

HPG Briefing Note

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Humanitarian Issues in Ituri, Eastern DRC

Introduction

The current situation in Ituri District, in the eastern Democratic Republic of Congo (DRC), has led some observers to compare it to the situation just before the Rwandan genocide, and warn that if action is not taken, there may be a danger of history repeating itself. Of course, the current situation in Ituri is not directly comparable to Rwanda in 1994. However, some parallels are apparent; mass, ethnically-based killings of civilians, and a late, possibly inadequate response on the part of the international community.

In 1996, ODI contributed to a major review of the international response to the Rwanda genocide. This Briefing Note draws on lessons from the Joint Evaluation, HPG research and independent work on the region to examine the current situation in Ituri from a humanitarian perspective. It is aimed at a wide audience, including those unfamiliar with the situation in Ituri or humanitarian policy debates. Of course, whilst international attention is focused on Ituri, humanitarian needs in the rest of DRC should not be forgotten. This briefing focuses on Ituri, but the situation in North and South Kivu is equally alarming.

The briefing highlights three main issues:

- The needs of civilians in Ituri and the rest of DRC are above all for protection from violence, conflict and displacement. The key issue is therefore one of humanitarian protection.
- The scope and mandates of the current international interim force and MONUC appear insufficient to provide meaningful humanitarian protection. A key related question is the extent to which the parties to the conflict can be pressured to respect international humanitarian and human rights law.
- The lessons from a decade of conflict in the region are clear. Effective political action to resolve the conflict is vital, but the need for adequate humanitarian assistance and protection for civilians must be separately considered and given equal attention and importance.

Background

The current violence in Ituri is just part of a series of conflicts in the DRC that have killed an estimated 3.3 million civilians since 1998 and involved the armed forces of seven other African countries. Fighting in the Ituri and Kivu Provinces intensified in late 2002 and early 2003, partly because of the withdrawal of Rwandan and Ugandan troops as part of peace accords signed in 2002. The Ugandan, Rwandan and the DRC governments have been widely accused of supporting rival military groups, often defined along ethnic lines. In a report in May 2003 the Secretary General noted 'ongoing manipulation by various players' and called for, 'the cessation of military support to all armed groups'. An important component of the conflict in Ituri, as in the rest of DRC, is the competition for control of valuable economic resources, notably minerals (gold, diamonds, coltan and oil) an important cross border trade and customs revenues with Uganda. More detailed reports on the current crisis in Ituri and background on the war in the DRC are recommended at the end of this paper.

Ituri District Facts and Figures

- 60,000 people are estimated to have been killed by ethnic violence since 1998
- 300,000 people are estimated to live in Bunia town
- 4.6 million people are estimated to live in Ituri District

Sources: UN Secretary General's report, UNOCHA and IRIN reports

Figures in the DRC are notoriously unreliable, so it should be realised that these numbers are rough estimates. Ituri is one of 4 districts in Orientale Province. A Ugandan-backed governor declared it a breakaway province in 1999, but this is not widely accepted.

In March 2003, the UN brokered a ceasefire. An Ituri Pacification Commission was convened and agreed to set up an interim administration. The UN observer mission (MONUC) deployed approximately 700 Uruguayan troops to the town of Bunia in April 2003. They had a limited mandate to protect the airfield, UN facilities and sites of the Ituri Pacification Commission. In April 2003, following the withdrawal of Ugandan troops from Ituri, Hema and Lendu based militia groups began fighting for control of the town.

Concerns over this upsurge in fighting and reports of mass ethnically based killings of civilians eventually led to UN Security Council Resolution 1484 (30 May 2003), authorising the deployment of up to 1,400 troops under Chapter VII of the UN charter, which allows for the use of coercive force. It has a mandate to contribute to the safety of the civilian population. The Interim Emergency Multinational Force is led by the French and is now being deployed. However, it only covers the town of Bunia, leaving the rest of the district of over 4 million people unprotected, and runs only until September 2003, when additional MONUC troops are expected to be ready to deploy.

Ituri and International Humanitarian and Human Rights Law

International humanitarian law (IHL) provides a framework and range of instruments to help protect people during conflicts. The complexity of the war in DRC and the ambiguous role of foreign armed forces makes the application of international law complicated, but the basic principles of IHL are applicable to all situations of armed conflict. Chief amongst these is the duty to distinguish between combatants and non-combatants (civilians), and to ensure that civilians and the objects essential to their survival are not subjected to attack. The principle of *precaution* stipulates that every care shall be taken to prevent incidental damage to civilians or civilian objects in the conduct of hostilities; but the nature of the conflict here is such that, far from being 'caught in the cross-fire', there is every reason to think that the civilian population is being deliberately targeted, perhaps with genocidal intent.

Eastern DRC is the site of an international armed conflict and several internal conflicts. The government of the DRC,

HUMANITARIAN POLICY GROUP

The Humanitarian Policy Group at the Overseas Development Institute is Europe's leading team of independent policy researchers dedicated to improving humanitarian policy and practice in response to conflict, instability and disasters.



neighbouring governments involved in the conflict, and armed militias involved in the fighting all have obligations under international humanitarian law and human rights law. The international community also has obligations in dealing with genocide, war crimes and crimes against humanity.

All of the armed forces in Ituri therefore have responsibilities under the Geneva Conventions. The most basic safeguards applicable to internal conflicts are contained in Article 3, common to the four Geneva Conventions of 1949, which demands that persons taking no active part in hostilities be treated humanely. It prohibits absolutely violence to life and person (including murder, mutilation, cruel treatment and torture); and 'outrages upon personal dignity', in particular humiliating and degrading treatment. The DRC is now party to the second Additional Protocol of 1977, which builds substantially on these provisions in the conduct of internal conflicts. Together with Uganda and Rwanda, it also party to the first Additional Protocol, which updates the provisions relating to international armed conflict.

Uganda, as the *de facto* occupying power in Ituri from 1998 until its withdrawal in May 2003, had additional legal obligations to protect the civilian population and to administer the district and its resources in a manner that ensured the welfare of the population (Geneva Convention IV, Relative to the Protection of Civilians in Time of War 1949). The Security Council, in Resolution 1341 of 2001, 'Reminds all parties of their obligations with respect to the security of the civilian populations under the Fourth Geneva Convention [of 1949]...and stresses that occupying forces should be held responsible for human rights violations in the territory under their control.'

To the extent that the governments of the DRC, Rwanda and Uganda are supporting militia groups in Ituri, they also have

legal obligations for the conduct of what can be seen as proxy forces, if governments are deemed to have 'effective control' over the armed groups that they support. The Secretary General's special report on MONUC in May 2003 noted that;

'external actors must recognise their accountability for the actions of those armed groups they helped create and must cease to supply them or give them succor'.

The responsibilities of the various armed militia groups involved in the conflict hinge on the degree to which they are deemed to exercise control over their spheres of influence. Amnesty International in an April 2003, concludes that:

'RCD-Goma, RCD-ML, RCD-National, the MLC and the UPC are armed political groups who are parties to the conflict. Their level of political and administrative organisation allows them to exercise a sufficient degree of control over their respective spheres of influence ... The above-named armed political groups have the responsibility of acting within the established framework of international human rights and humanitarian law.'

The obligations of the warring parties under humanitarian law are currently largely being ignored on a massive scale. Human Rights Watch argues that some of the violations of IHL and human rights law in Ituri amount to war crimes and crimes against humanity. The DRC has signed the Rome Statute of the International Criminal Court. Once this is ratified, the court will have jurisdiction over war crimes, crimes against humanity and acts of genocide committed on its territory.

States also have an obligation under the 1948 Genocide Convention to 'prevent and punish genocide'. The question of whether or not the current violence in Ituri amounts to genocide is a difficult one. The mass, ethnically-based killings of civilians suggest that it is a possibility. Human Rights Watch, however, argue that it cannot yet be deemed genocide as there is not yet documented proof of a policy of extermination that would show the 'intent to destroy' needed in the 1948 convention on Genocide definition.

Genocide

The 1948 Convention on the Prevention and Punishment of the Crimes of Genocide defines genocide, whether committed during a time of war or peace, as

'acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such' including killing members of the group, causing serious bodily or mental harm, or deliberately inflicting conditions of life calculated to bring about the physical destruction of the group, in whole or part.

The parties to the Convention 'confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and punish' (Article 1).

It is customary to use the term genocide only for the most horrific crimes against humanity such as the Nazi holocaust, the Armenian genocide of 1915 and the 1994 genocide in Rwanda. There are many other examples which could fall within the 1948 definition given above such as Guatemala's war against the Maya, and Iraq against the Marsh Arabs and the Kurds.

Genocide is such an emotive term that its use is commonly restricted. This is partly due to a desire not to devalue the term. But political reasons have also often dictated reluctance to use it: for example western governments were reluctant to use the term to describe the killings in Rwanda in 1994, as it would have implied a responsibility to intervene.

Adapted from OneWorld: <http://www.oneworld.org/guides/genocide/index.html>

Humanitarian Issues

Humanitarian Protection

What the civilian population needs in Ituri above all is safety and security, in the face of widespread violence, displacement and human rights abuses. The key over-arching humanitarian issue in Ituri is therefore one of protection of civilians from violence (including killings and rape), from coercion (including forced displacement and the recruitment of child soldiers), and from deprivation of the means of subsistence, including access to relief. The need for relief assistance must be seen in the context of these fundamental threats to security, and as being in large part a consequence of those threats. The same security climate limits the ability of agencies to provide such assistance, so that the civilian population is doubly vulnerable – not least because of the lack of international presence as witness to the atrocities being perpetrated.

The protection that the current interim force will be able to provide has clear limitations, given the size, scope and duration of its mandate. MONUC does at least have a mandate that covers the whole district of Ituri, but not a clear mandate for the protection of civilians.

Since the deployment of the interim force was agreed, there have been two reported massacres of civilians in villages outside Bunia. Even within Bunia, abductions and rape of civilians have continued. MONUC has reported that from 8 to 15 June there were kidnappings and killings every night. More than 50 people have disappeared, and so far only five returned alive. Whether or not either MONUC or the new interim force will be able to

Protection

'Protecting means recognising that individuals have rights and that the authorities who exercise power over them have obligations. The notion of protection reflects all the concrete measures that enable individuals at risk to enjoy the rights and assistance foreseen for them under international humanitarian law. When providing relief in times of conflict, humanitarian organisations must not separate the provision of assistance from protection, since protection is part of realising these rights.'
(see Bouchet-Saulnier, *The practical guide to humanitarian law* 2002)

The above definition leaves open the question of how people are actually protected. This depends in part on the extent to which the rights and duties influence the behaviour and policies of warring parties – and the extent to which there are factors in operation which encourage compliance and deter abuse.

It is these factors that are essential to the success of protection initiatives by humanitarian actors, who rely for the most part on their ability to influence those with power, and who generally cannot protect in any more direct sense. At the other end of the spectrum, armed intervention by an international force to protect civilians represents a more direct form of protection.

The protection agenda has been taken forward at the political level by an International Commission on Intervention and State Sovereignty that published 'The Responsibility to Protect' in 2001. This sets out a framework for international intervention on humanitarian grounds in order to prevent mass killings or 'ethnic cleansing'. It proposes criteria based on 'just war' principles of right intention, last resort, proportional means and reasonable prospects. It has been the subject of active consideration by Security Council members but remains a set of policy recommendations, rather than agreed policy.

allow freedom of movement for civilians in and out of the town is a further key protection question.

The Joint Evaluation of the Rwanda crisis highlighted the dangers of an inadequate UN force that creates an illusion of safety and allows the international community to feel that it has addressed the situation. It found that in 1994, the deployment of a small UN force, 'led to a false sense of security in Rwanda'.

It is also important that an international force has a robust and explicit mandate to protect civilians, rather than just to keep the peace between opposing forces or to support a political process. UN resolution 1484, that authorised the interim force, reaffirms 'full support for the political process initiated by the Ituri Pacification Commission'. MONUC's mandate in Bunia is specifically to assist the political process. Again, there is potential relevance for Ituri in the findings of the Rwanda Joint Evaluation:

'The Security Council continued to see the issue in terms of an intervention between two opposing armies engaged in a civil war rather than the need to protect civilians from systematic killings.'

Ultimately, the safety of the civilian population will best be provided for by a successful peace process, and support to a political process is certainly crucial on the part of the international actors involved in the DRC. Evidence from elsewhere suggests, however, that in pursuing the medium term goals of conflict resolution, the immediate need to ensure that populations are protected from violence should not be compromised. As a recent report by the Humanitarian Dialogue Centre (2003) put it;

'the understandable pursuit of the political objective of

sustainable peace has sometimes distracted the attention of political actors from the more immediate necessity of keeping people alive'.

Given the limitations of the interim force, the safety of the civilian population in Ituri will remain dependent on the actions of the warring parties and their supporters. A 1997 report on the UN's response to the ongoing crises in the Great Lakes region concluded that the willingness of local political and military authorities to consent to humanitarian action was a function of,

'their own interests and agenda, and the interest of international political actors in pressuring them to comply with humanitarian principles and law'.

A key question, then, is the extent to which the international community is willing to pressure the governments of Rwanda, Uganda and the DRC, and the forces they support, to respect international humanitarian law, protect civilians and allow humanitarian access.

Humanitarian Principles

The principles of impartiality, independence and neutrality provide the basis on which humanitarian agencies try to secure access to civilian populations in times of war. In Ituri, there are particular threats to these principles and new issues raised by the deployment of the interim force.

Combatant forces have repeatedly violated IHL by failing to ensure that civilians under their control have access to basic food and health needs. Through their systematic harassment and violence against humanitarian agencies, they have also sought to halt the delivery of humanitarian assistance to members of rival ethnic groups. Leaders of ethnic groups have frequently disseminated propaganda in an effort to persuade their communities that NGOs are favouring 'rival' ethnic groups with humanitarian assistance (Amnesty International March 2003). Aid agencies have been grappling with the practical dilemma of how to provide principled aid in this highly politicised and dangerous environment for many years. A number of aid workers have been killed for their efforts.

At present, the ability of international agencies to provide impartial humanitarian aid is highly constrained. They are currently only able to operate in Bunia, from which many of the Lendu ethnic group have fled. The fact that the interim force is aiming to support the provision of humanitarian aid only in Bunia town is highly problematic in this context. Two key questions in this context are:

- Will new force succeed in securing the town limits, only to let the Hema militia block the roads in and out of the city, creating a siege situation?
- Will all ethnic groups be able to access assistance, be protected from violence and be able to move freely in and out of Bunia? Unless Lendu are able to return to Bunia, humanitarian aid that is restricted to Bunia may risk being perceived as favouring one ethnic group over another.

Humanitarian agencies will also need to ensure that aid remains independent from the military intervention. The restriction of the deployment to a currently Hema-dominated Bunia and the clear linkages between the military force and the political peace process means that if humanitarian aid is too closely associated with the interim force, then agencies' ability to maintain operational neutrality and impartiality could further be undermined.

Humanitarian Needs

Humanitarian needs cannot be met unless aid agencies are able to access populations, and international actors are willing to provide adequate resources and funding for humanitarian aid. Carolyn McAskie of UNOCHA pointed out, in a June 20 briefing

Humanitarian Needs

Chronic Crisis and conflict

During the 30 years of the Mobutu regime infrastructure and public services collapsed into a situation of chronic crisis. Since 1996, war has added violence, displacement and further destruction of public services to this crisis. MSF cite conservative estimates that 37% of the population have no access to formal healthcare and other figures which suggest that this figure may be as high as 75%. Mortality in the eastern provinces is estimated by IRC at 3.5/1000/month – twice the African average.

Displacement in Ituri

- Between 500,000 and 600,000 people have been displaced since 1999
- Unknown numbers have been displaced by the current fighting. 25,000 refugees recently crossed into Uganda and 55,000 displaced have reached north Kivu. Others are thought to be still in hiding. (IRIN reports)
- 40,000 displaced people at camps in Bunia near the airport and MONUC compound (Oxfam 13 June 2003)

to the Security Council, that the people displaced by the current fighting are 'stretching the meagre resources of the humanitarian community'.

Lack of funds, however, is not the primary constraint to meeting humanitarian needs in Ituri, but lack of access resulting from insecurity. Humanitarian organisations currently only have limited access to civilian populations in Bunia town and no access in the rest of Ituri Province, because of insecurity. Assistance can be provided to refugees from the fighting who have been able to cross the border into Uganda and to displaced people who have been able to reach relatively safer areas in neighbouring districts.

It is also striking the extent to which basic information is lacking about humanitarian needs in Ituri and the rest of DRC. Research by HPG shows that lack of information, which is key to formulating effective humanitarian and political responses to crises, is not confined to DRC, but reflects a global need to invest greater resources in establishing reliable population data and other key indicators of basic malnutrition, including health and nutritional status. It has also noted that it is often in those situations where populations are at greatest threat, that information is most lacking. The paucity of data in countries such as the DRC makes it extremely difficult to ensure an effective, equitable and accountable response by the international community (Darcy et al 2003 forthcoming)

Conclusions

It seems clear that the French-led force currently being deployed can make only a modest difference to the needs of civilians in Ituri, let alone the rest of eastern DRC, where the needs for protection from violence and displacement are just as great. Humanitarian agencies will also not be able to make a significant impact until effective political action is taken to ensure greater protection. The key finding of the Joint Rwanda Evaluation that, 'humanitarian action cannot substitute for political action' remains as relevant as ever.

Recommended Reading

Political Analysis and Human Rights Reports

Amnesty International, *On the precipice: the deepening human rights and humanitarian crisis in Ituri*, March 2003 (<http://web.amnesty.org/library/eng-cod/index>)

Human Rights Watch has a series of briefings and a major report on Ituri is due to be published in early July (<http://www.hrw.org/africa/congo.php>)

The International Crisis Group has published a series of reports on DRC (<http://www.intl-crisis-group.org/projects/reports.cfm?keyid=27>)

Reports of the Secretary General on MONUC, May 2003 (<http://www.un.org/Depts/dpko/monuc/monucDrp.htm>)

Humanitarian Situation

IRIN Special Report on Ituri (<http://www.irinnews.org/webspecials/Ituri/default.asp>)

Mortality in the Democratic Republic of Congo: results from a nationwide survey, 2003, International Rescue Committee (http://intranet.theirc.org/docs/drc_mortality_iii_report.pdf)

ReliefWeb (<http://www.reliefweb.int/w/rwb.nsf>)

Lessons Learnt and Humanitarian Policy Reports

The International Response to Conflict and Genocide: Lessons from the Rwanda Experience, Joint Evaluation of Emergency Assistance to Rwanda, 1996 (<http://www.reliefweb.int/library/nordic/>)

Humanitarian Policy Group reports available at <http://www.odi.org.uk/hpg>

Strategic Coordination in the Great Lakes Region 1996–97, An independent study for the Inter-Agency Standing Committee, Sue Lautze and Mark Duffield (http://www.reliefweb.int/ocha_ol/pub/greatlak/)

Centre for Humanitarian Dialogue, 2003, *Politics and humanitarianism, coherence in crisis?* (<http://www.hdcentre.org/Resources/library.htm>)

Darcy, J. et al (2003) 'According to need? needs assessment and decision-making in the humanitarian sector', *HPG Report 15*. London: ODI

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Crimes of War Project: Can the International Community Avert Genocide in the Democratic Republic Of Congo?, May 2003 (<http://www.crimesofwar.org/onnews/news-congo.html>)

Saulnier-Boucher, F., 2002, *The Practical Guide to Humanitarian Law*, Rowman and Littlefield Publishers, Boulder, New York and Oxford