



Statement by Human Rights Watch to the DRC Parliamentary Commission Investigating Events in Bas Congo

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On January 31 and February 1, 2007 followers of the politico-religious group Bundu Dia Kongo (BDK) sought to protest alleged corruption during the gubernatorial elections through bringing normal life to a halt for a day (*journée morte*, literally, dead day). The Congolese constitution guarantees Congolese citizens and groups the right to peaceful and lawful protests. In most places, BDK followers carried out such peaceful protests without difficulty.

In several cases, however, BDK protestors, armed with clubs and sticks, engaged in violent and unlawful acts, perhaps in some instances in response to provocation by law enforcement officials. Those BDK demonstrators killed 10 police officers and soldiers and two civilians, forcefully entered and looted government buildings, and set up barricades to impede traffic on the roads. The protestors who did so committed crimes punishable under Congolese law; those charged with these crimes should be arrested and brought to trial in proceedings that conform to international fair trial standards.

Soldiers of the Congolese army and police officers put down the protests by excessive use of force in several cases, killing more than 100 civilians and injuring scores more. It is the right and the duty of any government to halt crimes such as the killing of its law enforcement officials and forcible entry and looting of government buildings. In doing so, however, government agents, including soldiers and police, are obligated to respect basic human rights standards governing the use of force in police operations. These universal standards are embodied in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.¹

According to numerous witnesses interviewed by Human Rights Watch during a mission to Bas Congo from February 12 to March 6, there were many instances on 31 January and February 1 when soldiers and police officers fired indiscriminately at demonstrators who carried rocks and sticks but had no firearms and who apparently posed no immediate threat to law enforcement personnel or others. In addition, soldiers and police officers allegedly summarily executed injured persons and others suspected of being BDK supporters but who were not involved in the demonstration.

The Congolese government has sought to justify its acts by claiming the protests constituted an armed insurrection by the BDK. Officials assert that the BDK are an armed group who sought to overthrow the government and who have links with militia groups from neighbouring states. Officials have not yet presented convincing proof to substantiate these claims.

This presentation is a summary of information collected by Human Rights Watch during a mission to Bas Congo from February 12 to March 6 and it will be published in a detailed public report in the coming weeks.

¹ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).

The initiative by the National Assembly to establish a parliamentary commission to investigate the events in Bas Congo is an important and constructive step in establishing the truth about what happened. Human Rights Watch has taken the unique step of sharing its findings with the commission before publication of its final report in order to assist the commission in establishing the facts about the events and in holding accountable those responsible for human rights violations.

The Basic Principles on the Use of Force and Firearms

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials offer important guidance limiting the use of force in circumstances of civil unrest. While these principles are not legally binding, they reflect a high level of consensus by the international community about the standards of appropriate conduct by state officials in such a context.

According to the Basic Principles law enforcement officials—including military or other security officials exercising police powers—must:

- 1) use non-violent means before resorting to the use of lethal force
- 2) use lethal force only “when strictly unavoidable in order to protect life”
- 3) when force is necessary, use it “in proportion to the seriousness of the offense”
- 4) punish as a criminal offence any arbitrary or abusive use of lethal force by such officials.

Congolese soldiers and police officers must also comply with the principles of human rights law, including:

- The exercise of restraint in the use of force.
- Acting in proportion to the seriousness of the threat and the legitimate objective to be achieved.
- Ensuring that assistance and medical aid are rendered to any injured or affected person at the earliest possible moment.

It should be noted that when the military is called in by government authorities to assist the police in bringing order during civil unrest, as they were in Muanda and Boma, they are exercising law enforcement functions and thereby must respect the basic standards outlined above.

The Nature of the Protest

The spiritual leader of BDK, Ne Muanda Nsemi, called for a *journée morte* on February 1 to protest alleged electoral corruption. His call for action in the publication *Kongo Dieto No 501* and in a press conference on January 28 did not instruct his followers to carry weapons (sticks

or other kinds of weapons) nor did it direct them to erect barriers. Some local BDK groups prepared flyers to inform adherents about the protest and also called for a peaceful march.

Congolese law allows for peaceful protest marches, though it requires the organizers to inform the authorities in writing in advance. Government authorities confirmed to Human Rights Watch that they had received the flyers announcing the protest and that on January 31 they had held security meetings across the province in anticipation of the protest. Some authorities held that the notification about the protest had to be done by formal letter, not through an informal flyer and on this basis, they questioned the legality of the protest.

Responsibility of Government Authorities

Actions taken by national, provincial and local government authorities failed to act effectively to avert potential violence in Bas Congo after the gubernatorial elections. In particular Human Rights Watch found the following:

- When informed by the flyers that BDK supporters were planning a protest, local and provincial government officials declared the action was “not authorized” and in some locations sought to prevent the protest through radio announcements and meetings.
- Officials failed to ensure adequate numbers of police officers and the necessary non-lethal equipment for them to execute their duties in several places where there had been previous incidents of violence during demonstrations, including Boma and Muanda.
- Officials apparently failed to give soldiers clear orders to refrain from the use of force unless absolutely necessary. When the military was called in to assist the police, local commanders were instructed to “re-establish order” with minimal additional guidance.
- Officials failed to engage BDK leaders in dialogue meant to prevent any possible violence during the protests.
- Officials failed to consult with and involve MONUC in dealing with the protest and security arrangements. Co-ordination with MONUC, who have a capacity for peacekeeping and civilian police assistance, might have helped to reduce or prevent the violence that resulted.

Responsibility of the BDK

According to information gathered by Human Rights Watch, BDK demonstrators resorted to the following acts, sometimes after apparent provocation by soldiers or police officers:

- BDK supporters killed 10 police officers and military police by beating them with sticks and clubs. In one case, BDK protestors killed a police officer in a medical clinic where he was being treated for earlier injuries. Most of these crimes took place in Muanda.
- BDK supporters killed two civilians in Muanda whom they believed to be originally from regions other than Bas Congo.
- Two BDK supporters raped a woman near the police station in Muanda.
- BDK supporters injured three state officials (1 ANR and 2 SNEL) by beating them with sticks. They attacked the officials while they were executing their professional duties in Muanda. BDK supporters also injured three civilians whom they believed to be from regions other than Bas Congo. All six persons were so seriously injured as to require hospitalization. In Boma BDK supporters injured local residents who did not support their *journée morte*, including the Bralima bus driver and his assistant. They also damaged the bus.
- BDK supporters looted government offices in Muanda and destroyed office equipment. They also caused destruction to the CEI (electoral commission) and a police station in Boma.
- BDK supporters illegally erected road blocks throughout Bas Congo to stop traffic on the national highway and in major towns such as Boma and Muanda.

Those BDK members against whom there is credible evidence of illegal activity should be arrested and brought to trial in proceedings that meet international fair trial standards.

Responsibility of the Congolese Army

On February 1 and in the days that followed, the Congolese army used disproportionate and inappropriate force against demonstrators and other civilians in violation of international human rights standards, including the Basic Principles of the use of force and firearms by law enforcement officials. Their actions led to the large number of civilian deaths in Boma, Muanda and Songololo.

In particular, the Congolese army carried out the following human rights violations:

- Soldiers fired indiscriminately at demonstrators carrying rocks and sticks but who had no firearms and who appeared to pose no immediate threat to law enforcement personnel or others.
 - Soldiers attacked a BDK place of worship, a *ziku*, in Muanda with automatic weapons and explosive devices, killing 23, including four women and two children, none of whom had participated in the demonstration. Soldiers issued

no warnings nor did they attempt to speak first to those in the *zikua* or to use any non-lethal means in dealing with them. The use of explosive devices, such as grenades, is inappropriate for any kind of crowd control operation and should be strongly condemned.

- Soldiers opened fire with automatic weapons on BDK protestors while they were praying at the esplanade at Kalamu commune in Boma, killing 24 of them. They issued no warning nor did they attempt to use any non-lethal method of controlling the crowd. Protestors had told the soldiers that they would finish the protest after they prayed.
- At a roadblock at Songololo, a group of 60 soldiers confronted a group of only some 20 protestors, fired at the BDK group without warning or effort to use non-lethal means of control. They killed 8 of the protestors.
- Soldiers summarily executed wounded BDK demonstrators at the esplanade and in other locations in Boma and Muanda. In most cases those who were injured received no assistance from the soldiers, but were executed or caused further harm by stabbings or beatings. In some cases soldiers “hunted down” those who had been injured, following their blood trail, before executing them.
- Soldiers summarily executed two civilians whom they believed to be BDK members at their homes in Muanda and Boma.
- Soldiers seriously injured 29 protestors and other civilian bystanders in Muanda and Boma.
- Soldiers engaged in ill treatment of more than a dozen BDK demonstrators who had been detained in Muanda and Boma, including beating some of them with rifle butts in the face and on their backs and kicking them repeatedly. A number of those detained had not participated in the protest, but were arrested simply for being members of the BDK.

Officers who should be investigated in order to determine their responsibility in the events:

- **Gen. Bondjuka Botunga**, responsible for Kitona military base, commanded the operation in Muanda and allegedly made the decision to attack the BDK *zikua*.
- **Capt. Emmanuel Matuka Mokweke**, reportedly the senior officer present when civilians were killed at the esplanade in Boma and his commanding officer **Maj. Mbakulu**.
- **Gen. Mbuayama Nsiona**, commander of soldiers who killed the BDK demonstrators at Songololo and, according to some witnesses, was present at the scene of the killing.

Responsibility of the Police

The police were ill-equipped and ill-prepared to manage the BDK protest on February 1. During its investigations, Human Rights Watch documented the following:

- Police officers shot live rounds at demonstrators in Matadi without adequate warning.
- Police officers in Muanda, killed one BDK supporter in the days following the protest and injured another, perhaps in retaliation for the deaths of police colleagues.
- Police officers beat a journalist in Muanda who raised questions about the abuses, accusing him of being a “BDK supporter”.
- In Matadi police officers used cruel and degrading treatment against BDK demonstrators who were detained, including beating them and shaving the hair from their heads. They also threatened them by saying, “We are just waiting for the moment when we can finish you off.”
- Police officers failed to intervene in Boma when soldiers executed wounded BDK supporters at the esplanade of the Kalamu commune.
- Police officers searched the house of a BDK supporter in Matadi after dark, and in a manner that was likely to lead to problems. The warrant authorizing the search was obtained on the basis of questionable information and the search should have been carried out during daylight hours and with the co-operation of senior BDK officials or with MONUC to reduce the possibility of violence.

Police officers who should be investigated in order to determine their responsibility in the events:

- Provincial police chief, **Gen. Joseph Mukendi**, for the actions of his officers in the manner and timing of the search at the BDK house in Matadi.
- Police **Commander Kota** who led the operation at the BDK house in Matadi where demonstrators were killed.
- Police officer **Jean Paul Songa** who led the attack on two civilians in Muanda after the events, one of whom was killed.

Allegations of an Armed Insurrection

After the killings in Bas Congo, the government sought to justify its actions by casting the events in the context of an armed insurrection by the BDK. The government claimed the BDK was an armed militia with links to rebel groups in neighboring Angola and Congo-Brazzaville,

that it had established a military training camp at Kiala Mungu, and that it was seeking to overthrow the government. Human Rights Watch did not find convincing proof to substantiate these claims. Even if the government claims were true, this would not justify the actions of police or security forces on January 31 and February 1.

Impunity for Previous Attacks on BDK Members

The events of January 31 and February 1 were aggravated by impunity for previous attacks by government agents against BDK protestors.

- Government authorities have failed to hold accountable police and soldiers responsible for killings and other human rights abuses of BDK demonstrators since 2002. This lack of justice heightened fears of protestors that they would be attacked once again.
- Soldiers killed 12 BDK protestors in Matadi on June 30, 2006; 8 in Lemba and Nseke Mbanza in 2005, and 14 in Muanda and Luozi in July 2002, amongst other incidents.
- Soldiers and police officers frequently beat and subject BDK supporters whom they detain to cruel and degrading treatment. In some cases they repeatedly beat, kick or otherwise injure those detained and leave them tied up for many days. In one case a BDK supporter was tied behind a police vehicle and dragged on the ground at high speed. In another case in August 2006 soldiers seriously beat 16 BDK supporters who showed their scars to a judge during a trial at Kitona military base.

Recommendations to the Commission

- Insist that the government investigates and holds to account soldiers and police officers, including those who commanded operations, for the disproportionate and inappropriate use of force against demonstrators and other civilians in violation of international human rights standards.
- Ensure that the government investigates and brings to trial in civilian courts those BDK members against whom there is credible evidence of illegal activity and ensure that these proceedings meet international fair trial standards.
- Request the Minister of the Interior to urgently train law enforcement officials in Bas Congo on international human rights standards relating to situations of civic unrest including the basic principles on the use of force and firearms.

- Provide for compensation to victims of unlawful use of force by Congolese soldiers and police where this caused death, disablement, destruction of property, or economic loss.
- Engage in meaningful dialogue with the BDK movement to avoid future violence.
- Regularly review the government's progress on holding to account those responsible for the killings of January 31 and February 1.

Annex: Information of Deaths and Injuries

Number Killed in Bas Congo Events

| Location | Killed by BDK | | Killed by Army or Police | Total Deaths |
|--------------|------------------|--------------------|--------------------------|--------------|
| | <i>Civilians</i> | <i>Army/Police</i> | | |
| Matadi | | 1 | 15 | 16 |
| Muanda | 2 | 7 | 49 | 58 |
| Boma | | 2 | 32 | 34 |
| Songololo | | | 8 | 8 |
| TOTAL | 2 | 10 | 104 | 116 |

Number Injured in Bas Congo Events

| Location | Injured by BDK | Injured by Army or Police | Total Injured |
|--------------|----------------|---------------------------|---------------|
| Matadi | 1 | 18 | 19 |
| Muanda | 6 | 11 | 17 |
| Boma | 1 | 14 | 15 |
| Songololo | 1 | 4 | 5 |
| TOTAL | 9 | 47 | 56 |