

DEMOCRATIC REPUBLIC OF CONGO

A mission to exhume an alleged mass grave in the town of Mbandaka undertaken as part of the research of the United Nations Secretary General's Investigative Team into human rights violations

In February 1998 EAAF conducted a two-week mission to the Democratic Republic of Congo (DRC) as members of a larger United Nations (UN) investigative team. This was the last of a succession of five missions, all conducted under the auspices of the UN, which were intended to investigate violations of human rights and humanitarian law in the DRC, formerly the country of Zaire. EAAF conducted the forensic aspect of these missions at the invitation of the UN Center for Human Rights in Geneva. (See EAAF 1996-1997 Report)

During the 1998 mission the forensic specialists on the investigative team conducted exhumations of a mass grave-site for one day, but were prevented from doing any further work.

Background

In September 1996 a full-scale civil war broke out in Zaire, during which a coalition of rebel armies fought and eventually defeated long-reigning Zairian dictator Mobutu Seso Seku. Many of the forces involved in the civil war, including the Zairian army and paid mercenaries, allegedly committed serious human rights abuses. The most serious of the alleged human rights violations, however, reportedly resulting in tens of thousands of deaths, involved attacks by rebel soldiers troops on Rwandan Hutu refugees that in 1994 settled on camps in Easter DRC. The camps were inhabited by approximately 1, 200,000 million

refugees. These refugees had fled their country after a period of extreme violence, in which the mostly Hutu former Rwandan army (*Force Armee de Rwanda*) and Hutu militias known as the *Interahamwe* killed between 500,000 and 800,000 ethnic minority Tutsis and politically moderate Hutus, committing the largest genocide after WWII. The FAR and *Interahamwe* were then defeated by a Tutsi-led army, and fled the country with their arms to settle among the refugees in the East of former Zaire. From there, ex-FARs and *Interahamwe* conducted armed incursions into Rwandan territory, retreating afterwards to the Zairean refugee camps. These and other actions contributed to the already unstabled situation in eastern Zaire, in which several local ethnic groups were in conflict. It also posed a serious dilemma for humanitarian agencies offering assistance to the camps, which were faced with the fact that by providing assistance to real refugees they also helped persons accused in Rwanda of committing acts of genocide. (For further background in the conflict , please see EAAF 96-97 Report).

In response, in 1997 the United Nations Commission on Human Rights established the UN Joint Investigative Mission for Eastern Zaire, giving it a mandate to investigate human rights abuses that had occurred in Zaire/Congo since the beginning of the civil war in September 1996. At the invitation of the UN Center for Human Rights in Geneva, EAAF agreed to coordinate the forensic aspect of the Joint Mission's

investigations. Participants on the Joint Mission, including four EAAF members, conducted two missions: one to Rwanda in May and one to Kinshasa in June and July, 1997. Both missions were unsuccessful because Laurent Kabila, first as the leader of the alliance of rebel armies and then as ruler of the DRC, refused to let the investigators begin work. During both missions, however, the EAAF participants interviewed witnesses and expanded the existing documentation on human rights violations for the Center for Human Rights in Geneva.

Kabila placed so many obstacles in the way of the Joint Mission that many members believed he would be unwilling to accept an investigation under any circumstances. In discussing the investigation with UN officials, however, Kabila identified two issues as reasons not to allow the Joint Mission to carry out its work. First, his government accused the leader of the Joint Mission, Mr. Roberto Garretón, of bias because he had called for an urgent investigation into the alleged massacres of refugees by the rebel forces in a previous report. Kabila also demanded that the time period under investigation be extended back in time, to cover the mid 1990s, when local and Hutu militias had allegedly committed serious human rights violations against the ethnic Tutsi inhabitants of eastern Zaire. UN Secretary General Kofi Annan eventually agreed to these demands, and created a second team – the UN Secretary General’s Investigative Team (SGIT), directly under his command. EAAF was retained as the coordinator for the forensic aspect of the SGIT. In 1997, the forensic team participated in two missions under the auspices of the SGIT, the first from August to September 1997, and the second from November to December 1997. During these missions the EAAF members continued to collect data, interview witnesses, and participate in logistical planning. The Congolese government continued to obstruct the investigative team’s work.

Finally, during the fifth mission in relation with DRC, the forensic experts on the investigative team traveled to the site of an alleged mass grave in western Congo. Team members found they could not conduct

exhumations, however, because they were confronted by mass demonstrations of local residents, which appeared to have been organized by the Congolese government. The forensic experts left Congo shortly thereafter, and the entire SGIT was withdrawn April 17th, 1998.

(For more information concerning the 1997 missions, see EAAF’s 1996-1997 Biannual Report.)

The 1998 Mission

In March 1998 the forensic team conducted another mission to the DRC, having been promised once again by the Kabila government that they would be able to carry out their work. The forensic experts of the team attempted to carry out exhumations in the town of Wendji, in western Zaire, between March 17 and 21, 1998. The investigative team chose to work in this area because of the precise and detailed information about the massacre. At this time, however, EAAF cannot identify the sources of this information, as a number of witnesses who spoke to journalists or human rights investigators have been persecuted by the Congolese government.

The Wendji and Mbandaka Case

In September 1996, when the civil war began in the eastern part of the Democratic Republic of Congo, thousands of Hutu Rwandans refugees began to flee from the violence, trekking westward through the jungle. Thousands began to arrive to the outskirts of the city of Mbandaka, capital of Equateur province, at the end of April 1997, just as the civil war was ending. Mbandaka is located on a strip of land to the east of the Congo River, mid-way between the cities of Kisangani and Kinshasa.

In response, a number of local organizations, including the Catholic Church, the Protestant Church, Caritas, the Red Cross, Médecins Sans Frontiers, supported by the provincial governor, created a Reception Committee. The committee’s objective was to coordinate and manage the arrival of a significant number of refugees in

order to minimize the problems between them and the local population. As some of the people among the refugees were ex-FARs or Interahamawe, the Reception Committee and the governor insisted that all the new arrivals give up their weapons before entering town and receiving assistance. Sources agree that the refugees were disarmed, and that the arms were located in a warehouse in the center of the town of Wendji, some 15 km south of Mbandaka.

The reception committee settled most of the refugees in three places: approximately 15,000 were directed to Wendji, about 3000 to Irebu, further south of Wendji, and others to the

for about an hour. They also allegedly killed the “unaccompanied children” who were being sheltered in the local Red Cross building in the center of town by smashing their heads against a wall.

The troops then left for Mbandaka, killing other fleeing refugees along the way. According to witnesses they arrived at Mbandaka around 10 a.m. and headed for the city’s port, where approximately 3,000 refugees were waiting for a ship to cross the river towards Brazzaville in the neighboring Republic of Congo. Other refugees were already in a ship, where they had spent the night in order not to lose their place. According to witnesses the troops began to fire on the mass of refugees. The troops later allegedly separated the women and children from the men, and killed the men with bayonets.

According to several sources, most of the refugees killed at Mbandaka were thrown into the Congo River. The bodies that were not thrown into the river were left lying in the open in the port and other parts of the city for days. Bodies were found along Mobutu Avenue, Bolengue Avenue, and the road to the airport. The bodies of the victims at Wendji met a similar fate. In both places, the local Red Cross took charge of collecting and burying many of the bodies in mass graves. EAAF gathered information about the locations of a number of these alleged mass graves.



Demonstrators protesting the UN investigation at Mbandaka. The nature of the signs carried by the demonstrators suggested they had been produced by the Congolese government.

Mbandaka airport. The Reception Committee signed an agreement to use corn from a World Food Program (WFP) ship in the Mbandaka port that had been en route to Kinshasa to feed the refugees.

Around eight o’clock in the morning on May 13, 1997, troops from the alliances of rebel armies (ADFL), traveling from the east in two jeeps, arrived at Wendji. According to witnesses they began killing refugees in the center of town while heading towards the storehouses near the river where the majority of refugees were located. According to witnesses, the troops fired on the refugees and stabbed them with bayonets

The Work of EAAF

In developing their investigative strategy, the Investigative Team and the Forensic Team decided to begin work by investigating possible burial locations sites near the town of Wendji because the information available about this sites was particularly clear and precise.

Forensic team members discussed burial locations with a number of witnesses living outside the country. This strategy was designed to avoid putting local witnesses in danger.

A site bordering the local cemetery was

identified as the location of the graves, and was designated as Site 1. At this site several rows of depressions were observed on the surface of the earth.

In order to observe the stratigraphy of the soil, forensic team members inserted a testing rod approximately 80 cm long. Upon extraction the rod was covered with a dark-colored mud and gave off an odor compatible with the processes that occur when a human body decomposes. The team carried out the same test in other areas of the terrain where they did not observe depressions, and the rod came out clean and with an odor characteristic of the earth. The soil at the two types of sites also resisted the test rod differently: it was relatively easy to insert the rod into the earth beneath the depressions, whereas it was substantially more difficult to push it through the earth at sites where no depressions were observed. Given these findings – the odor of decomposition, the different soils encountered, and the different resistance to the test rod – the team members hypothesized that they had located the burial sites.

The team chose one of the depressions at random, and decided to excavate an area measuring 50 cm by 50 cm. Immediately below the surface of the earth the team encountered a layer of tilled soil intermingled with leaves, some of which were still green. The soil extracted from this level was quite humid from rainwater that had filtered through it. At a depth of approximately 50 cm a layer of black earth appeared, which was compatible with the imprint that is left from the decomposition of a corpse. At this depth, the odor of decomposition was intense. In the northwest corner of the excavated area the team recovered two human bones that both corresponded to the first metatarsus. The bones were found in isolation, not articulated to any other remains.

Beneath the black imprint the team observed a compact grayish clay that appeared to correspond to the original sediment of the terrain.

The day after this work was performed, the team found itself unable to continue its investigations because it was confronted by

hostile demonstrations of local residents armed with spears and machetes. The printed signs carried by the demonstrators, written in English, French and Ngala (the local language), together with other evidence, suggested that these demonstrations had been organized by the Congolese government. This was not unprecedented; similar demonstrations, also apparently government sponsored, had occurred in Mbandaka and Kinshasa during the 1997 missions. After several days of deliberations, the director of the mission decided that the team should retire to Mbandaka due to the security risks involved in the situation.

Conclusions

On the basis of the information obtained in the field and the analysis done in the lab, some inferences about the nature of Site 1 can be drawn. They are as follows:

1. The vegetation had been removed and had not fully grown back at Site 1. This suggests that the soil in the area was disturbed within a year or less, since in this kind of environment vegetation grows rapidly and covers cleared areas within a short space of time.
2. The excavated depression corresponded to an intentional disturbance in the soil, caused when a hole was dug at the site. The presence of green leaves and the humidity of the soil suggests that disturbance had occurred recently.
3. The presence of recovered human bones, the intense odor of decomposing corpses, and the black imprint resulting from decomposition encountered near the base of the excavated area strongly suggested that human bodies had been buried below the depressions.
4. The bones were found in isolation, separated from other human remains. This suggests that the original grave was intentionally disturbed, and that the bodies originally buried there were subsequently removed.

5. Laboratory analyses revealed that the bones belonged to two different adult individuals.



The demonstration at Wendji, Equator Province, DRC.

6. The depressions in Site 1 were different in size and morphology from the graves inside the cemetery. These differences suggest that the site may have contained mass graves, rather than traditional individual burial plots.

In summary, although the team was prevented from completing its archeological excavations, it is possible to affirm that a series of depressions compatible with recently dug, mass graves are located in an area approximately 300 square meters beside the Wendji cemetery. Human remains were found in one of the graves, distributed in a way that strongly suggested that the grave had been intentionally disturbed after the bodies had been buried.

The described findings support allegations that before the arrival of the SGIT team, 'clean up' operations had taken place, emptying some or all the graves related with the events that occurred in Wendji on May 13, 1997.

Recommendations

From the scientific point of view the team made the following recommendations to the SGIT:

The team emphasized that any new investigation conducted in the site in the future should be conducted without restrictions, either temporal or spatial, as this is the only way objective and independent conclusions can be arrived at.

It also recommended: a) that the described area be preserved so that it would not be disturbed again; b) that an exhaustive archeological excavation be conducted in order to expand upon and confirm or alter the findings and hypotheses presented here; and c) that future investigations of the facts draw more extensively from oral and written sources in order to deepen our knowledge of the case.

Subsequent developments

In June 1998 the SGIT submitted its report to the UN Commission on Human Rights. The report stated that the Congolese government had deliberately impeded the investigative missions from conducting a full and thorough investigation of human rights violations, and it described in some detail instances in which government officials and AFDL leaders had intimidated or assaulted people who cooperated with the UN investigation. However, the report concluded that despite these obstacles, there was evidence that severe violations of human rights had occurred.

The deliberate execution of unarmed civilians during and after the attacks on camps of displaced Rwandans by AFDL troops... violates Common Article 3 of the Geneva Conventions.

The AFDL was also responsible for other violations of international humanitarian law, including the detention of malnourished children being treated in

a hospital, killing of wounded patients in another hospital, the beating and killing of nurses in those hospitals, denial of access by relief organisations to camps for displaced persons containing large numbers of ill and wounded persons and the failure to "collect and care for the sick and injured," in violation of Common Article 3.

The available information strongly suggests that at least the massacres committed by the AFDL and its allies during the period October 1996 to May 1997 and the denial of humanitarian assistance to displaced Rwandan Hutus were systematic practices involving murder and extermination, which constitute crimes against humanity, as defined by the Statutes of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. (Security Council document S/1998/581., pp. 24-25.)

The UN report documented a number of abuses by other parties, including the former Zairian Army (FAZ), Rwandan Hutu militias and members of the former Rwandan army (ex-FARs), foreign mercenaries, and other groups engaged in inter-ethnic violence.

The report concluded with a call for a renewed investigation into human rights abuses committed during the period by a judicial body or another investigative commission.

The Congolese government issued an official response to the report, accusing its authors of "politic motivations," and of designing the report in order to distract attention from French complicity in the Rwandan genocide of 1994. It denied that it had obstructed the investigators' work in any way. And it claimed that ADFL troops had not committed human rights violations.

The attacks on the refugee camps and other isolated cases of massacres were moreover the work of the armed bandits (the ex-FAR and Hutu Interahamwe extremist militias) who took the refugees hostage and used them as human shields in order to pursue their diabolical plan and alarm international public opinion in favour of military intervention by the United Nations. (Letter from DRC representative to the UN Secretary General; Security Council document S/1998/582, p. 19)

The Rwandan government acknowledged that its troops had fought with the ADFL, but refused to accept responsibility for human rights violations.