

March 1, 2010

Maj. Gen. Dieudonné Amuli Bahigwa
Commander Operation *Amani Leo*
FARDC
Coordination Headquarters
Goma, Democratic Republic of Congo

Copy to:

Gen. Joseph Ponde Isambwa, Military Prosecutor, Kinshasa
Col. Bobo Kakudi, North Kivu Zone Commander, operation *Amani Leo*
Madame Hiroute Guebre Sellassie, MONUC Head of Office, North Kivu
Son Excellence Julien Paluku, Governor, North Kivu Province
Son Excellence Ruchokoza Tuyihimbaza, Provincial Minister of Justice, North Kivu
Honorable Léon Bariyanga Rutuye, President of the Provincial Assembly, North Kivu

COMPLAINT AGAINST LT. COL. INNOCENT ZIMURINDA

Dear General Amuli,

We, the representatives of 51 human rights and civil society organizations working in eastern Democratic Republic of Congo, write to you concerning Lt. Col. Innocent Zimurinda, currently the 23rd Sector commander based in Ngungu (Masisi territory, North Kivu province). Since 2007, we have documented numerous serious human rights abuses allegedly committed by troops under Colonel Zimurinda's command or in which Colonel Zimurinda was directly involved. These include massacres, summary executions, rape, recruitment of children, forced labor, forced evictions, illegal taxation, and arbitrary arrests and detentions. Many of these abuses continue as we write.

This letter is a formal complaint against Colonel Zimurinda for alleged abuses in North Kivu from 2007 to the present for which we believe he is responsible, either directly or as a matter of command responsibility. We request you to urgently launch credible and impartial investigations into the alleged abuses, including those described below, and to take all appropriate action.

Given the serious nature of these allegations, we also request that you immediately suspend Colonel Zimurinda from operational command, and deploy him to Kinshasa, pending the outcome of these investigations. As long as Colonel Zimurinda continues in his role as a FARDC commander, we fear that the abuses we and others have documented will continue and that more civilian lives will be lost or put at risk.

On July 5, 2009, the Congolese government announced that there would be "zero tolerance" for human rights abuses committed by FARDC military personnel and said that those responsible would be held to account. This policy gave us hope that FARDC soldiers would end their abuses

against civilians. But for this policy to have real meaning it must be applied to commanding officers such as Colonel Zimurinda who continue to be responsible for serious abuses.

Colonel Zimurinda is not the only FARDC commander who has been implicated in serious human rights abuses against civilians in North Kivu. We will, as appropriate, bring complaints regarding other commanders in the future.

We stand ready to provide you with any assistance we can provide to help bring an end to human rights abuses and ensure justice for the victims who have suffered so much.

We look forward to your response on this matter.

Yours sincerely,

The undersigned human rights and humanitarian NGOs working in eastern Congo:

Congolese NGOs:

1. Action Paysanne pour la Reconstruction et le Développement Communautaire (APREDECI)
2. Actions Globales pour la Promotion Sociale et la Paix (AGPSP)- Goma
3. AFEDERU Rutshuru
4. AFEDI Kiwanja
5. AJPED
6. AMUD
7. APROJED
8. Association Africaine de Défense des Droits de l'Homme (ASADHO)- Kiwanja
9. Association des Donors du Sang (ADOSARU)
10. Centre d'Appui pour le Développement Rural Communautaire (CADERCO)
11. Centre d'Intervention et de Promotion Sociale Participative (CIPSOPA)
12. Centre d'Observation des Droits de l'Homme et d'Assistance Sociale (CODHAS)
13. Centre de Recherche sur l'Environnement, la Démocratie et les Droits de l'Homme (CREDDHO) - Goma
14. Centre de Recherche sur l'Environnement, la Démocratie et les Droits de l'Homme (CREDDHO) Rutshuru
15. Centre d'Etudes et de Recherches en Education de Base pour le Développement Intégré (CEREBA)
16. Collectif des Associations Féminines pour le Développement (CAFED)
17. DDT
18. DOD/ECC
19. Encadrement des Femmes Indigènes et des Femmes Vulnérables (EFIM)
20. FEVMC
21. Fondation Mulume Munene
22. GAV
23. GEOVODHI Binza
24. Group d'Etudes et d'Actions Pour un Développement Bien Défini (GEAD)
25. Initiative des Femmes pour le Développement Intégré (IFEDI)

26. Justice et Paix Kibirizi
27. Ligue des Organisations des Femmes Paysannes du Congo (LOFEPACO)
28. Ligue pour la Solidarité Congolaise (LSC)
29. LISVED Rubare
30. Mamans Organisées pour le Développement (MAODE)
31. MUFEPRIMA
32. PAL
33. PAMI
34. PDNA
35. Platform des Femmes du Nord Kivu pour un Développement Endogène (PFNDE)
36. Promotion de la Démocratie et Protection des Droits Humains (PDH)
37. Promotion et Appui aux Initiatives Féminines (PAIF)
38. Réseau des Associations Intégrées dans le Développement Communautaire et Droits Humains
39. SAMS
40. Sendicat d'Alliance Paysanne (SAP)
41. SIDH Rubare
42. Solidarité Féminine pour la Paix et le Développement Intégral (SOFEPADI)
43. Solidarité pour la Promotion sociale et la Paix (SOPROP)
44. Synergie des Femmes contre les violences sexuelles
45. Synergie pour l'Assistance Judiciaire aux Victimes de Violations des Droits Humains au Nord-Kivu (SAJ)
46. UCOFAD
47. UCOOSEA
48. UFEMCO Kiwanja
49. Union d'Actions pour les Initiatives de Développement (UAID)
50. Union des Comites pour le Développement (UCODE)

International NGO:

Human Rights Watch

Alleged Abuses Committed by Lt. Col Innocent Zimurinda and Troops Under his Command

This information is based on research by Human Rights Watch and other signatories to this letter, as well as reports from the United Nations Group of Experts, the United Nations Mission in Congo (MONUC) and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.

1. Buramba massacre (Rutshuru, North Kivu), March 2007

On March 10, 2007, troops of the 2nd Battalion of the Mixed Bravo Brigade under the command of Lt. Col. Innocent Zimurinda were allegedly involved in the summary killings of at least 15 civilians, including women and children, in Buramba, Rutshuru territory. Many of their bodies were dumped in latrines in the village. Just before the killings, soldiers of the Bravo brigade had forced residents of Buramba to attend a meeting during which they threatened to kill anyone who collaborated with the Democratic Forces for the Liberation of Rwanda (FDLR). Later that day, a convoy of Bravo brigade officers and troops was ambushed, apparently by FDLR combatants, just outside of Buramba as they moved from Nyamilima to Rutshuru. No one was killed in the incident. On March 10, troops of the 2nd Battalion of Bravo Brigade stationed in Nyamilima under the command of Colonel Zimurinda launched a reprisal attack on nearby Buramba.

An inquiry by members of the North Kivu provincial assembly concluded that Bravo Brigade soldiers were responsible for the killings as did a judicial inquiry carried out by two magistrates and two judicial inspectors, assisted by human rights investigators from the MONUC. The judicial report concluded that Colonel Makenga ordered the attack and that soldiers of the battalion led by Colonel Zimurinda perpetrated the killings. The report was sent to the military prosecutor in Kinshasa, but no action has been taken against any of those found to be responsible.

2. Killings of civilians and mass execution of prisoners in and around Mixed Bravo Brigade positions in Rubare, Katwiguru and Kiseguru, February-August 2007

The Bravo Brigade, including troops under the command of Colonel Zimurinda, alleged committed serious abuses after taking control of large parts of Rutshuru in early to mid 2007. In Kiseguru and Katwiguru, two villages near Buramba, Bravo Brigade personnel were implicated in the killing of at least 10 civilians in the first four months of their deployment in the area. The incidents are similar one to another, with soldiers shooting or using hammers to kill residents accused of collaborating with the FDLR.

3. Kiwanja massacre (Rutshuru, North Kivu), November 2008

In one of the worst mass killings in North Kivu province since the 2006 elections, at least 150 civilians were massacred in the town of Kiwanja on November 4-5, 2008. Most of those killed were summarily executed by forces of the National Congress for the Defense of the People (CNDP), which had controlled the town since October 29, 2008, after the CNDP had repulsed an attack by a pro-government Mai Mai militia. Bosco Ntaganda, the CNDP's chief of staff and regional commander at the time of the CNDP in Rutshuru territory, was the commander with overall responsibility over the operations in Kiwanja. Innocent Zimurinda, at that time a commander with the CNDP, was the individual directly in charge of the Kiwanja operation.

During the attack, CNDP combatants broke into homes, demanded money and cell phones and then killed many of the men and teenage boys they found, often in front of their families or on nearby streets. Most were shot, but others were hacked to death with machetes or speared. Some women and children were killed, including those who tried to protect family members.

4. Shalio massacre (Walikale territory, North Kivu), April 2009

From April 27 to 30, 2009, Congolese army soldiers deliberately killed at least 129 Rwandan Hutu refugees, mostly women and children, during an attack on the neighboring hills of Shalio, Marok, and Bunyarwanda in Walikale territory (North Kivu). According to credible reports received by Human Rights Watch, as well as reports by the UN Group of Experts and the UN Special Rapporteur for extrajudicial executions, Colonel Zimurinda was responsible for the attack and directly ordered the killing of all persons taken by Congolese army forces, including refugees.

At the time of the killings, Colonel Zimurinda was based in Gasake (between Ngungu and Remeka, Masisi territory) and was responsible for the army's 231st Integrated Brigade, under the command of Col. Baudouin Ngaruye. According to credible sources, Zimurinda sent the 2312 Battalion under the command of Maj. Eric Badege to carry out an operation against the FDLR in the Shalio area. Soon after the operations began, Badege called Zimurinda to tell him they had captured a refugee woman and her children. According to Congolese army sources who were present, Zimurinda replied that the refugees should not be spared. He then gave an order via radio overheard by others, "I want no prisoners of war in this operation."

According to Congolese army sources, Major Badege was unwilling to carry out the order he received from Zimurinda to kill the refugees. Colonel Zimurinda sent an order directly to the battalion's S2 (intelligence officer), Capt. Jules Hareremana, who was loyal to Zimurinda, instructing him to lead an attack on the refugee camps along with some of Zimurinda's escorts who had accompanied the battalion.

At Shalio Hill, Congolese army soldiers killed at least 50 refugees as they tried to flee. After the attack, one group of soldiers took 50 refugees from Shalio to Biriko, where the soldiers beat them to death with wooden clubs and shot three refugees who tried to escape. Only one

person survived. A second group of soldiers took 40 refugees, all women and girls, from Shalio to a nearby Congolese army position where they were kept as sexual slaves, gang-raped and mutilated by the soldiers. Ten of the women managed to escape, but the fate of the others is unknown.

5. Zimurinda's direct and command responsibility for child recruitment and for maintaining children within troops under his command, 2009

According to the United Nations Group of Experts, Colonel Zimurinda holds direct and command responsibility for child recruitment and for maintaining children within troops under his command. MONUC also reported on child combatants being held in an underground cell and whipped severely by former CNDP commanders at the FARDC position in Ngungu in April 2009. At the time, Colonel Zimurinda was based in Ngungu as commander of the 231st Brigade.

6. Rape and summary executions in southwestern Masisi, 2009-2010

According to Human Rights Watch research, scores of women and girls were raped by Congolese army soldiers in the Ufumandu area of southwestern Masisi territory while Colonel Zimurinda's troops were deployed in the area during Operation Kimia II in 2009 and in early 2010. Some women and girls were shot dead after being raped. In other cases, children, husbands, and other family members were killed when they cried out or protested as their loved ones were being raped by Congolese army soldiers.

7. Abusive forced labor, 2009-2010

Since the start of military operations against the FDLR in early 2009, Congolese army forces deployed in southwestern Masisi, including those under the command of Colonel Zimurinda, have pressed hundreds of civilians into uncompensated and often abusive forced labor to carry their supplies, ammunition, and other equipment to the frontlines.

In late May 2009, two men from Remeka died from exhaustion after being forced to transport goods by soldiers in Colonel Zimurinda's area of responsibility. On July 14, 2009, a 17-year-old boy was killed by Congolese army soldiers in Kishonja (Ufumandu) because he refused to transport their goods. Many civilians suffered serious and long-term injuries as a result of the physical beatings and the heavy loads. A 29-year-old man from Remeka, in the Ufumandu area, was stabbed in the eye on May 27, 2009, when he refused to transport baggage. We have received reports of forced labor by Colonel Zimurinda's troops as recently as February 8, 2010, when a group of about 150 soldiers forced 12 civilian men and boys to carry their baggage from Ngungu to Gasake.

Throughout 2009 and early 2010, civilians and local authorities from the area around Ngungu reported that Colonel Zimurinda's troops were requisitioning land and forcing civilians to carry 50 kilograms each of newly cut wooden planks across the Ufumandu area of southwestern Masisi. The use of civilians for this work has led some local authorities to bitterly complain that their populations were being used as "slaves."

8. Forced evictions and arbitrary arrests, 2009

We have documented numerous cases in 2009 where Congolese army troops under Colonel Zimurinda's command forced civilians off their land in the area around Ngungu, often to clear it for the arrival of Tutsi civilians and refugees from Rwanda, many of whom are accompanied and protected by former CNDP soldiers. The soldiers allegedly beat, arrested or threatened those who protested being forced from their land. One Hutu civilian, for example, brought a case to the courts in Goma after Colonel Zimurinda's troops occupied his farm with 25 cows in Murambi, near Ngungu, in March 2009. He won the case on June 2, 2009, but was arrested by Colonel Zimurinda's troops and badly beaten when he tried to move back onto his land in August.

Many other civilians were arbitrarily arrested in Colonel Zimurinda's area of command responsibility by Congolese army soldiers who accused them of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment before they were released.

9. Illegal taxation, 2009-2010

Throughout 2009 and early 2010, Colonel Zimurinda commanded troops that controlled barriers and roadblocks where soldiers extort illegal "taxes" from civilians. In the area around Ngungu, civilians in 2009 were forced to pay 300 Congolese francs (about US\$0.38) to enter and exit the twice-weekly markets at Gasake, Remeka, Ngungu, Miano, and Murambi. Traders were required to hand over 5 to 6 kilograms from each sack of consumable merchandise they were carrying such as flour, rice, or beans. Soldiers in this area have also regularly robbed civilians of goods as they fled combat or traveled to and from the market.