goma, and we would keep control of North Kivu. I was a cultivator. I had no way to refuse. Major Ngayaberura is all-powerful in our area.³³

Almost half of the recruits fled the small training camp within a week, but did not go back to their village because they were afraid to be punished for desertion.³⁴

The U.N. Group of Experts investigating violations to the U.N. arms embargo on eastern DRC concluded in a January 4, 2005 report that Governor Serufuli had created an armed militia through a “highly organized and systematic” arms distribution organized by his administration. They believed that arms had been distributed in Rutshuru as well as in Masisi.³⁵ At about the same time, a MONUC human rights investigation team found that officials had been distributing arms in Buramba since the first week of January.³⁶

In an interview with a Human Rights Researcher, Governor Serufuli denied that his subordinates had distributed arms to civilians. He claimed instead that Rwandophone civilians had spontaneously taken up arms to protect themselves against the threat posed by the possible deployment of Congolese soldiers of other ethnic groups in North Kivu. He also said it was possible that some lower-level officials had distributed arms without his knowledge.³⁷

³² Human Rights Watch interview, Goma, April 5, 2005.

³³ Ibid.

³⁴ Ibid.

³⁵ Group of Experts on the DRC, to Chairman, Security Council Committee established pursuant to Resolution 1533 (2004), January 4, 2005 (UN Doc S/2005/30, Jan 25, 2005) [hereafter U.N. Group of Experts Report on the Arms Embargo, January 2005].

³⁶ Electronic communication to Human Rights Watch, February 3, 2005.

³⁷ Human Rights Watch interview with Governor Serufuli, Goma, March 15, 2005.

Rwanda threatens to intervene

At the time of the Bukavu mutiny in May-June 2004 and the Gatumba massacre in August 2004, Rwandan government authorities had voiced strong support for Congolese Tutsi and Banyamulenge, whom they called the “victims of genocide.” Many Congolese of other ethnic groups believed that Rwanda had also supported the Bukavu rebels militarily³⁸ and many knew that Rwanda threatened to act militarily to protect the Banyamulenge after the Gatumba massacre. The possibility that Rwanda had again intervened or might shortly intervene in eastern Congo increased fears among Congolese who had twice suffered Rwandan occupation and caused some of them to accuse Rwandophone Congolese of favoring such a return of Rwandan control.

With these events as a backdrop and with reports circulating of the recent distribution of arms to Hutu in North Kivu, Rwandan threats to send troops to Congo caused serious concern both locally and at the national level. At the end of November Rwanda asserted that it might already have troops in the Congo, and confidential sources within the U.N. confirmed that Rwandan troops had been entering the country since November 6.³⁹ In late November, community leaders claimed that Rwandan troops had killed some civilians and had burned twenty-one villages in eastern Walikale.⁴⁰ Several thousand civilians fled to neighboring Lubero territory or simply to the surrounding bush.⁴¹ U.N. staff confirmed that several villages had been burned and that some civilians had been summarily executed. Local witnesses said Rwandan army troops had committed these crimes.⁴² A Rwandan-Congolese joint verification mission later confirmed that Rwandan troops had been present in DRC but said that reports of burned villages had been exaggerated.⁴³

The “Rwandophone” movement: growth and divisions

After the Bukavu crisis in mid-2004, RCD-Goma was split between those who, broadly speaking, supported the Congolese transitional government and those who opposed the extension of central government control. Those who resisted central control used the concept of “Rwandophone” identity to rally both Hutu and Tutsi to their cause. Claiming to be the object of “exclusion and discrimination never before seen in our

³⁸ Such was the conclusion also of the U.N. Group of Experts Report on the Arms Embargo, January 2005.

³⁹ Human Rights Watch interviews with U.N. sources, Goma, December 5, 2004. See also Human Rights Watch backgrounder, “Democratic Republic of the Congo – Rwanda Conflict”, December 4, 2004.

⁴⁰ See for example, Société Civile de Butembo, Letter to the Special Representative of the Secretary-General, December 2004. Human Rights Watch telephone interviews with staff of MONUC and the U.N. Office for the Coordination of Humanitarian Affairs (OCHA), Kinshasa and Beni, December 1, 2004.

⁴¹ Human Rights Watch interviews with staff of MONUC and OCHA, Kinshasa, Beni, Lubero and Goma, December 1, 4, 5 and 9, 2004.

⁴² Human Rights Watch telephone interview with MONUC staff, Beni, December 9, 2004.

⁴³ Human Rights Watch interview, Goma, March 17, 2005.

country,”⁴⁴ they stressed the unity of Hutu and Tutsi interests in Congo and the need for Rwandophones to defend themselves against discrimination and physical abuse by officials of the central government. In a region where Hutu and Tutsi had been at bitter odds, the “Rwandophone” movement portrayed itself as the protector of both. North Kivu Governor Serufuli, one of the most powerful figures in RCD-Goma, led this movement. A Hutu himself, he was closely linked to the Tutsi-dominated government of Rwanda and to Congolese Tutsi business and political associates.

With elections approaching, RCD-Goma leaders—many of them Tutsi—intent on keeping power recognized the importance of creating closer ties with Hutu who greatly outnumber Tutsi in North Kivu. But many Hutu resisted being drawn into a “Rwandophone” community with Tutsi, who were often labeled agents of the Rwandan government and who were more widely resented by other Congolese ethnic groups than were Hutu. They saw few shared interests with Tutsi and far more with other Congolese or in some cases with their Rwandan Hutu “brothers,” including those who were part of Rwandan armed groups.

The Hutu of North Kivu split into two groups over the decision of the transitional government to deploy troops in RCD-Goma territory. Those incorporated in Serufuli’s Rwandophone movement organized protests against their arrival.⁴⁵ Local RCD-Goma officials and soldiers joined protesters in Goma on December 9, chanting “No to unmixed troops,” meaning those not incorporating soldiers loyal to RCD-Goma. In an interview with a Human Rights Watch researcher, Governor Serufuli said that the Rwandophone population saw the deployment of FARDC troops to North Kivu as dangerous to them.⁴⁶ He said that he had warned President Joseph Kabila to that effect and that the government should reassure the Hutu of North Kivu by ensuring the safe return home of Hutu who had fled South Kivu earlier in the year before deploying its troops in North Kivu.⁴⁷

Other Hutu—as well as many people of other ethnic groups—willingly accepted the arrival of FARDC troops from Kinshasa. The mayor of Goma, a Hutu, refused to authorize the protest against the troops, although it had been organized by his immediate subordinate, one of Goma’s two burgomasters and president of the

⁴⁴ In the original: “une exclusion et discrimination jamais encore vu dans notre pays.” Memorandum of the Congolese Rwandophone Community to their Excellencies the Ambassadors of Members of the International Committee to Accompany the Transition in the DRC, *Memorandum de la Communauté des Congolais Rwandaphones à Leurs Excellences Messieurs les Ambassadeurs Membres du Comité International d’Accompagnement de la Transition en RDC*, Goma, December 15, 2004.

⁴⁵ Human Rights Watch interview with Francois Gachaba, President of the Rwandophone community, Goma, January 21, 2005.

⁴⁶ Human Rights Watch interview with Governor Serufuli, Goma, March 15, 2005.

⁴⁷ Ibid.

Rwandophone community.⁴⁸ Residents in favor of the arrival of the new troops organized a countermarch which turned violent, with soldiers firing on the demonstrators, killing two and injuring four others. Soldiers continued to fire shots throughout the day.⁴⁹ In Kiwanja, Rutshuru, where Hutu are considered an “autochthonous” ethnic group, many Hutu did not participate in the protest march against the arrival of FARDC troops. Some of them circulated a tract urging Hutu not to participate, saying the resistance to FARDC troops was a manipulation of Tutsi that would never benefit Hutu.⁵⁰ Witnesses told a Human Rights Watch researcher that organizers brought in vehicles full of unknown people to bolster the number of protesters.⁵¹ In December, some representatives of the Hutu section of an important North Kivu coalition for dialogue and reconciliation between communities (the *Baraza Intercommunautaire*) published a letter saying that the Hutu supported the arrival of troops from the central government and were loyal to the Congolese transition process.⁵²

⁴⁸ Human Rights Watch interview with Francois Gachaba, President of the Rwandophone community, Goma, January 21, 2005.

⁴⁹ Human Rights Watch telephone interviews with human rights organizations and MONUC staff, Goma, December 9 and 10, 2004.

⁵⁰ Document in Swahili, on file with human rights organizations in Rutshuru.

⁵¹ Human Rights Watch interviews, Goma, Kiwanja (Rutshuru), December 14, 2004.

⁵² Human Rights Watch interview, Goma, December 15, 2004.



Munchinya Ndeene's two daughters, 10-year-old Shukuru and three-year old Rachel, return home to collect their few belongings after armed militants destroyed their house in Bweremana in North Kivu province. © 2004 Jeff Barbee

Conflict and abuses against civilians

Against the backdrop of rising ethnic tensions in the region, civilians became an all too familiar target of armed groups during fighting that occurred when the national army attempted to reassert control in North Kivu province. Two cases of such abuses are documented below.

Congolese army attempts to assert control

Faced with the threat of Rwandan intervention and the continued recalcitrance of North Kivu authorities, the transitional government deployed some 10,000 troops, recently integrated into the FARDC, to the east. It also called Governor Serufu and the North Kivu regional military commander to Kinshasa at the end of November. By early January the national army replaced the commander, a Tutsi from RCD-Goma, with Gen. Gabriel Amisi (also known as “Tango Fort”) a well-known “non-Rwandophone” RCD officer.⁵³

In December FARDC troops under central control clashed with those loyal to RCD-Goma in three areas of North Kivu: north of Goma at Kanyabayonga, west of Goma in Walikale and Masisi, and southwest of Goma at Bweremana.

The newly deployed FARDC soldiers engaged the troops loyal to RCD-Goma army on December 12 at Kanyabayonga, the northern limit of the RCD-Goma controlled area. By December 19 the FARDC troops had been forced to fall back about thirty kilometers further north, looting massively as they retreated.⁵⁴ As a result of the fighting some 180,000 people deserted Kanyabayonga and villages to the north, fleeing into the bush where they had virtually no access to humanitarian assistance for several weeks. Some of those who fled were doing so for the third or fourth time in as many weeks.⁵⁵

During the fighting at Kanyabayonga, troops of all factions of the supposedly unified FARDC army committed human rights abuses and violations of international humanitarian law amounting to war crimes. Those responsible included the newly arrived forces from the west (primarily ex-FAC and ex-MLC troops⁵⁶); their local ex-

⁵³ See for example Human Rights Watch report, “War Crimes in Kisangani: The Response of Rwandan-backed Rebels to the May 2002 Mutiny”, August 2002, documenting Amisi’s implication in human rights abuses.

⁵⁴ See Human Rights Watch press release, “D.R.Congo: Fleeing Civilians Face Grave Risks,” December 21, 2004.

⁵⁵ Ibid.

⁵⁶ These are, respectively, the former Congolese government army (*Force Armée Congolaise*) and Jean-Pierre Bemba’s Movement for the Liberation of Congo (*Mouvement pour la Libération du Congo*).

Mayi-Mayi militia and ex-APC⁵⁷ allies; and forces of the former RCD-Goma army (ex-ANC, *Armée Nationale Congolaise*). MONUC human rights investigators gathered testimony concerning 136 cases of rape perpetrated by FARDC troops of these various factions in and around Kanyabayonga, including ex-ANC, ex-APC, and ex-MLC.⁵⁸ Villagers seeking refuge in Lubero to the north described systematic pillaging by the retreating central government troop (primarily ex-MLC and ex-APC).⁵⁹ Soldiers threatened humanitarian workers at gunpoint in order to force them to provide transport to soldiers.⁶⁰ The fighting, which caused hundreds of military casualties as well as inflicting enormous suffering on civilians, resulted in no apparent strategic gain for either side.⁶¹

Meanwhile FARDC troops from Kisangani took control of Walikale center, west of Goma, on December 18, two days after troops loyal to the RCD-Goma retreated eastward. They were greeted as liberators by Walikale residents who had been forced to flee twice from the town during 2004 because of fighting between troops loyal to RCD-Goma and former Mayi-Mayi forces, spending weeks in the surrounding forest exposed to hunger and disease. The retreating troops loyal to RCD-Goma contributed to insecurity at the border between Masisi and Walikale, where major fighting ensued (see below on Nyabyondo). Almost simultaneously, troops loyal to RCD-Goma and Mayi-Mayi troops clashed in Rutshuru territory (see below on Buramba).

Other troops attached to RCD-Goma fought to maintain control of Bweremana, fifty kilometers southwest of Goma and near the South Kivu border, seeking to prevent General Budja Mabe of South Kivu from joining forces with the former Mayi-Mayi in North Kivu. The regional military commander of North Kivu, a Tutsi loyal to RCD-Goma, replaced the head of the Mayi-Mayi brigade and arrested him. Troops still loyal to the Mayi-Mayi commander skirmished with others who accepted the new appointee and who were supported by troops linked to RCD-Goma.⁶² According to witnesses, the former Mayi-Mayi replenished their arms at Minova, just across the border in South Kivu.⁶³ According to sources on both sides, FARDC at Minova launched rockets into North Kivu to support the former Mayi-Mayi.⁶⁴ On December 11, nonetheless, the

⁵⁷ *Armée Populaire Congolaise*, the armed wing of the Congolese Rally for Democracy-Kisangani-Liberation Movement (RCD-K-ML, *Rassemblement Congolais pour la Démocratie-Kisangani-Mouvement de Libération*) which controlled the northern part of North Kivu province, known as the *Grand Nord*, at the end of the war.

⁵⁸ MONUC press briefing, February 23, 2004.

⁵⁹ Human Rights Watch interviews with victims and witnesses, Lubero, December 19 and 20, 2004.

⁶⁰ Human Rights Watch interview, Lubero, December 20, 2004.

⁶¹ Human Rights Watch interviews, Lubero, December 19 and 20, 2004.

⁶² Human Rights Watch interview, Goma, December 15, 2004.

⁶³ Human Rights Watch interview, Goma, December 15, 2004.

⁶⁴ Human Rights Watch interviews, Goma, December 15, 2004 and January 21, 2005.

troops linked to RCD-Goma defeated the Mayi-Mayi who fled into South Kivu, along with many Hunde who feared being taken for Mayi-Mayi supporters and suffering reprisals.⁶⁵ Marking the border between North and South Kivu, this area remains a potential flashpoint for conflict between FARDC soldiers and those linked to RCD-Goma as well as between Hutu and Hunde, who have frequently fought over land and customary authority.⁶⁶

Abuses against civilians at Nyabyondo, Masisi

In mid-December, troops loyal to the central government fought RCD-Goma troops, also officially part of the Congolese national army, in and around Nyabyondo. Mayi-Mayi troops loyal to the central government attacked Hutu villages, killing civilians indiscriminately. RCD-Goma troops responded with a coordinated attack on the Mayi-Mayi stronghold at Nyabyondo, also without distinguishing between military and civilian targets. After the combat ended, RCD-Goma troops and Hutu civilians continued to track down fleeing civilians from other ethnic groups, apparently searching for Mayi-Mayi combatants. They systematically looted, beat, and sometimes executed the civilians they found. They also raped many women and girls, terrorizing the civilians and preventing them from returning home. Soldiers of the 11th brigade killed at least sixty civilians and raped dozens of others, according to an investigation by the MONUC human rights unit.⁶⁷

On December 19, 2004 troops of the FARDC 11th brigade loyal to RCD-Goma and commanded by Colonel Bonane attacked Nyabyondo and surrounding villages, the stronghold of the FARDC 13th brigade, made up of former Mayi-Mayi and commanded by Colonel Akilimali. Thousands of villagers fled in panic.

Several days earlier former Mayi-Mayi attacked a nearby Hutu village during a wedding celebration, killing some civilians. According to a young Hutu woman injured in the attack, the former Mayi-Mayi threw a grenade at a house where the bride and other girls were preparing for the festivities. She said:

My three-year-old cousin was on my back. She was killed by the same explosion. Three people were killed and some others were injured but not badly. . . . If I didn't have the child on my back I'd be dead also....
The Hunde threw the bomb. They call them Mayi-Mayi.⁶⁸

⁶⁵ Ibid.

⁶⁶ Human Rights Watch interview, Goma, December 15, 2004.

⁶⁷ MONUC press briefing, February 23, 2005.

⁶⁸ Human Rights Watch interview, Masisi, January 28, 2005.

During the next week or so, 11th brigade troops loyal to the RCD-Goma attacked along three axes approaching Nyabyondo. One of the people they targeted was a Hunde customary leader, Baroki Mine'ene of Bukombo, whom they captured and brought to Captain Munyamariba's post at Mianja, where he was murdered several days later.⁶⁹ According to Mine'ene's family, a Hutu friend tried unsuccessfully to pay to save his life.⁷⁰ Soldiers linked to RCD-Goma were said to have later bragged about the killing in Masisi town. One witness told a Human Rights Watch researcher, "They said to us, 'Your so-called chief collaborated with Mayi-Mayi and Interahamwe. Now we killed him.'"⁷¹

A relative described the killing of Mbaende Léopold, another victim from Bukombo's customary Hunde elite. He said, "Mbaende was in the house and saw soldiers trying to take chickens in his yard. He went out into the yard to stop the soldiers whom he had mistakenly thought were Mayi-Mayi. They shot him in the chest and the bullet came out his back.... Two days later we went back to bury him."⁷²

Some soldiers shot into a group of civilians in a village outside Nyabyondo, seriously wounding at least one person. The father of an injured boy said,

They [soldiers] immediately burned the Mayi-Mayi post on the hill. The Mayi-Mayi have this post but spend the day among the villagers. [When the shooting began] the Mayi-Mayi left their post, retreating through the village and disappeared. . . . People fled in all directions after the Mayi-Mayi left; the Mayi-Mayi were yelling at us to leave. The RCD thought the Mayi-Mayi were among the civilians so they opened fire on the crowd. My son was hit in the buttocks and fell on the ground. I spent a week with him in the bush because we couldn't get [to a town].⁷³

In the days after the fighting, soldiers killed and raped civilians in the course of searching for Mayi-Mayi who they believed were hidden among the rest of the population. One witness reported that the violence continued for eleven days, during which time he hid in the hills with his family. "On [December 20] we saw that Hutu and Tutsi were still looking for people, going down paths in the hills. I saw little temporary straw shelters getting burned on hills facing ours."⁷⁴ Another witness said, "Three people were killed

⁶⁹ Human Rights Watch interviews, Masisi, January 27, 2005.

⁷⁰ Ibid.

⁷¹ Human Rights Watch interview, Masisi, January 29, 2005.

⁷² Human Rights Watch interview, Masisi, January 27, 2005.

⁷³ Human Rights Watch interview, January 30, 2005.

⁷⁴ Human Rights Watch interview, Goma, January 1, 2005.

at Ngesha after December 20, when they were searching for people who were in hiding.”⁷⁵ One witness from an ethnic group related to Hunde reported:

... My aunt Collette Mate’ene . . . went to get some peanuts that were in her house, but when she got near her house she was killed by Tutsi soldiers.⁷⁶ They had asked her, “Where is the rest of the population?” She said she was alone. Then they shot her, many times. So we fled. She got a bullet in the side of the chest. After that they fled, and we went to get the body. We dug a tomb with machetes and buried her in it. She left seven children.⁷⁷

The decomposing body of Lafasi Shekipfumo, a Hunde, identifiable only by the clothing, was found well after the attack. A witness said that he and Lafasi had fled together from Bukombo into the forest where a group of uniformed men came upon them and started shooting. Everyone fled in different directions, except Lafasi who was captured and killed.⁷⁸ The body of Hamuli Bishereya, a middle-aged Hunde man, was also found several weeks after the conflict.⁷⁹

Soldiers pillaged the property of civilians and of an international humanitarian organization at Nyabyondo.⁸⁰

Sexual violence

It has become usual in eastern Congo for combatants to commit crimes of sexual violence against women and girls in the course of fighting opposing forces.⁸¹ After the attacks at Nyabyondo and neighboring villages, twenty-six women who had been raped fled east toward Masisi town. A local Masisi-based women’s organization documented these crimes.⁸² Rapes in the context of conflict are often particularly violent or involve multiple attackers.

⁷⁵ Ibid.

⁷⁶ Congolese may call soldiers or officers “Tutsi” without distinguishing whether they are from FARDC units linked to RCD-Goma or from the Rwandan army.

⁷⁷ Human Rights Watch interview, Masisi, January 29, 2005.

⁷⁸ Human Rights Watch interview, January 30, 2005.

⁷⁹ Human Rights Watch interviews, Masisi, January 29 and 30, 2005.

⁸⁰ Human Rights Watch interview, January 1, 2005. See below for further information on pillaging of the humanitarian organization.

⁸¹ See Human Rights Watch reports “Seeking Justice: Prosecution of Sexual Violence in the Congo War”, March 2005 and “The War within the War: Sexual violence against women and girls in Eastern Congo”, June 2002.

⁸² Human Rights Watch interview, Masisi, January 27, 2005. As most people had fled west into Walikale, this number likely represents only a small part of the survivors of sexual violence.

One person related how she and another woman had been raped while hiding in the forest on December 20. She said,

Four [Tutsi soldiers⁸³] raped us together. They took cords and tied our arms behind us. They were in uniform. Many people were killed. I saw five bodies in the forest; they were men in civilian clothes.... My lower stomach hurts; my [arm] muscles are also tired from being tied. I have done a natural cleaning, but I don't have money for any [medical] treatment."⁸⁴

Staff at Masisi hospital reported that they had seen one woman who was raped by three soldiers in front of her husband one day and the next day was raped again.⁸⁵

A woman from an ethnic group related to Hunde witnessed the killing of a family member before becoming a victim of rape herself. She succeeded in reaching Masisi town, where she told Human Rights Watch researchers:

I fled Nyabyondo when the RCD came into the village. I fled to the forest and spent four days there before arriving here. I had two children on my back and shoulders, and the other three children walked. I am married but my husband fled.

[In the forest] we built small shelters with banana leaves. On the second day, we ran when we saw soldiers coming. The soldiers asked for all of our things: goats, pigs, etc. They took everything. The soldiers asked for my clothes and money too. Four soldiers raped me. They left me with nothing. Even the clothes I'm wearing I got from others.... After that I left that place, went to the river and washed myself there. Each time I came to a small stream I sat in it. I went back to find the children the next morning. I had pain. Now it is much less, not like before. I have a chance to go to Goma [to get better medical care] but I don't know what to do with my children.⁸⁶

⁸³ As explained above, Congolese may call soldiers or officers Tutsi without distinguishing whether they are from FARDC units linked to RCD-Goma or actually from the Rwandan army.

⁸⁴ Human Rights Watch interview, Masisi, January 29, 2005.

⁸⁵ Human Rights Watch interview, Masisi, January 28, 2005.

⁸⁶ Human Rights Watch interview, Masisi, January 29, 2005.

At Masisi town, Human Rights Watch researchers encountered a twelve-year old Hunde girl whose feet were badly swollen from four weeks of walking through the forest with her sister. She said:

When the soldiers arrived in Nyabyondo, a woman in the road was fleeing and they shot her in the stomach. I saw it. Each person had fled in his own direction. In the forest, we saw Tutsi soldiers.⁸⁷ They took all our things, and hit me many times and spoke to us in a mean way. They said, “Where are the Mayi-Mayi? Can you show us where?” We said we didn’t know. Then they told the women to lie on the ground and they started the violence. I ran away. I came back to them afterward. Four women and one girl, my cousin, were raped.⁸⁸

An injured Hunde mother with an injured and heavily bandaged baby told Human Rights Watch researchers that a soldier shot her when she resisted his attempt to rape her. When others had fled, she had been ill and so had stayed behind with a group of older women, including her grandmother. She said,

A soldier tried to “talk” to me.⁸⁹ This was one of the soldiers who was always there, a Rwandan.⁹⁰ The soldier said, if you refuse I will shoot you. But I fled, and the soldier shot at me. I was carrying my child on my back and then noticed blood was flowing from the child. Then I fell, and he left me. There was no way to get to a health center, so my grandmother searched for home-made remedies. We got to the hospital only one and a half weeks after the shooting.⁹¹

Soldiers used sexual violence or the threat of sexual violence to prevent civilians from returning to their homes and fields. A community leader from Showa said that soldiers denied them access to their fields even one month after the hostilities. As it was becoming difficult to find sufficient food in Masisi town, a group of seventeen women went back to harvest crops in their fields. They were all captured, grouped together, and

⁸⁷ As noted above, Congolese may call soldiers or officers “Tutsi” without distinguishing whether they are from FARDC units linked to RCD-Goma or from the Rwandan army.

⁸⁸ Human Rights Watch interview, Masisi, January 29, 2005.

⁸⁹ This is a common euphemism for rape in eastern Congo.

⁹⁰ Note that Congolese may refer to any Kinyarwanda-speaking soldier in the RCD-Goma, i.e. Tutsi or Hutu, as “Rwandan,” regardless of whether he is actually Congolese or Rwandan.

⁹¹ Human Rights Watch interview, Masisi, January 28, 2005.

raped. Three of them were kept for several days. “They all came back,” said the community leader, “but now no one dares go to the fields.”⁹²

Armed civilians

In at least two places, Bweremana and Nyabyondo, armed civilians joined in the fighting along with FARDC soldiers of units linked to RDC-Goma, showing the intention of authorities to exploit the firepower put in the hands of largely untrained civilians.⁹³ According to several reports, some of those who had distributed arms to civilians, including Captain Munyamariba, helped command the Nyabyondo operation.⁹⁴

At the time of the arms distribution in Masisi, recipients of the weapons had already committed crimes, as discussed above. With the attack at Nyabondo, armed civilians tortured and killed some Hunde, helped soldiers hunt down others, and participated in widespread pillaging and destruction of property.⁹⁵

In one case near Showa, armed civilians killed the Hunde chief of locality, Kyahi Shamamba. A witness told Human Rights Watch researchers:

On December 24, Christmas Eve, at 10 p.m., [Hutu] civilians with weapons appeared in the forest at night, and took Kyahi Shamamba and me. This was near our field in the bush; we had spent three weeks there. They beat me and burned a plastic bag over me.⁹⁶ They asked for ransom. We gave 70,000 FRC (approx. US \$145), two pigs, a bag of clothes, and our work tools. One group left with me, and another group stayed with Shamamba. Behind me I heard shots. They had killed him. They argued over whether to kill me – but they released me and I went back and saw the body of Shamamba. The next morning I went to tell other people, and we went to get his body and bury it.⁹⁷

In another case a Hunde victim said,

I was captured by armed civilians at Muhondo at 9 a.m. and released at 3 p.m. on [December] 22. They were saying that the former Mayi-Mayi,

⁹² Human Rights Watch interview, Masisi, January 30, 2005.

⁹³ Human Rights Watch interviews, December 12 and 15, 2004.

⁹⁴ Human Rights Watch interviews, January 27, 28 and 30, 2005.

⁹⁵ Human Rights Watch interviews in Goma and Masisi, January 1 and 26, 2005.

⁹⁶ Scars of small, round burns were visible on his arms and back a month after the incident.

⁹⁷ Human Rights Watch interview, Masisi, January 29, 2005.

who'd claimed to be so strong, had fled, and now they were the strong ones. They took us, they said, because these Mayi-Mayi were our own children. There were three of us. We were all released because one of us was a very old woman who pleaded for our release; the other one captured was also old. We were seriously beaten – I spent three weeks without getting up after arriving in Masisi center. The woman was not touched but the other man was also beaten.⁹⁸

Buramba, Rutshuru territory

At about the same time as the fighting at Kanyabayonga and Nyabyondo, soldiers of the FARDC 123rd battalion linked to RCD-Goma and under the command of Major Christian Pay Pay deliberately fired upon and killed some thirty civilians in Buramba after three of their own soldiers had been killed in the act of pillaging rice from local residents.⁹⁹ RCD-Goma leaders accused a local Mayi-Mayi group led by Jackson Kambale, a Nande and native of the area, of killing the soldiers. Their troops had skirmished with his militia throughout the year and they believed him to be allied with Rwandan Hutu rebels based in the forest of a nearby national park.¹⁰⁰ Some local Nande residents, however, said civilians themselves had killed the soldiers to stop the pillaging of their harvest.¹⁰¹

After learning that soldiers had been killed, troops came from a nearby military camp at Nyamilima and shot into a crowd of civilians. One woman said:

My children were at the church in a welcoming service. Soldiers came and to empty the church they shot [into the crowd] and people fled. I heard they were Tutsi soldiers. Seven people were killed there. My two girls were among them: Zawadi, 14 years old, and Aline, 11 years old. When I came to the church they were already dead.¹⁰²

⁹⁸ Human Rights Watch interview, Masisi, January 30, 2005.

⁹⁹ A Human Rights Watch researcher collected the names of 26 people who had been killed, many known to multiple witnesses. In addition there was convincing evidence of the killing of at least four other unidentified persons; MONUC press release, Jan. 7, 2005; Centre d'Etudes et de Recherches en Education de Base pour le Développement Intégré (CEREBA), "Rapport de Mission de verification et d'enquete sur la carnage de Buramba/Binza/Rutshuru", Goma, January 8, 2005.

¹⁰⁰ Ibid.

¹⁰¹ Human Rights Watch interviews, Goma, December 23, 28 and 29, 2004 and January 1, 2005.

¹⁰² Human Rights Watch interview, Goma, January 1, 2005. This witness was from the Nyanga ethnic group, which, along with the Hunde and Nande ethnic groups, is considered to oppose "Rwandophone" power.

Another witness said, “As I ran I saw the body of Kalirikene Théophile, a man about fifty years old. There was a lot of blood on his clothes. I saw another body near the church, that of Dassise Kahotole, a twelve- or thirteen-year old girl.”¹⁰³

RCD-Goma soldiers occupied Buramba and for ten days prevented residents from returning and vehicles from stopping in the town.¹⁰⁴ According to one report, two men were killed when they returned to Buramba several days after the initial attack in order to bury their father.¹⁰⁵ On the morning of December 27, soldiers attacked a truck that tried to pass through the area.¹⁰⁶ But later on December 27 and 28, soldiers allowed a team of doctors to come to Buramba and they found fifteen bodies there.¹⁰⁷

This part of Rutshuru territory is inhabited principally by Hutu and Nande, groups that have increasingly come into conflict over land during the last decade. Tensions rose further with killings of people of both groups in June, July, and August 2004, some blamed on Mayi-Mayi, others on soldiers linked to the RCD-Goma or on a Hutu Local Defense Forces.¹⁰⁸ The December attack, with Nande the majority of the victims, increased Nande anger against RCD-Goma and against Hutu thought by the Nande to be associated with them. Although the soldiers linked with RCD-Goma identified local Nande with Jackson’s militia, many Nande had shunned the Mayi-Mayi group which pillaged them as regularly as it did the Hutu.¹⁰⁹ But after the attack on Buramba, some Nande “believed the best revenge is to join Jackson’s group”, according to one well-informed local observer.¹¹⁰

A MONUC human rights team investigated the Buramba killings, accompanied by Congolese staff of a local non-governmental organization, and concluded that at least thirty civilians, the majority of whom were Nande, were killed by soldiers from Major Christian’s 123rd battalion.¹¹¹

¹⁰³ Human Rights Watch interview, Goma, December 23, 2004.

¹⁰⁴ Human Rights Watch interview, Goma, December 29, 2004.

¹⁰⁵ Human Rights Watch interview, Goma, December 28, 2004.

¹⁰⁶ Human Rights Watch interview with U.N. humanitarian official, Goma, December 27, 2005.

¹⁰⁷ Human Rights Watch interview, Goma, December 29, 2004.

¹⁰⁸ Human Rights Watch interviews, Goma, December 23 and 28, 2004.

¹⁰⁹ Human Rights Watch interview with representative of Rutshuru-based human rights organization, December 23, 2005; Human Rights Watch interview, January 1, 2005.

¹¹⁰ Human Rights Watch interview, Goma, December 23, 2004.

¹¹¹ Letter from MONUC/ Goma head of office to General Gabriel Amisi, Commander of the Eight Military Region (North Kivu), February 25, 2005; MONUC press release, January 7, 2005; Centre d’Etudes et de Recherches en Education de Base pour le Développement Intégré (CEREBA), “Rapport de Mission de verification et d’enquête sur la carnage de Buramba/Binza/Rutshuru”, Goma, January 8, 2005.

Governor Serufuli established a commission to investigate the killings in Buramba.¹¹² Its report confirms that Major Christian Pay Pay, seconded by Captain Paulin Ndayambaje, commanded troops that engaged in “blind reprisals” against civilians and subsequent pillaging. But it adds that the “responsibility is shared among all the parties, ...[including] the civilian population for supporting the bandits [Mayi-Mayi], who are responsible for many crimes.”¹¹³ Most witnesses quoted in the report acknowledge that soldiers killed civilians but go on to claim that Nande “tribalism,” specified as discrimination against Hutu and support of the Mayi-Mayi, lay at the root of the events.¹¹⁴ In interviews with a Human Rights Watch researcher, Governor Serufuli echoed these sentiments.¹¹⁵ Another RCD leader sought to exonerate the soldiers by claiming the deaths of civilians were merely incidental to combat.¹¹⁶ The commission recommended the prosecution only of soldiers found with pillaged goods, not of any who committed other crimes nor of those in command of the operation.

The role of Governor Serufuli

In the years since he was named governor in 2000, Serufuli has exercised increasing power throughout North Kivu. He has placed persons loyal to him in local posts, displacing customary chiefs, and he has permitted—if not actually directed—subordinates to distribute arms to civilians identified with his party or ethnic group. Although nominally only an administrative official and political leader, Governor Serufuli appeared to exercise considerable influence over and even to give orders to military forces. After FARDC forces loyal to RCD-Goma had come to a stand-off with other FARDC forces north of Kanyabayonga, Governor Serufuli brought the commanders linked to RCD-Goma back to Goma where, in his own words, he helped “negotiate” the retreat of these troops to their original position at Kanyabayonga.¹¹⁷ Governor Serufuli and the regional military commander went to Nyabyondo and Masisi town on January 26 and ordered the soldiers to return to their earlier positions.¹¹⁸ After

¹¹² Report of the mission to Buramba/Kanzanza on January 4 and 5, 2005, to the attention of His Excellency the Governor of North Kivu province (*Rapport de mission effectuée à Buramba/Kanzanza, en date du 4 et 5 janvier 2005, à l'attention de Son Excellence Monsieur le Gouverneur de la province du Nord-Kivu*), January 10, 2005. The commission was composed of: Albert Semana, the provincial director of security and a close associate of the governor; the governor's counsel on political and judicial affairs; the head of military intelligence for the North Kivu military region; and a representative of the North Kivu military prosecutor's office.

¹¹³ In the original: “la responsabilité de ces événements, elle est partagée entre toutes les parties... [y compris] la population locale pour avoir entretenu des bandits [Mayi-Mayi], auteurs de beaucoup d'exactions.”

¹¹⁴ Ibid.

¹¹⁵ Human Rights Watch interview with Governor Serufuli, Goma, March 15, 2005.

¹¹⁶ Human Rights Watch interview with Francois Gachaba, President of the Rwandophone community, Goma, January 21, 2005.

¹¹⁷ Human Rights Watch interview with Governor Serufuli, Goma, March 15, 2005.

¹¹⁸ Speech of Governor Serufuli, Masisi town, January 26, 2005.

troops linked to RCD-Goma occupied Buramba, keeping residents from returning, Governor Serufuli “forced” these soldiers to leave, according to his own account.¹¹⁹

During days when hundreds of thousands of dollars of material was pillaged from an international NGO in Nyabyondo, witnesses saw vehicles registered to the provincial administration returning from Nyabyondo to Masisi town at a time when all other civilian activity in the area had ceased.¹²⁰ Soldiers were seen selling diesel fuel in large quantities in Masisi town; such fuel was one of the major items pillaged in Nyabyondo and not readily available in Masisi.¹²¹

In accord with his investigatory commission, Governor Serufuli did not press for the prosecution of officers who commanded the Buramba operation. Instead he asked that Major Pay Pay be removed from his command and that the battalion be transferred elsewhere.¹²²

Human rights activists and humanitarian actors targeted

Human rights activists forced to flee

Human rights activists and other civil society leaders in North Kivu suffered harassment after having denounced the arms distribution and subsequent abuses against civilians in North Kivu, specifically attributing responsibility for these acts to the governor and his associates. Several also asserted that Rwandan army troops had supported soldiers linked to RCD-Goma.¹²³

After these statements were made public in December 2004 several activists who had signed them received anonymous telephoned death threats.¹²⁴ Unidentified armed men in uniform came to the home of one activist and warned his family that his work could have serious consequences; two weeks later unidentified people tried to break into his home. As a result of such threats, four leading human rights activists fled Goma. When

¹¹⁹ Human Rights Watch interview with Governor Serufuli, Goma, March 15, 2005.

¹²⁰ Human Rights Watch interview, Goma, March 10, 2005.

¹²¹ Human Rights Watch interviews, Masisi, January 2005.

¹²² Report of the mission to Buramba/Kanzanza on January 4 and 5, 2005, to the attention of His Excellency the Governor of North Kivu province (*Rapport de mission effectuée à Buramba/Kanzanza, en date du 4 et 5 janvier 2005, à l'attention de Son Excellence Monsieur le Gouverneur de la province du Nord-Kivu*), January 10, 2005, p. 22; Human Rights Watch interview with Governor Serufuli, March 15, 2005.

¹²³ Société Civile du Nord Kivu, "Le Nord Kivu à la Derive", December 10, 2004; "Qui Mène la Guerre au Nord Kivu?", December 18, 2004; "Génocide et Crimes de Guerre au Nord Kivu", January 1, 2005.

¹²⁴ Human Rights Watch interviews, Goma, February 1 and 8, 2005; Action Sociale pour la Paix et la Développement, "Quelques cas d'insécurité des défenseurs des droits de l'homme de la ville de Goma," December 30, 2004 ; and Amnesty International press release, "D R Congo: Human rights workers receive death threats," January 19, 2005.

a Human Rights Watch researcher raised these cases with provincial security officials in early February 2005, they admitted that security agents might have threatened the activists, but said that they had not been ordered to do so.¹²⁵ They promised to investigate and to prevent future threats. But not long afterward unidentified armed men broke into the home of another activist in Goma and beat and robbed him and his wife.¹²⁶ Another instance of harassment took place in Goma on April 23, 2005. Two unidentified men entered the home of a human rights defender, demanded his whereabouts and searched throughout the house. They threatened his family, beating one relative so badly that he afterward required stitches on his face.¹²⁷

Work of humanitarian agencies disrupted

Soldiers threatened staff and looted the property of humanitarian organizations in Masisi, Rutshuru and Lubero, disrupting the delivery of assistance to civilians.¹²⁸ In the Nyabyondo area, for example, where soldiers linked to RCD-Goma looted two health centers and caused damage at a third, ten health centers had to restrict their operations for more than a month.¹²⁹ During the combat at Nyabyondo and during the days after soldiers linked to RCD-Goma took control of the town, some \$350,000 worth of material was looted from the storehouse of Agro-Action Allemande (AAA), in the area to build a much-needed road from Masisi to Walikale.¹³⁰ As the pillaging continued into January, AAA decided to suspend its work in the area. Questioned about their possible role in the pillaging by a Human Rights Watch researcher, provincial authorities gave no response except to say that they had been able to restore a small amount of the property to AAA.¹³¹ In late January Médecins Sans Frontières (MSF) closed its feeding program in Kabati, Rutshuru and suspended work in nearby Kitshanga, Masisi, after armed men in uniform broke into the Kabati base and stole a vehicle, cash, and other valuables.¹³² At the time, soldiers linked to RCD-Goma controlled the surrounding area, and there were reports that the stolen vehicle passed through their checkpoint that night without being stopped.¹³³

¹²⁵ Human Rights Watch interviews with Albert Semana, Provincial Director of Security, and with Major Maombi, Commander of military police battalion, Goma, February 2, 2005.

¹²⁶ Human Rights Watch interviews, Goma, February 13 and 21, 2005.

¹²⁷ Human Rights Watch interviews, Goma, April 24, 2005.

¹²⁸ Human Rights Watch interview, Goma, January 20, 2005; Lubero, December 18-20, 2004.

¹²⁹ Human Rights Watch interview with the Masisi Zone Chief Doctor, Masisi, January 28, 2005.

¹³⁰ European Union press release, February 28, 2005.

¹³¹ Human Rights Watch interviews, Goma, March 10 and 15, 2005.

¹³² MSF press release, January 19, 2005. Human Rights Watch interview, Goma, March 10, 2005.

¹³³ Human Rights Watch interviews, Goma, January and March 2005.

Governor Serufuli established another commission of inquiry that attributed responsibility for the Kabati looting to Rwandan Hutu armed groups, said to have pillaged surrounding villages during the same period.¹³⁴

Impunity

As with most war crimes committed in eastern Congo, most of those documented in this report have been neither fully investigated nor prosecuted.¹³⁵ The military prosecutor in North Kivu said that his office had opened a file on the Buramba killings but that prosecuting the officers in command of the operation would endanger the security of his staff. He said also that his office had no funds to support field investigations or even basic work in the office.¹³⁶

In one exceptional case, thirty FARDC soldiers in Lubero were tried for crimes ranging from pillage and indiscipline to rape and murder. None of the soldiers were from the RCD-Goma faction, and the highest-ranking defendant was only a captain.¹³⁷ According to MONUC human rights observers, the trial failed to meet international fair trial standards, particularly in failing to afford the accused the right to adequate legal counsel. All thirty defendants were tried in a single trial that lasted only two days; they were assigned counsel only at the last minute before the trial. The defendants were not given the chance to confront their accusers in every case, and MONUC staff observed that inadequate evidence was presented against some defendants. Most of the accused were found guilty and were sentenced to death. They have appealed their conviction.¹³⁸

¹³⁴ Report of the mission to Kabati/Nyanzale on January 20 and 21, 2005, to the attention of His Excellency the Governor of North Kivu province (*Rapport de mission effectuée a Kabati/Nyanzale, en date du 20 et 21 janvier 2005, a l'attention de Son Excellence Monsieur le Gouverneur de la province du Nord-Kivu*), January 31, 2005.

¹³⁵ Human Rights Watch interviews, North Kivu chief military prosecutor (*Auditeur Supérieur*), Goma, March 15, 2005 and North Kivu civilian prosecutor (*Procureur Général*), Goma, March 18, 2005.

¹³⁶ *Ibid.*

¹³⁷ The majority of those tried were from the ex-MLC, and the rest were from ex-APC and ex-FAC. Human Rights Watch correspondence with MONUC staff in Beni, March 3, 2005.

¹³⁸ Human Rights Watch correspondence with MONUC staff in Beni, March 3, 2005. Letter from MONUC/Goma head of office to General Gabriel Amisi, Commander of the Eight Military Region (North Kivu), February 25, 2005; Human Rights Watch interview, North Kivu chief military prosecutor, Goma, March 15 and April 22, 2005.

The role of U.N. peacekeepers

Protection

Despite its mandate to protect civilians and its recently increased troop size, MONUC failed to protect civilians during the fighting described in this report. In most cases MONUC peacekeepers failed to reach the conflict area until several days after fighting began. Even then they were unable to gather the intelligence necessary to accurately assess the situation and formulate a strategy to protect civilians. Sometimes lacking interpreters, MONUC peacekeepers were often forced to rely on MONUC civilian staff for information but, because of security considerations, the civilians are often unable to travel freely in areas of conflict.

In Buramba, MONUC learned almost immediately that fighting had begun on December 17 through telephone calls from displaced people.¹³⁹ Ironically, a new contingent of Indians had begun arriving in Kiwanja, less than forty kilometers from Buramba, just days before.¹⁴⁰ But, according to local sources, peacekeepers came to Buramba only on December 24, at which time troops linked to RCD-Goma were still occupying the town and preventing displaced civilians from returning.¹⁴¹ The peacekeepers nonetheless found the situation “calm” and did not intervene nor even speak extensively to the displaced at Nyamilima, just a few kilometers past Buramba.¹⁴²

Similarly a MONUC verification mission arrived at Nyabyondo on December 22, three days after the main attack, but left the same day. A military presence was eventually set up there and at Masisi center, but did little to protect civilians. A small number of civilians who had been unable to flee the town did take refuge adjacent to the MONUC camp at Nyabyondo.¹⁴³

MONUC officials did play an important political role in putting pressure on the troops to withdraw from Nyabyondo more than a month later, a measure necessary for the return of the displaced.¹⁴⁴ In late January, MONUC soldiers also prevented the

¹³⁹ Human Rights Watch telephone interview, Goma, December 19, 2004; Human Rights Watch interview, Goma, December 23, 2004.

¹⁴⁰ Human Rights Watch field visit to Rutshuru, December 14, 2005.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Human Rights Watch field visit to Nyabyondo, January 18, 2005.

¹⁴⁴ Human Rights Watch field visits to Kibati (Walikale territory), January 18, 2005, and Masisi, January 26, 2005; and interviews, Masisi, Jan 26-29, 2005.

withdrawing troops from forcing local civilians to transport their belongings – a simple but rare intervention that was greeted with enthusiasm by the local population.¹⁴⁵

When fighting began at Kanyabayonga on December 12, MONUC had peacekeepers at Lubero, a short distance north of the area of combat, and quickly moved others to Kanyabayonga itself. Yet the MONUC forces failed to protect civilians from abuses by the retreating FARDC troops and by the advancing troops linked to RCD-Goma. At the time MONUC peacekeepers at Lubero told a Human Rights Watch researcher that they knew civilian property was being pillaged by retreating soldiers and that they wanted to help, but that they had received no orders to intervene.¹⁴⁶ Within a week, MONUC created a “humanitarian buffer zone” between the belligerents to permit the delivery of humanitarian aid. While this effort may have contributed to halting the fighting between the factions of the FARDC, it had a minimal impact on assistance to civilians. According to humanitarian organizations, the zone proved inadequate because it covered only a short distance on the main north-south road and did not prevent troop movements to the east and west of the zone.¹⁴⁷

Human rights investigations

While MONUC military forces failed to protect civilians, a special investigation team, based in Kinshasa, promptly investigated crimes committed at Buramba, Nyabyondo and near Kanyabayonga and made public their results, as mentioned above.¹⁴⁸ In press releases and briefings and in a letter to the North Kivu regional military commander, they laid out allegations of killings of sixty civilians and rapes of others by soldiers of the FARDC 11th brigade at Nyabyondo and of the killings of thirty civilians by the FARDC 123rd battalion at Buramba. The soldiers in the units were all linked to RCD-Goma. In addition, the MONUC investigators accused FARDC troops of various factions, including ex-ANC, ex-APC, and ex-MLC of raping 136 women in fighting near Kanyabayonga.¹⁴⁹

¹⁴⁵ Human Rights Watch interview, Masisi, January 28, 2005.

¹⁴⁶ Human Rights Watch interviews with MONUC personnel, Lubero, December 19, 2004.

¹⁴⁷ Human Rights Watch discussions with humanitarian personnel in Goma throughout December 2004 and January 2005.

¹⁴⁸ MONUC press release, January 7, 2005; MONUC press briefing, February 23, 2005; Letter from MONUC/Goma head of office to General Gabriel Amisi, Commander of the Eight Military Region (North Kivu), February 25, 2005; Centre d'Etudes et de Recherches en Education de Base pour le Développement Intégré (CEREBA), “Rapport de Mission de verification et d'enquête sur la carnage de Buramba/Binza/Rutshuru”, Goma, January 8, 2005.

¹⁴⁹ MONUC press briefing, February 23, 2004.

Staff from the MONUC human rights unit also documented the distribution of arms in Buramba in early January.¹⁵⁰

The response of the international community

Influential donor governments and the United Nations, sometimes through MONUC, exerted political pressure on the combatants in North Kivu to stop fighting and, in the cases of Kanyabayonga and Nyabyondo, to fall back to their former positions – pressure that bore fruit after several weeks of negotiation.

In addition various governments and intergovernmental bodies responded quickly to the Rwandan threat to send troops into Congo. The International Committee to Accompany the Transition (CIAT) affirmed the inviolable character of Congolese territorial sovereignty and declared that the presence of foreign armed groups, i.e., Rwandan Hutu armed groups, in Congo could not justify aggression, even if those groups threatened civilians and regional stability.¹⁵¹ MONUC publicly condemned the Rwandan threat to invade the Congo as a serious danger to Congolese sovereignty and the transitional process.¹⁵² The United Kingdom and Sweden suspended bilateral aid to the Rwandan government to indicate their concern with Rwandan threats, but by early 2005 Rwanda appeared to have been restored to good favor with donors and received renewals of assistance from the Netherlands, the United Kingdom, and Germany as well as the assurance of substantial debt relief.¹⁵³ The African Union (A.U.), led by South Africa, also criticized the Rwandan intervention but in response to Rwandan pressure agreed to sending an A.U. force to disarm Rwandan Hutu rebel combatants in the Congo. Important potential donors like the European Union initially welcomed the A.U. proposal in public, though there were difficulties in finding financial and logistical support for the effort. After months of discussions in Rome with the Congolese government, the FDLR announced on March 31, 2005 they would lay down their arms and return to Rwanda thus opening the door for continued voluntary disarmament and putting on hold plans for an armed solution.

¹⁵⁰ Electronic communication to Human Rights Watch, February 3, 2005.

¹⁵¹ CIAT communiqués, December 1, 2004 and December 9, 2004.

¹⁵² Statement of Patricia Tomé, MONUC Director of Public Information, November 24, 2004.

¹⁵³ See IRIN, "Rwanda: IMF, World Bank write off Kigali's \$1.4 billion debt", April 14, 2005 and IRIN, "Rwanda: EU grants Rwanda €52 million [approx. US\$ 67 million] for budget deficit", April 29, 2005.

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