

# TREATMENT OF THE LUBA KASAIAN MINORITY IN THE DEMOCRATIC REPUBLIC OF CONGO – POLITICAL AND SECURITY UPDATE

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For Blue Mountains Refugee Support Group

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The UNHRC has advised other nation states not to return Kasai people to the DRC

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## 1. Key points

- Ethnic Luba Kasaian people in the DRC are experiencing ongoing violence perpetrated by government security forces and extremely high levels of displacement in the region.
- The UNHRC is advising national governments **not to return ethnic Luba Kasaian to the Democratic Republic of the Congo (DRC)**.

## 2. Context

The Luba people are an ethnic group indigenous to the south-central region of the DRC. The majority of Luba people originated from the Kasai region, including the province of what is now known as the Kasai-Orient. However, due to economic opportunities linked to the increased mining of natural resources from the 1960s onwards, many Luba people internally migrated to the Katanga province in the south-east of the DRC.

## 3. The Kamwina Nsapu rebellion and subsequent government action – 2016 to 2017

In June 2016, after the DRC national government failed to endorse Kamwina Nsapu<sup>2</sup> as the tribal chief of the Luba people, a Kamwina Nsapu sponsored militia instigated a violent rebellion against the national government. The rebellion had a political genesis, given that Kamwina Nsapu had supported the opposition in the previous presidential election. However, the majority of the militia are ethnically Luba, and subsequent government action has targeted Luba people across the DRC, most notably in Kasai and the Katanga province where the Luba people had generated resentment due to their economic success in the mining sector.

The Kamwina Nsapu rebellion is ongoing, and the militia has reportedly used violent methods against security forces, including using child soldiers and beating and killing people aligned with the national government. UNICEF has reported that around 2,261 children have been used as fighters in militias.<sup>3</sup> The militia has selectively killed non-Luba people.<sup>4</sup>

The military response has used excessive violence resulting in torture, mass killings and internal and external displacement. Subsequent government action by DRC security forces against the Luba militia and Luba people has been criticised by the United Nations Security Council, the United Nations Human Rights Commission (UNHRC) and UNICEF.

In January 2018, MONUSCO, the United Nations Organisation Stabilization Mission in the DRC, estimated that government security forces had carried out 1,176 extrajudicial killings against protesters and anti-government activists in 2017, and that most of these killings occurred in areas affected by the Kamwina Nsapu rebellion<sup>5</sup> - that is, ethnic Luba people.

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<sup>2</sup> Kamwina Nsapu is the tribal name of Jean-Pierre Mpandi.

<sup>3</sup> <https://reliefweb.int/topics/humanitarian-crisis-kasai-region-dr-congocrise-humanitaire-dans-la-r-gion-des-kasa>

<sup>4</sup> <https://www.voanews.com/a/all-sides-guilty-of-war-crimes-in-drc-kasai-un-says/4465092.html>

<sup>5</sup> <https://www.theguardian.com/world/2018/jan/25/congo-state-agents-murdered-hundreds-in-2017-says-un-report>

In 2018, Minorityrights.org reported that by July 2017, UNICEF was warning that Kasai region was witnessing one of the 'world's worst displacement crises' for children, who represented 850,000 of the more than 1.4 million displaced persons. By October 2017, around 762,000 people remained displaced. UNICEF noted that, while the national government had stabilised much of the area by the end of 2017, 'optimism was limited by the fact that returnees often found their homes in ruins and faced little if any infrastructure to support their efforts to resume their livelihoods.'<sup>6</sup>

#### **4. International recognition of state atrocities against Kasai Luba people**

A United Nations investigation in July 2018, found that 'atrocities include murders, mutilations, rapes and other forms of sexual violence. It is our view that some of the acts of aggression committed by the FARDC [Armed Forces of the Democratic Republic of Congo] and these other groups constitute crimes against humanity and war crimes.'<sup>7</sup> Belgium, France, the United Kingdom, the United States and Canada have also condemned the killing of protesters by national security forces.<sup>8</sup>

The United Nations Security Council has recognised the atrocities. In February 2017, the President of the Security Council issues a press release that stated:

'The members of the Security Council strongly condemned the violence witnessed in the Kasai region over recent months. They expressed grave concern at the recent reports of serious violations of international humanitarian law committed by local militia in that region, including unlawful recruitment and use of child soldiers, and of killings of civilians by members of the security forces of the Democratic Republic of the Congo, all of which might constitute war crimes under international law.'<sup>9</sup>

#### **5. Political and security situation after 2017 massacres**

The key ongoing issues facing Luba Kasaians (whether they are residing in Kasai, Katanga or other parts of the DRC) is ongoing violence perpetrated by government security forces and extremely high levels of displacement in the region.

As at January 2018, Angola hosted more than 27,000 asylum seekers and more than 800,000 people continue to be internally displaced in the wider Kasai region, despite significant returns.<sup>10</sup>

By early 2018, the national government had retaken most of the areas in Kasai and Katanga regions previously held by the militia.<sup>11</sup> However, while Luba people have been returning 'government forces continue to meet resistance from armed militias, and fighting continues

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<sup>6</sup> <https://minorityrights.org/minorities/kasaians-of-luba-origin/>

<sup>7</sup> <https://www.voanews.com/a/all-sides-guilty-of-war-crimes-in-drc-kasai-un-says/4465092.html>

<sup>8</sup> <https://www.theguardian.com/world/2018/jan/25/congo-state-agents-murdered-hundreds-in-2017-says-un-report>

<sup>9</sup> <https://reliefweb.int/report/democratic-republic-congo/security-council-press-statement-situation-democratic-republic-2>

<sup>10</sup> <https://reliefweb.int/topics/humanitarian-crisis-kasai-region-dr-congocrise-humanitaire-dans-la-r-gion-des-kasa>

<sup>11</sup> <https://www.voanews.com/a/democratic-republic-of-congo-kasai-crisis/4282770.html>

to occur. For example, in February 2018, ethnic and political tension and violence led to the displacement of 11,000 Luba people in the Mweka territory of the Kasai region.<sup>12</sup>

By February 2018, it was clear that Luba people returning to the Kasai and Katanga regions of the DRC were at risk of further violence:

‘The conflict in Kasai region also led to 35,000 people crossing the border and becoming refugees in Angola. Some have tried to return, and in February 2018 UNHCR reported that over 500 had been forced back by the Angolan authorities. Returnees have often found their homes in ruins or have not been able to go back to their areas of origin due to continued tensions; returning refugees risk ending up as internally displaced. Meanwhile, UNHCR and other agencies struggle to get the funding needed for a major reconstruction programme.’<sup>13</sup>

In March 2018, the UNHRC stated that it is taking the situation very seriously. While noting that government forces had regained control of large areas of the Kasai region, the agency ‘says sporadic fighting between the armed forces and militia groups continues, as ethnic tension grows and more people flee.’<sup>14</sup>

By August 2018, the United Nations estimated that overall around 5,000 people had been killed during the fighting, though the violence has not been categorised as genocide, given there is not sufficient evidence to link individual acts of violence or massacres ‘to the focused intent to eliminate an entire ethnic group.’<sup>15</sup>

## 6. Conclusions

The underpinning political and ethnic tensions in the Kasai and Katanga regions have not been resolved, and the current security situation remains dangerous, with a high risk of escalated tensions.

There are presently two areas of concern have been raised by the United Nations:

- **There is a reasonable risk that the political and ethnic tensions will escalate to genocide**

Bacre Waly Ndiaye, the leader of the United Nations team investigating violence in Kasai, has identified horrific acts of violence against the Luba Kasaian people, but has emphasised that the violence – while systemic and widespread – does not yet constitute genocide, which must include a proven intent to eradicate an entire ethnic, national, racial or religious group.<sup>16</sup>

However, in August 2018, VOA News reported that the United Nations special rapporteur on torture worldwide, Nils Melzer, indicated that conditions in the DRC were fast approaching those that lead to genocide:

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<sup>12</sup> <https://minorityrights.org/minorities/kasaians-of-luba-origin/>

<sup>13</sup> <https://minorityrights.org/minorities/kasaians-of-luba-origin/>

<sup>14</sup> <https://www.voanews.com/a/democratic-republic-of-congo-kasai-crisis/4282770.html>

<sup>15</sup> <https://www.voanews.com/a/un-investigator-atrocities-in-drc-fall-short-of-genocide/4512694.html>

<sup>16</sup> <https://www.voanews.com/a/un-investigator-atrocities-in-drc-fall-short-of-genocide/4512694.html>

'My greatest concern, however, is that what we are witnessing today may be only the prelude of what is still to come. In my view, Kasai already today bears the signature of Rwanda and Bosnia in the early 1990s.'<sup>17</sup>

- **The UNHRC has advised other nation states not to return Kasai people to the DRC**

The UNHCR released a statement in March 2018 that it remains deeply concerned at the situation in the Kasai region of the DRC, where continuing instability poses a grave risk to civilian safety, including for several hundred refugees recently returned there from Angola.<sup>18</sup>

Critically, the UNHRC has advised Angola not to return Kasai people to the DRC:

'Among Congolese refugees in Angola, many say they are unwilling to return to their areas of origin at present, because of the fragile situation. UNHCR also believes that returns are not yet possible in a safe, dignified and sustainable manner, since peace and security are lacking.'

UNHCR was therefore deeply concerned to learn a few days ago of the forced return of some 530 Congolese from Angola to the DRC between 25 and 27 February. Among them, 52 were registered refugees living in Dundo town close to the DRC border, and about 480 were unregistered refugees staying at the Cacanda reception centre in Dundo. The returns were carried out despite UNHCR's requests to the Angolan authorities to undertake joint screening of the unregistered group.

UNHCR urges the Angolan authorities to refrain from further forcible returns of Congolese to their country. Should conditions change, UNHCR stands ready to assist the authorities in DRC and Angola in voluntary repatriation discussions' [my emphasis].<sup>19</sup>

In July 2018, the UNHRC released a statement detailing that the risks noted above have not improved, and that:

'The human rights situation remains of great concern across the country. The United Nations Joint Human Rights Office has documented an increased number of violations: 2,858 from January to May this year, as compared to 2,332 during the same period in 2017 – and the real scale of violations is certainly even greater.

The security situation continues to deteriorate in several regions across the country, with dramatic impact on civilians.

The situation in the Kasai regions is also deeply preoccupying, with severe abuses against civilians by armed groups, and multiple human rights violations committed by Congolese defence and security forces in their response to the activities of these

<sup>17</sup> <https://www.reuters.com/article/us-congo-violence-un/conflict-in-congos-kasai-could-be-prelude-to-genocide-u-n-expert-warns-idUSKBN1JU1XO>

<sup>18</sup> <https://www.unhcr.org/news/briefing/2018/3/5a9e659a4/rekindled-tension-dr-congos-kasai-region-poses-new-threat-civilians-displaced.html>

<sup>19</sup> <https://www.unhcr.org/news/briefing/2018/3/5a9e659a4/rekindled-tension-dr-congos-kasai-region-poses-new-threat-civilians-displaced.html>

militias. .... my Office has also assisted the military authorities' investigation in the Kasai regions, with two missions by forensic, judicial and witness protection experts.

Despite verbal commitments by the Minister of Human Rights to lift the ban on public demonstrations, the authorities continued to prohibit or repress activities organized by civil society and opposition parties. In March, April and May, my Office documented 61 violations of the right to freedom of assembly' [emphasis added].<sup>20</sup>

The UNHRC Statement also notes that there has been intensified intimidation of human rights activists and journalists, with many suffering regular threats to their lives and families. Multiple cases of arbitrary arrests and detention by the security forces continue to be documented by UNJHRO. Lengthy incommunicado detentions by intelligence services, without judicial review, are another matter of great concern and, the UNHRC notes, should be prohibited.<sup>21</sup>

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<sup>20</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23316&LangID=E>

<sup>21</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23316&LangID=E>