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DR CONGO: UNSTABLE AREAS ENDANGER RETURNS

The recent signing of a tripartite agreement between the UN Refugee Agency (UNHCR) and the governments of the Democratic Republic of the Congo (DRC) and Rwanda will lead to the official return of tens of thousands of Congolese refugees. However, their reintegration is challenged by mounting tensions in areas controlled by the CNDP rebel group. More support is needed from the U.S. for strategies that mitigate potential conflicts over land and ethnicity. The U.S. and members of the UN Security Council should also urge the DRC and Rwanda to address the growing dominance of the CNDP in return areas.

UNSTABLE RETURN AREAS IN NORTH KIVU

In February 2010, a tripartite agreement was signed between the governments of the Democratic Republic of the Congo, Rwanda, and UNHCR. This agreement sets the stage for the facilitated return of over 50,000 Congolese refugees from official camps in Rwanda. These returns, while important for the future stability of eastern DRC, will be taking place in a complicated landscape of population movements and increasing ethnic tensions.

The arrest in early 2009 of dissident general Laurent Nkunda and the integration of his National Congress for the Defense of the People (CNDP) forces into the Congolese national army (FARDC) changed the security situation in North Kivu and led to increasing numbers of internally displaced people living in the camps around Goma to return home to areas previously under CNDP rebel control. Although many return areas remain unstable, returnees were encouraged home by a combination of strong Congolese government rhetoric, the start of the school year, and the beginning of the planting season.

While returns in North Kivu have been increasing, new displacements have also occurred. The UN estimates that around 525,000 people returned home in North Kivu in 2009. In the same time period however, there were also 600,000 people newly displaced due to the “Kimia II”

POLICY RECOMMENDATIONS

- ❑ The U.S. and other members of the UN Security Council should urge the governments of the DRC and Rwanda to regulate population movements between the two countries and adequately address the CNDP's military and administrative control in return areas.
- ❑ The U.S. and other donors should financially and politically support the return strategies put forward by UNHCR and the Congolese government.
- ❑ UNHCR and the governments of the DRC and Rwanda should ensure that the tripartite technical working group seeks full transparency regarding the nationality of populations moving into the Kivus from Rwanda.
- ❑ The U.S. should develop a comprehensive inter-agency foreign policy strategy on the DRC to ensure coherence between technical programming and the vital diplomatic efforts required to address the situation in the Kivus.

military operation against the Rwandan Hutu FDLR rebels. Currently, ongoing insecurity caused by the next phase of military operations, “Amani Leo,” is preventing people from returning to certain areas. Many returnees find themselves living in transit sites or with host families because their homes remain unsafe.

Most areas of return in North Kivu continue to be controlled by the CNDP. While mechanisms have not yet been established through the tripartite process to facilitate the official returns of refugees from Rwanda, spontaneous returns have already taken place. Confusion surrounding the origins of these spontaneous arrivals from Rwanda is raising doubts about the sustainability of the reintegration of refugees once the official returns begin.

CNDP EXPANSION AND LAND GRABS

The DRC government’s peace agreement with the new CNDP leadership after Nkunda’s arrest, signed on March 23, 2009, included every key demand that Nkunda had previously made. Concerns remain however regarding what undisclosed promises were made by the Congolese government to the CNDP in exchange for handing over Nkunda.

The agreement led to the integration of CNDP units into the FARDC, but the former rebels maintained the same command structures. As part of the FARDC, the CNDP got the majority of command positions and frontline deployments for the military operations against the FDLR. These operations made it possible for the CNDP to triple the territory under its control, including lucrative mining zones in Masisi, Walikale, Kalehe, and Mwenga. The CNDP also solidified its dominance throughout key farming and cattle areas of Rutshuru and Masisi, overruling the traditional leadership.

In Masisi, CNDP controlled administrative power, which functions separately from the Congolese government’s local administration, is based out of the town of Mushake and extends to satellite centers of Ngungu and Kitchanga. In these areas, the CNDP administration benefits from considerable tax revenue and controls the local economy and labor force. In the informal settlement of Bwiza within the Virunga National Park, a CNDP representative who has a stake in the profitable illegal trade in charcoal produced from trees in the park, told Refugees International (RI), “Here the State is us,” when asked if the locality had been approved by the provincial government.

The CNDP’s military strategy over the past year has also been driven by the desire to seize and consolidate pasture land throughout Masisi. Numerous incidents of violence

have erupted around large land concessions where titles were distributed when the former Rwandan-backed RCD rebels controlled the Kivus. While customary leadership historically plays an important role in allocating land within their territories, the CNDP defends civil land laws dating back over thirty years that have never been harmonized with traditional practices. The owners of the dormant titles are now demanding that “squatters” vacate their lands. Large farms are also being established through threats of violence and heavy taxation that drive out legitimate land owners.

Credible local sources also told RI of armed herders in Masisi who serve as an auxiliary militia for the CNDP and protect cattle brought in from Rwanda that is owned by political and military elites in Kigali. They also frequently harass the local population, including returnees. RI was told that the cattle throughout Masisi are referred to as “vaches sans frontières,” cows without borders.

In addition to these territorial interests, the CNDP has sought to ensure favorable demographics for its Hutu and Tutsi supporters, referred to in political terms as “Rwandophones.” In previously ethnically heterogeneous towns in Masisi, such as Rubaya and Mushake, the CNDP has managed to push out the majority of non-Rwandophones through intimidation tactics.

Attempts by various ethnic groups to control certain areas in eastern DRC for their own interests remain an extremely sensitive political issue. Since the Rwandan army’s interference in eastern DRC in the late 1990s, non-Rwandophone Congolese have held deep-seated fears of a hidden agenda by the Rwandan government to occupy the Kivus. The APCLS self-defense group, now allied with the FDLR, claims to protect its Hunde homelands from the CNDP’s expansion towards northwestern Masisi and is actively recruiting on the basis of popular fears of a “Rwandan invasion.”

RWANDANS POSING AS CONGOLESE RETURNEES

During a recent mission to North Kivu, Refugees International found that individuals from Rwanda are attempting to pass themselves off as Congolese refugee returnees and arriving to areas under the protection of the CNDP, adding to the frictions that are rising between Rwandophones and other ethnic groups.

In Bwiza, a CNDP representative told RI that approximately 5,000 “spontaneous refugee returnees” had arrived to his locality from the UNHCR camps in Rwanda. However, RI learned from local sources that over half of this population was in fact Rwandan Hutus, thus raising

doubts that they were refugee returnees, as only Congolese Tutsis are living in the camps in Rwanda. In addition, new arrivals were said to be uncertain about the locations of towns, roads, and markets that any previous resident would know.

In a settlement near Kirokirwe, RI interviewed adults alleging to have returned to their original homes after being forced to leave the Gishwati forest in Rwanda, where the government has forced legitimate Congolese off land they were given as refugees. Nevertheless, these people did not possess even a minimum knowledge of Swahili, something highly unlikely for any Congolese adult male. The local chief could also not vouch for their having ever lived in his village, despite having done so for other spontaneous returnees from Rwanda.

Credible ex-CNDP sources told RI that people moving from Rwanda are exhaustively “briefed” on what they should tell Congolese authorities and internationals. Near Kirokirwe, RI observed that several of those who said they were Congolese from the refugee camps were then questioned by the self-proclaimed leadership of the returnees. One girl responded in Kinyarwanda, “Don’t worry – they didn’t get anything from me. I didn’t give anyone up.” That same leader showed RI lists of returnees to which he was adding refugee camp names and signatures by himself. Many similar lists have surfaced throughout Masisi, but very few names have matched those registered in the camps in Rwanda by UNHCR.

These population movements from Rwanda appear to solidify the CNDP’s control over territory throughout Masisi and strengthen their position in upcoming local elections. The proposed creation of various levels of councils and governing bodies would lend the CNDP autonomy and leverage over traditional chiefs of other ethnic groups. Tutsis and Hutus do not historically have a homeland in eastern DRC and have had to live as “guests” under the customary leadership of other ethnic groups. However, through its current strategy to control land and population movements, the CNDP are creating *de facto* independent zones.

CNDP leadership has argued that rumors about Rwandans moving into the Kivus are part of a fear-mongering strategy by traditional non-Rwandophone chiefs who do not want to give back land they took from Tutsi refugees in Rwanda. However, RI interviewed several credible local chiefs in Masisi who lived in fear of the CNDP military and administrative power and many had either been intimidated into fleeing to Goma or were being blocked from exercising even minimal functions.

According to UNHCR, the numbers in the official refugee camps in Rwanda have not decreased. The Rwandan government has attempted to explain these population movements by making new claims that over 150,000 undocumented Congolese refugees live outside the official camps. Nevertheless, despite the reality of those pushed off their land in Gishwati, not even Nkunda defended such figures at the height of his rebellion.

The DRC government is ultimately responsible for verifying the identity of those claiming to be Congolese nationals, but many analysts have noted the government seems more concerned about not jeopardizing its agreements with the CNDP, both public and private. Provincial officials have yet to take up UNHCR’s offer of financial and technical support for a government assessment of current population movements. This is despite the fact that population movements from Rwanda, coupled with the CNDP’s control over the provincial ministry responsible for the reintegration of refugees in North Kivu, is put forward by other ethnic groups as evidence that the tripartite returns process will be a smokescreen for a Rwandan takeover.

MAKING RETURNS DURABLE

The growing dominance of the CNDP in the Kivus is leading to increased ethnic tensions that threaten to derail the successful return of Congolese refugees from Rwanda. More political support and ownership by all stakeholders is needed to ensure that strategies to mitigate ethnic tensions and support the reintegration process are fully implemented.

Critical to the facilitation of returns are local pacification committees, called *Comité Local Permanent de Conciliation (CLPC)*, which were part of the March 23rd agreement, and are also part of the government’s own returns management strategy. The CLPCs will be set up in areas of return and are composed of local authorities, customary chiefs, civil society actors, representatives of the displaced and various ethnic and religious groups, and UN agencies.

The CLPCs will designate whether areas, at the *groupement* level, are safe enough to accept returnees. Upon approval at the provincial level, the CLPCs will plan and prioritize reintegration projects, mediate in case of conflicts over land and resources, and ensure community participation in the overall return and reintegration process. There are however growing concerns that the CLPCs will not be able to act impartially as long as the CNDP remains in control of key return areas, and as long as spoilers try to derail the returns process. Before the CLPCs are established at the end of May, it is vital that buy in from all stakeholders involved is assured.

As part of the tripartite agreement, a technical working group between UNHCR and the governments of Rwanda and DRC will also be set up. A key role of the technical working group will be to ensure that the nationality of Congolese refugees is verified, and the governments of Rwanda and DRC must take serious responsibility for this. In addition, given that the resolution of land issues figures prominently into the successful return of all displaced Congolese, participants in the tripartite working group should harmonize their efforts with current strategies to mediate land disputes by groups such as the Norwegian Refugee Council and UN-HABITAT. These reconciliation initiatives, while important, are taking place at a very local level and face resource constraints and challenges in dealing with cases that involve powerful businessmen and landowners linked to the CNDP.

To facilitate return and reintegration in eastern DRC, there is a need to broaden efforts for land reform to the national stage. In particular, more political leverage is needed at the Kinshasa level and from international donors to support mediation efforts that provide victims of CNDP land grabs with credible avenues of redress and reparation before tensions simmer into violent opposition. Women remain particularly vulnerable as they continue to face difficulties in accessing their family's land in cases where their husbands died in the conflict.

Finally, return and reintegration is one pillar of the UN stabilization strategy, which works in tandem with the Congolese government's plan for stability in the east, known as STAREC. In line with plans to facilitate the reintegration of returnees, the UN's stabilization strategy hopes to be a catalyst for stability in areas that are teetering on the edge – many of these include current and future return sites. A three-year strategy, it is meant to bridge the gap between emergency and development programs.

Given the ethnic and political sensitivities of North Kivu, donor support for the UN stabilization strategy has been questioned. In reference to the CNDP's dominance, one foreign diplomat told RI, "Should we try to stabilize an occupation?" Despite these concerns, it is clear that more assistance for programs targeting returnees is crucially needed. The budget for the UN stabilization strategy is \$850 million, of which only \$160 has been programmed. And while UNHCR received \$2.5 million dollars to support its program with UN-HABITAT, this is a drop in the bucket given the growing disputes over land.

Increased funding to assist returnees must be carefully balanced with ongoing humanitarian needs. Making sure

that there is a smooth transition from emergency assistance for ongoing displacements towards early recovery and livelihood projects is also important, particularly given that the early recover pillar was moved from the UN's Humanitarian Action Plan to the UN stabilization strategy, which remains sorely under-funded.

Better coordination is also needed between donors and UN agencies focusing on returnees. Assistance strategies at the community level, based on vulnerabilities, will go the furthest in meeting the growing needs of returnees. UNHCR must take a stronger leadership role in ensuring that the protection concerns of returnees are addressed, and that return assistance strategies are harmonized for the facilitated and spontaneous returns of internally displaced people and refugees.

CONCLUSION

As long as the CNDP continues to dominate the political and military landscape in eastern DRC, there is serious concern that support for the facilitated return of Congolese refugees from Rwanda will be perceived throughout the country as a partisan defense of Rwandan interests rather than a real attempt at community reconciliation. The tripartite process and local pacification committees are important mechanisms to address these issues, but they require much more international political and financial support.

Major donors like the U.S. must recognize the mounting hostilities in North Kivu and act to mitigate the potential for violence, otherwise their investments in peace and stability in eastern DRC will have little impact in the long-term. The U.S. should support the return and reintegration strategies put forward by UNHCR and the Congolese government. Taking into account the regional security implications, the U.S. and other members of the UN Security Council should also urge the DRC and Rwanda to address the flow of undocumented people across their borders, as well as the CNDP control of return areas. Finally, given the critical resources and interest from the U.S. to the DRC, the lack of a clear U.S. foreign policy on the Congo is concerning. The U.S. must develop a comprehensive inter-agency strategy that addresses not only the ongoing humanitarian and security needs in eastern DRC, but also looks at dealing with the root causes of the conflict.

Advocate Camilla Olson and consultant Steve Hege assessed the humanitarian situation in North Kivu Province in February 2010.