

## ICRtoP overview of the DRC Mapping Exercise Published by the UN High Commissioner for Human Rights

*On 1 October, the United Nations High Commissioner for Human Rights (UNHCHR) released a 566-page report on the Democratic Republic of the Congo (DRC); a 'Mapping Exercise' documenting 617 violent incidents committed in the DRC, mostly in its Eastern provinces, between March 1993 and June 2003. The report notes that "the vast majority of the 617 most serious incidents described in the mapping report point to the commission of multiple violations of human rights and/or international humanitarian law, which may constitute crimes against humanity or war crimes, and often both at the same time" (463-464). It also includes that "the apparent systematic and widespread attacks described in this report reveal a number of inculpatory elements that, if proven before a competent court, could be characterised as crimes of genocide" (31).*

### I. Objectives and findings of the 'Mapping Exercise'

The origins of the report stem from the 2005 discovery of three mass graves in Eastern DRC, leading the UN to push for a human rights mapping exercise, first announced in a report to the Security Council in June 2006. The Council approved terms of reference in May 2007 following consultations with UN agencies and the Congolese government and in December 2007, the Council endorsed the OHCHR-led exercise in Resolution 1794.

The exercise aimed at mapping the most serious violations in DRC as well as to assess the capacity of the national justice system to address them. In this regard, the report puts forward options to assist the government in



October 2006 UN Photo By: Martine Perret

finding transitional justice mechanisms. The report is based on the interviews of over 1,280 witnesses and the analysis of more than 1,500 documents showing that armed groups have systematically targeted unarmed civilians, both Congolese and Hutu refugees, the large majority of which were women, children and elderly.

The report made particular attention to the apparent systematic and widespread use of rape and **sexual violence** by all combatant forces against women. In addition, according to the report, over **30,000 children** were recruited by armed groups and suffered inhumane treatment. Most significant, allegations against the Tutsi-led **Rwandan**

**Patriotic Front (RPA)** who, allied with Burundian troops and Congolese rebels, allegedly committed crimes against ethnic Hutu civilians in 1996 on such a wide and systematic scale that they could amount to genocide if proven by a court of law. The report points to "tens of thousands" of Hutu refugees who were slaughtered with knives, hammers, and clubs or burnt alive.

As Pillay said, the report reflects on the violence committed against a large number of people in the DRC and "is intended as a first step towards the sometimes painful but nonetheless essential process of truth-telling after violent conflict." Beyond providing a historical and regional record of past atrocities, the report assesses the justice system in the DRC and offers options to be considered by the Congolese government and international actors towards ending impunity, dealing with past atrocities and preventing the occurrence of new atrocities.

The report identifies foreign and local armed groups involved in the commission of the crimes, and recommendations such as the “the creation of a mixed jurisdiction, possibly involving “hybrid courts” with both national and international staff; creation of a new Truth and Reconciliation Commission; reparation programs; and reforms of both the legal sector and the security forces”.

### II. Controversial leak of the report and delayed publication

An earlier draft of the report was leaked by French newspaper *Le Monde* on 27 August, creating intense controversies as it reported that several Congolese rebel groups, Ugandan troops (along with Burundian, Angolan and other armed groups) had committed grave human rights violations. The most contentious aspect of the report referred to the possibility that the armed forces of Rwanda and their local allies may have committed acts, which could constitute crimes of genocide against ethnic Hutu civilians fleeing the country in fear of reprisal.

The Rwandan government voiced anger over the report, threatening to pull its peacekeepers out of UN missions, especially from Darfur. In a 30 September press statement, Rwanda’s Foreign Affairs Minister, Louise Mushikiwabo, immediately dismissed the report as “flawed and dangerous from start to finish”. The threat was



May 2004, UN Photo By: A. Burridge

later withdrawn after long negotiations, when Secretary-General Ban Ki-moon flew to Kigali on September 8th, urging President Paul Kagame to continue his contributions to peacekeeping efforts. Nonetheless, some media sources, including Foreign Policy’s blog *Turtle Bay*, revealed that Rwanda would go through with its threats if the UN insists on prosecuting high-ranking Rwandan officers implicated in the crimes.

In response to the release of the report, in an official letter addressed to the UNHCHR, Uganda said that the mapping exercise was “deeply flawed in methodology, sourcing, and standard of proof” and that it “undermine[s] Uganda’s resolve to continue contributing to, and participating in, various regional and international peace-keeping

missions such as (...) UNAMID (...)”. Likewise, Burundi and Angola both requested that the report remove the implications of their involvement in crimes of such scale.

As a result, publication of the report was postponed to allow for Member States to submit their comments to the report. Indeed, the Rwandan government handed in a 30-page document to the UN, comprising seven detailed “areas of objection”. The document, along with official reactions from Burundi, Angola and Uganda were posted on the OHCHR website. Moreover, DR Congo submitted a lengthy document criticizing the report’s conclusions and recommendations. However, other media sources have quoted Congolese diplomats calling the mapping exercise “detailed,” “credible” and “heartbreaking”.

### III. Toned down language

Weeks of political pressure have resulted in a modified terminology that toned down the allegations of genocide, crimes against humanity and war crimes. For instance, words such as “alleged” “suggests”, “apparent” and “if proven in a court of law” have been added to weaken some of the reports’ conclusions. Despite these

modifications that toned down the genocide accusations, “the substance of the report remains essentially the same” said Navi Pillay.

Commenting Friday, as the report was made public, Pillay noted that “[she hopes ] that, now that the report is out, people will examine it carefully, and in particular the measures it proposes which are designed to bring real progress in the areas of accountability and justice in the DRC, in the wake of such a litany of dreadful acts. The millions of Congolese victims of violations committed by an extraordinarily wide range of actors deserve nothing less.”

Addressing speculation about the timing of the report’s release and influences on the content, the High Commissioner stressed the report was a work in progress up until late August. “By then, we had received constructive comments from the Government of DRC, which we took into account during the finalization process,” she said.

#### **IV. Civil Society groups endorse the report and issue calls for justice**

Civil society was fast to respond to the allegations and recommendations made by the report, echoing Navi Pillay’s call for sustainable peace, justice and fight against impunity. The responses by **Human Rights Watch**, **Amnesty International** and the **Global Centre for the Responsibility to Protect** highlighted the following points:

##### **Human Rights Watch**

- Supports the “establishment of a mixed chamber with jurisdiction over past and current war crimes and crimes against humanity committed in Congo”;
- Calls upon “countries whose armies are implicated in the report” to “carry out their own investigations and initiate action against individuals responsible for crimes”.

##### **Amnesty International**

- Officially urges the UN to “establish a Task Force (...) to develop a long term, comprehensive action plan (...)” to end impunity and hold perpetrators to account;
- Recommends that the “Congolese Government and the international community devote more resources to building independent and effective justice system.

##### **The Global Centre for the Responsibility to Protect**

- Observes that crimes against humanity and war crimes were two crimes out of the four that the responsibility to protect aims at banishing forever;
- Concludes “some of the actors involved in mass atrocities in the DRC continue to reiterate their support for the responsibility protect principle while behaving in a manner completely inconsistent with it”;
- Calls upon the international community to deliver on their commitment to the responsibility to protect