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Democratic Republic of Congo: Crisis in North Kivu

What exactly is happening in North Kivu?

In late October, the National Congress for the Defence of the People (CNDP) armed opposition group launched a major offensive against government military positions in North-Kivu province. Within days, government forces in the province all but collapsed. The CNDP captured the important town of Rutshuru, and advanced to the outskirts of the provincial capital, Goma, one of the most important population centres of the DRC.

On 29 October, with its forces around 15 km from Goma, the CNDP declared a unilateral ceasefire. The government and other generally pro-government armed groups have not announced cease-fires of their own.

Fighting between the CNDP and pro-government forces has continued on a number of fronts, although not on the Goma frontline. The UN peacekeeping force, MONUC, is in effective military charge of Goma and has pledged to defend the city from armed group attack. The fighting threatens to spread.

Who are the main players?

The CNDP (*Conseil National pour la Défense du Peuple*/National Council for the Defence of the People) is an armed group and politico-military organization led by Laurent Nkunda, a renegade Tutsi general. Its strength is estimated to be between 4,000 and 6,000. Laurent Nkunda claims to be fighting to protect his Tutsi community from attacks by the FDLR Rwandan Hutu armed group, who fled to DRC after Rwanda's 1994 genocide. The Tutsi community in eastern DRC has strong ethnic, cultural, political and commercial links with neighbouring Rwanda and to a lesser extent Uganda. The CNDP has reportedly drawn a proportion of its recruits from these countries.

The FARDC (*Forces Armées de la République du Congo*) is the national army, estimated to number 20,000 troops in the province, but now in disarray. Extensive human rights abuses have followed the breakdown in FARDC discipline.

The *mayi-mayi* are pro-government militias, most of which are grouped in a politico-military coalition known as PARECO (Patriotes Résistants Congolais/Congolese Patriot Resistants). In the absence of the FARDC, it has become the main fighting force against the CNDP.

The FDLR (*Forces Démocratiques de Liberation du Rwanda*/Democratic Liberation Forces of Rwanda), is several thousand strong, and mainly Rwandan Hutu insurgents who have been present in eastern DRC since their retreat from Rwanda in 1994. It contains remnants of the interahamwe militia and former Rwandan army (ex-FAR) responsible for the Rwandan genocide.

All these forces have been responsible for serious human rights violations and abuses in the DRC. See the September 2009 report “*North Kivu: No end to war on women and children*” (AFR 62/005/2008).

MONUC has around 17,000 peacekeepers, more than 90% of which are deployed in the east. The North Kivu Brigade has a current strength of between 5,000 and 6,000, spread across 34 locations. Around 1,500 are currently deployed in Goma. It has a robust Chapter VII mandate that authorizes it to use “all necessary means” -- including deadly force -- to protect civilians and humanitarian personnel under imminent threat of physical violence. The protection mandate includes the ability to proactively “deter any attempt at the use of force to threaten the political process from any armed group, foreign or Congolese, particularly in the Eastern part of the Democratic Republic of the Congo, including by using cordon and search tactics to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in those areas” (UNSC Resolution 1794).

How serious is the situation? What’s the worst that can happen?

According to some, the DRC is at risk of slipping back into the devastating international conflicts that raged from 1996 to 2003.

Laurent Nkunda has vowed to take his war to Kinshasa unless the DRC government negotiates directly with him, which the government refuses to do. It is unlikely he can achieve this unless he can build a much wider military alliance. There are some indications of links between his rebellion and other smaller armed groups in Ituri and South-Kivu. There are no indications that Rwanda and Uganda, major belligerents of the 1996-2003 war, are prepared to intervene directly militarily.

The situation is so tense, however, that any incident could trigger much wider violence. The proximity of the fighting to the Rwandan border has already caused limited cross-border firing. Unconfirmed reports abound of Angolan, Zimbabwean and Rwandan troops on the front lines.

With the near-total collapse of the national army (FARDC), the standing of President Kabila and his government, internally and internationally, has been considerably weakened. This could trigger more civil unrest or internal military dissent, which could easily spiral into political violence throughout the DRC.

Wasn’t there a peace process? What went wrong?

The current conflict is the latest phase of fighting that began in North Kivu in August 2007, after a plan to integrate Nkunda’s forces into the national army fell apart. In a bid to end that fighting, there were two major initiatives, both brokered by the international community (the United States, European Union, African Union as well as the UN), who recognized the potential for another serious flare-up of conflict in the region.

The first, in November 2007, was a meeting of the governments of Rwanda and the DRC in Nairobi which led to a “joint communiqué” by which they both agreed not to support armed groups operating in the DRC, to prevent illicit cross-border movement of arms and recruits, and to refrain from issuing negative propaganda against each other. A key part of this agreement was a commitment by the DRC government to dismantle “as a matter of urgency” the FDLR in eastern DRC, by force if necessary.

This was followed by a peace conference in Goma in January 2008, which involved the government and Congolese armed groups, including the CNDP, but excluding the FDLR. From the conference flowed “Acts of Engagement” (one each for North and South Kivu) by which all sides agreed to an immediate ceasefire and the armed groups committed to halt all violations of international humanitarian law. In return, the government offered an amnesty for “acts of war” committed by armed group fighters but excluding war crimes and crimes against humanity.

Under the peace accord, all sides should have moved swiftly to a disengagement of their forces, then to

disarmament of armed group fighters before their demobilization or integration into the national army. Crucially, however, the modalities of disarmament were left to a technical commission whose work, amid political wrangling, never really got started. The CNDP withdrew from the process in April 2008. The plan for disengagement of forces also began to unravel, with daily cease-fire breaches.

A major impediment in taking the peace process forward was the lack of progress in dismantling the FDLR. The DRC government and UN organized negotiations with FDLR leaders in Kisangani in May 2008, which led to a so-called “road map to [FDLR] disarmament”. However, the negotiations were poorly attended by the FDLR and resulted only in a few hundred fighters turning in their weapons and submitting for repatriation to Rwanda. A government military offensive against the FDLR at one stage appeared likely, but as relations worsened between the government and the CNDP, this failed to materialise.

The failure to deal with the FDLR has served as a cause for both the CNDP and Rwanda to claim that the government and international community were not acting to protect the Tutsi community in the DRC. The FDLR has previously stated its preparedness to disarm and repatriate to Rwanda, but on condition of a political dialogue with the Rwanda government, which Kigali refuses to accept.

The CNDP was also angered by the government’s apparent use of the multiple mayi-mayi parties to the Goma peace accord to dilute the CNDP’s influence and role in the peace process. The CNDP believes itself to be the major politico-military opposition force in the province and gradually took on a new stance of demanding direct negotiations with Kinshasa, which the DRC government in its turn has rejected.

Behind all this, however, lies the national and international failure to address the underlying causes of the conflict. These include the issue of control of natural resources in North Kivu..

Most of North Kivu’s mineral resources are found in Walikale territory, in the west of the province, an area so far unaffected by the fighting. At least some of these minerals are transported through Goma and into Rwanda. The Walikale mining sector is outside effective state control and many mines are under the physical control of unintegrated national army forces or armed groups, including the FDLR. The commercial interests in these mines are shadowy but reportedly extend to important figures in government circles as well as to Congolese Tutsi businessmen. These latter are rumoured to be the financial backers of Laurent Nkunda’s rebellion.

In early 2008 the DRC government signed multi-billion dollar contracts with a group of Chinese companies, giving these companies important mining rights in the DRC in return for investment in infrastructure projects. At around the same time, the government moved to exercise greater control over the Walikale mines. These developments created alarm among those with interests in the unregulated Walikale mining trade and may be one of the prime causes of the fighting. One of Laurent Nkunda’s reported demands is the renegotiation of the Chinese contracts.

What is Rwanda’s role in the current crisis?

Rwanda denies any involvement in the conflict and has so far reacted coolly to international diplomatic efforts to resolve the crisis, claiming that it has no influence on the situation or over the CNDP, which Amnesty International believes it undoubtedly does. Diplomatic efforts led to a dialogue between Kinshasa and Kigali.

On 10 October, the DRC army displayed captured equipment and personal effects seized from dead enemy forces near Goma which it claimed proved the presence of Rwandan soldiers in North Kivu and of direct Rwandan military support to Nkunda’s forces. These included weapon containers bearing Rwandan insignia, Rwandan military papers, uniforms and currency. The items did not provide incontrovertible proof either of a Rwandan military presence or of direct Rwandan government support to the CNDP, however.

Are the Congolese army and the FDLR in a military alliance?

This is a regular accusation by the CNDP and Rwanda. Based on its own information collected in the field, Amnesty International is aware of at least low-level collaboration between FARDC units and their commanders and the FDLR in certain areas of North Kivu. The primary interest of this collaboration is economic (for example, collaboration in the trafficking of hemp in Lubero territory). Evidence of a strategic or command alliance between the FARDC and FDLR is lacking, although reported joint military actions by the mayi-mayi and FDLR may point to orchestration, or a degree of it, by Kinshasa.

What have been the human rights consequences of the crisis?

Human rights violations by all the fighting forces are reported from across the province, including ongoing forced recruitment of children, rapes, deliberate killings of civilians and extensive looting (more details below).

Amnesty International has received the following specific reports and is adding to them daily. Given the chaotic situation in the province some reports are not immediately open to corroboration or confirmation.

- reports of rapes and killings committed in the vicinity of Ngungu during fighting between CNDP and PARECO forces on 8/9 November;
- reports of ongoing and in some cases apparently systematic forced recruitment of children by armed groups in Rutshuru and Masisi territories;
- reports of widespread looting and attacks against civilians by FARDC elements in Kanyabayonga on 10 November;
- deliberate killings of civilian men in Kiwanja, north of Rutshuru, by CNDP forces on the night of 5/6 November, in the wake of fighting for control of the town on 5 November between CNDP and mayi-mayi forces (see boxed text). These reports are now largely confirmed and an investigation by the MONUC Human Rights Division is in course;
- killings and other human rights violations committed by FARDC forces as they retreated through Goma on the night of 29/30 October.

The violence has so far displaced an estimated 250,000 people, bringing the total number of internally displaced people (IDPs) in the province, from this and previous rounds of conflict, to at least 1.2 million. Most are now living in miserable conditions in displaced camps in the narrow belt of land around Goma. Aid to these people is building gradually but is insufficient.

In the larger part of the province, in areas under armed group control or otherwise inaccessible to humanitarian aid because of insecurity, tens of thousands of displaced are unaccounted for and living without organized assistance. Around 10,000 have crossed the border into Uganda. Many of these people were already living in IDP camps around the town of Rutshuru, which were burned to the ground during the fighting in circumstances that remain unclear.

Are war crimes being committed in Kiwanja?

Yes. Based on the information available to Amnesty International and reports from other organizations, war crimes have been committed in Kiwanja.

A witness in Kiwanja, contacted by Amnesty International on 6 November, described how CNDP fighters went from house to house through the town, particularly in the Mabongo II neighbourhood, which is home to a large number of ethnic Hutu, searching for people they suspected of being mayi-mayi members or supporters.

According to the witness, large numbers of men mainly aged between 18 and 30, "young fathers and newlyweds" ("*jeunes papas et nouveaux mariés*"), were taken from their homes by the CNDP and either shot or stabbed to death.

Mayi-mayi fighters also reportedly killed about six people and committed other abuses against civilians in and around Kiwanja in the course of the earlier fighting. Seventy-two people have so far been buried in the town and the death toll is likely to rise. Although some of these people were killed by cross-fire during the fighting, many were victims of unlawful killings.

MONUC peacekeepers present in Kiwanja, although struggling to protect thousands of civilians who fled to the shelter of the MONUC base, reportedly did not intervene to stop the killings by the CNDP, although the house-to-house operation apparently lasted several hours until a CNDP Colonel ordered a halt in the morning of the 6th.

How are the UN forces (MONUC) handling the crisis?

MONUC is trying to contain the crisis in North Kivu as well as deteriorating situations in the Haut-Uélé and Ituri districts of Orientale province. The force is under immense pressure.

MONUC's credibility among ordinary Congolese is particularly poor at the moment. The fall of Rutshuru, which MONUC had pledged to defend, followed by the killings at Kiwanja, which MONUC troops failed to intervene to stop, has further damaged their reputation. There have been popular demonstrations against the force, some of them violent.

Nevertheless the situation in the DRC would be considerably worse without MONUC. The force does intervene to protect civilians on a daily basis, and the limited progress made in the DRC towards security and stability since the end of the 1998-2003 (progress which the current fighting threatens to destroy) is in a very large measure due to MONUC.

MONUC has arguably suffered from a mandate which involves, as its first priority, neutrally protecting civilians but also supporting the national army, the FARDC, in military operations against armed groups in eastern DRC. The FARDC has been responsible for widespread human rights violations and is generally an unprofessional, corrupt and poorly commanded force. This dual role has led the CNDP to accuse MONUC of being a non-neutral force.

MONUC is, by its own assessment, "stretched to the limit" and without reserves. On 3 October, Alan Doss, the UN Secretary-General's Special Representative to the DRC and Head of MONUC, asked the Security Council for an additional two infantry battalions, two police units, two companies of special forces, as well as additional air assets, engineering assets and intelligence-gathering capability. These reinforcements were described as "the absolute minimum" needed. On 20 November, the UN Security Council at last authorized, through Resolution 1843, the temporary reinforcement of MONUC with "up to 2,785 military personnel, and the strength of its formed police unit by up to 300 personnel." The deployment is expected to take weeks if not months.

The European Union (EU) has come under pressure to deploy an EU military "bridging force" to assist MONUC and allow MONUC time to regroup.

Amnesty International is calling for rapid implementation of Resolution 1843. MONUC needs to be

reinforced urgently, to allow it to protect civilians to the fullest extent possible and open up safe corridors along which humanitarian aid can travel. Reinforcement may need to be followed by strengthening and clarifying its mandate, to enable it to be more robust in protecting civilians and facilitating access to aid (though not delivering it itself).

What are Amnesty International's immediate concerns and recommendations?

The priority right now is to reinforce civilian protection and humanitarian assistance in North Kivu.

Therefore, our immediate aim is to move the international community, through the UN Security Council, to provide effective protection for civilians by:

- reinforcing MONUC with the extra troops and specialist personnel and equipment it needs, enabling it to better protect civilians;
- MONUC establishing safe corridors for humanitarian aid throughout North-Kivu;
- bringing concerted international pressure on the armed groups and the states that have influence over them, especially Rwanda and the DRC, to end all abuses against civilians, and on the DRC government to ensure that the Congolese army halts all human rights violations.

In the longer term, this urgent protection phase should be followed by an international push to address the roots of this crisis once and for all and end entrenched human rights violations in eastern DRC.

What should the UN Human Rights Council do to address the crisis?

The Human Rights Council must hold a Special Session on the “human rights situation in Eastern Democratic Republic of the Congo”. Together with Human Rights Watch and more than 40 NGOs active in Africa Amnesty International sent a letter to the President of the Human Rights Council calling on the Council to use a special session to foster effective measures to protect the thousands of civilians suffering and at risk in the region.

The Human Rights Council must send a strong message to the Security Council that it is extremely concerned at the situation in the eastern DRC and that it urges the Security Council to take all additional measures necessary to protect civilians. The Human Rights Council should also appoint an independent expert (Special Envoy/Rapporteur) for the eastern Democratic Republic of Congo to report on the human rights dimensions of the crisis and recommend steps to respond to it. The independent expert should not be limited to reporting to only the Human Rights Council.

What does Amnesty International think should happen to solve the conflict in the longer term?

The close international attention now being paid to the situation in eastern DRC needs to translate into action to address the underlying causes of the crisis, which have been evident for the last 10 years or longer. No concerted diplomacy has been taken to resolve the factors that fuelled the 1996-2003 conflicts, leaving North Kivu, and to lesser extents South Kivu and Ituri, crucibles of rebellion.

Much of this failure can be laid at the door of the DRC government, which has failed to deliver meaningful reform of its mining, justice and security sectors. Responsibility must also be taken by international donors, who have failed to insist on such reforms. Neighbouring states must also be pressed to engage in the search for durable solutions to the continuing presence of foreign armed groups in eastern DRC.

In order to provide a longer term solution to the conflict, the international community and the DRC government must:

- establish effective measures to disarm, demobilize and reintegrate or repatriate armed group fighters;
- end arms proliferation;
- prevent sexual violence more effectively, promote women's participation in peace initiatives and bring protection of women to the heart of the UN peacekeeping mission;
- address impunity by reforming the justice system and establishing an appropriate transitional justice mechanism to address grave human rights violations committed since at least 1993;
- develop transparent and accountable exploitation of the DRC natural's resources;
- ensure effective reconciliation of divided communities, including by resolving issues of land ownership and the return of Congolese Tutsi refugees;
- ensure effective reform of the national army and police, including by excluding suspected perpetrators of human rights violations from their ranks, to make it capable of protecting civilians of all ethnic groups professionally and in full respect of human rights.