

investigation



To Purge the Forest by Force: Organized violence against Batwa in Kahuzi-Biega National Park

Robert Flummerfelt



Burn scar and burnt home after a major attack targeting Batwa villages in Kahuzi-Biega National Park. *Credit: Robert Flummerfelt*

About the Author

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Robert notably worked to break the Ebola sex abuse scandal in DRC, which spawned a major independent commission by the World Health Organization and proved to be the numerically largest sex abuse scandal in any one place in UN history. He has testified before the Parliament of the United Kingdom and his work has been cited by the UN Security Council's Group of Experts on Congo.

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Author Dedication

This report is dedicated to the Batwa communities with our deepest empathy and gratitude for sharing their experience at great personal cost and ongoing risk in the face of tremendous adversity.

Tusonge Mbele, Bandugu.

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To Purge the Forest by Force:

Organized violence against Batwa in Kahuzi-Biega National Park

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I. Key findings

Key findings

- In the Democratic Republic of the Congo (DRC), the paramilitary apparatus of the Kahuzi-Biega National Park (*Parc National de Kahuzi-Biega*, 'PNKB'), in coordination with the Congolese Army, have carried out large-scale acts of organized violence targeting the indigenous Batwa community living in villages on their ancestral lands inside the park. The organized violence began in 2019 and has continued for nearly three years with the apparent objective of forcibly expelling Batwa from inside the park.
- The bulk of this campaign has involved three waves of violent attacks targeting Batwa villages in Kalehe territory inside the PNKB: the first in July-August 2019, the second in July 2021, and the third in November-December 2021.
- In these attacks, joint contingents of park guards and Army soldiers burned entire villages to the ground, employed heavy weapons such as mortars and rocket-propelled grenades to shell villages, indiscriminately fired on, killed and maimed unarmed civilians, subjected dozens of Batwa women to group rape at gunpoint, and were described by eyewitness sources as burning several Batwa alive and mutilating Batwa corpses, sometimes reportedly taking appendages as trophies.
- In total, the research team obtained direct evidence of the deaths of at least 20 individual Batwa community members in connection with this three-year campaign of forced expulsion. Interviewed sources believe the total to be higher, in part because it does not include several individuals (mostly elderly Batwa and children) who reportedly disappeared while fleeing into the forest from successive attacks and are presumed to have starved to death while in hiding.
- In total, the research team obtained direct evidence that 15 Batwa women were forcibly group-raped by park guards and soldiers during the July and November-December 2021 operations. Thirteen of these women spoke directly to the research team, whereas two of these women were described by numerous eyewitness sources as dying in the days following the group rape, and the research team visited their freshly dug graves. One of the survivors of group rape interviewed by the team was 17 years old. Eyewitnesses, including direct victims themselves, overwhelmingly described at least 33 women—a substantially higher number—being subjected to group rape by park guards and soldiers.
- The research team found that in at least one case park guards and soldiers killed a community member at short range, execution-style, while family members looked on, that several Batwa corpses were mutilated by park guards and soldiers and that body parts were taken as trophies. The research team also found that, in the November-December 2021 operation, park guards and soldiers intentionally burned two Batwa children alive in their home. These accounts are consistent with an escalating campaign of terror and violence intended to expel Batwa from their ancestral home and deter their return.
- In total, the research team estimates that hundreds of Batwa have been forcibly displaced—often repeatedly—in the successive waves of attacks conducted by park guards and soldiers. Some Batwa fled the violence only to return in the days and weeks following the attacks to re-build their villages. Others permanently fled and relocated to informal camps for displaced people to live as squatters among 'host' communities outside the park.
- These attacks were not isolated instances of violence carried out on the initiative of individual park guards; they were part of an institutional policy sanctioned and planned at the highest level by the park leadership and are among the most egregious examples of state-sponsored violence in the eastern DRC in recent years.

- The organized violence documented in this report is unlikely to have taken place without decisive support from international supporters of the PNKB. While the park's international partners did not commission attacks *per se*, they provided financial and material support to the PNKB and promoted an inherently militarized approach to conservation, despite knowledge of past human rights abuses by park guards and explicit warnings of threatened attacks against Batwa communities inside the park. At critical junctures the PNKB's paramilitary unit driving this violence received substantial support from the governments of Germany and the United States (US), as well as international conservation organizations such as Wildlife Conservation Society.
- The international supporters of the park have been informed in writing on multiple occasions throughout the three-year campaign targeting Batwa that human rights abuses are being committed by park guards they support. To the extent that international backers with knowledge of human rights abuses continued to fund or otherwise support park guards and, in particular, the PNKB paramilitary unit that conducted these operations, they are complicit in these abuses.
- A number of the park's international backers also likely violated the UN Security Council's arms embargo on the DRC by supporting the PNKB's paramilitary activities without proper notification to UN Security Council. Those in likely violation include, among others, the US Fish and Wildlife Service (a US government agency), KfW (a German state-owned investment and development bank), the Wildlife Conservation Society (an international conservation NGO), Maisha Group Ltd. (an Israeli private security contractor), and GFA Consulting Group (a German consultancy firm working on German government-funded projects).
- The attacks documented in this report represent serious violations of international and domestic law and may constitute crimes against humanity. The attacks were well-planned, targeted civilian populations, were geographically widespread and systematic, advanced a state policy and involved crimes such as murder, rape and persecution.

II. Executive Summary

The Kahuzi-Biega National Park (abbreviated ‘PNKB,’ for the French *Parc National de Kahuzi-Biega*) is a multi-million US Dollar, militarized protected area, tourist destination and UNESCO World Heritage Site that has received financial backing and material support from the German and US governments, among other international supporters. While celebrated for its hundreds of different plant, mammal and bird species (including the rare Grauer’s gorillas), the park authorities have engaged in a program of violent forced expulsions targeting the original human inhabitants of the park—the Batwa of Kahuzi-Biega, who are among the most marginalized groups in the eastern Democratic Republic of the Congo (DRC). This report documents the well-planned, highly organized, grievous and widespread human rights abuses carried out by the PNKB against Batwa in a crucial period from 2019 to 2021.

The large-scale, systematic human rights abuses documented in this report are illustrative flashpoints in the decades-long process of marginalization and brutalization visited upon Batwa by the PNKB and its supporters in the name of conservation. Ongoing violence is rooted in the Batwa’s original expulsion from their ancestral homeland to pave the way for the creation of the park in the 1970’s, forcing an already marginalized indigenous community into decades of grinding impoverishment, severe discrimination, landlessness and skyrocketing mortality in informal settlements on the outskirts of ‘host’ villages on the rims of the park.

In October 2018, after four decades of broken promises of resettlement, reparations and justice from the Congolese government and other stakeholders, segments of Batwa communities returned to the PNKB, rebuilding villages on their ancestral lands and resuming communal life in the forest. They did so because they saw the return to the forest as the only way to escape the inhumane conditions forced upon them as squatters on the outskirts of the park.

The return of Batwa to the forest was met with swift and devastating violence by the PNKB’s paramilitary apparatus, with support from the Congolese Army (*Forces armées de la république démocratique du Congo*, also known as the FARDC). Collectively, park authorities and the Congolese Army responded by engaging in a three-year campaign to violently purge the Batwa from the park. As

of December 2021, this ongoing program of forced expulsion has entailed three brutal, well-organized joint military-style operations targeting at least seven highly populated Batwa-inhabited villages inside the park, along with numerous smaller-scale evictions and acts of violence and repression during this time period. Park guards and soldiers destroyed these villages (either partially or entirely), terrorizing and displacing thousands of Batwa in an apparent attempt to deter them from remaining on or returning to their ancestral lands inside the park.

Through the course of this human rights investigation—spanning a total of nine months of field research between October 2020 and December 2021—the research team spoke to more than 590 sources, including more than 550 eyewitnesses of the violent joint operations spanning July 2019 through December 2021. This included hundreds of Batwa civilians who fled after their villages were attacked, eight who presented visible injuries sustained in the attacks, and 13 women who described being group-raped by park guards and soldiers.

In total, the research team obtained direct evidence that 15 Batwa women were forcibly group-raped by park guards and soldiers across multiple attacks. Thirteen of these women spoke directly to the research team and described being subjected to group rape, whereas two of these women were described by numerous eyewitness sources as dying in the days after being subjected to group rape, and the research team visited their freshly-dug graves. Eyewitnesses overwhelmingly described a substantially higher number of women being subjected to group rape. Per these eyewitness accounts, in total at least 30 Batwa women were subjected to group rape by park guards and soldiers in the campaign.

In total, the research team obtained direct evidence of the deaths of at least 20 individual Batwa community members in connection with this three-year campaign of forced expulsion. This total includes 14 individuals whose graves were visited by the research team (often immediately after they were dug), three additional individuals whose corpses were visible in photographs viewed by the research team, two additional individuals whose deaths were corroborated with official documentation from civil society organizations, and several additional individuals whose highly specific circumstances of death were described by numerous

eyewitness sources, generally including immediate family members.

In all cases, communities indicated that the total numbers of Batwa injured, raped, killed and disappeared were higher than the totals derived here.

Batwa eyewitness and victim accounts were strongly corroborated by interviews conducted with several soldiers and park guards who described participating in one or more of the large-scale joint operations, as well as members of other communities (i.e., non-Batwa community members) who observed the violent campaign from a village neighbouring the park. These interviews were buttressed by the observation and/or collection of physical evidence relating to the attacks, including the physical remnants of more than 75 homes that had been visibly burned down in Batwa villages, and the recovery of varying forms of ammunition—including a container for rocket-propelled grenades (RPGs), a fully intact 60mm mortar canister, as well as another mortar canister cap and dozens of shell casings from rounds used in AK-47 automatic rifles and PKM belt-fed machine guns—weapons which eyewitnesses described being used in attacks targeting unarmed Batwa civilians.

The July-August 2019 Attacks

The initial operation occurred in July-August 2019, when at least three Batwa villages (Bugamanda, Buhoyi and Masiza) in Kalehe territory inside the PNKB were attacked by a joint contingent of park guards and soldiers, in what some community members called ‘the second expulsion,’ harkening back to the original dispossession of their lands in the 1970s.

The July-August 2019 operation was jointly conducted by the Congolese Army and the PNKB’s Rapid Intervention Unit, an elite group of heavily militarized and internationally trained park guards. A joint contingent of these park guards and soldiers estimated to number at least 60 personnel was deployed in the PNKB and conducted a multi-day sweep from village to village in a campaign aimed at destroying Batwa villages and forcing the communities out of the park with an overwhelming display of force.

Park guards and soldiers were described as indiscriminately opening fire on Batwa civilians with automatic rifles, shelling Batwa villages with heavy weapons (including mortars), forcing Batwa to flee at gunpoint and burning down the villages in part or in whole as the communities fled. Several Batwa were killed in the operation, including a man whose corpse was mutilated by park guards. Others were described as sustaining serious injuries, including at least two who were reportedly maimed

by mortar bomb blasts, and several others described as disappearing or starving to death after fleeing into the forest to hide from the joint contingent.

The large-scale attacks conducted in the July-August 2019 operation were preceded by increasingly violent behaviour and a threatening posture by the park management towards Batwa communities who had returned to their lands inside the park. Months earlier, joint contingents of park guards and soldiers began sweeping through Batwa villages inside the PNKB in Kabare territory the area around Bunyakiri with what park guards who participated in the campaign described as an effective authorization to ‘shoot-to-kill’ Batwa inside the park. In April 2019, the PNKB’s Director reportedly issued an ultimatum to Batwa living inside the park, threatening to—as one international advocacy organization summarized it—‘remove’ the communities ‘by force’.¹ One interviewed park guard summarized it as a message to Batwa that if they did not leave the park ‘they are looking for war’. This escalation of park violence and threats toward Batwa inside the PNKB culminated in the July-August 2019 operation and resulting large-scale human rights abuses.

Post-Eviction Crackdowns

In the wake of the July-August 2019 operation, some Batwa leaders negotiated departures from the forest, in exchange for the promise that Batwa communities would be resettled on new land that would be given to them by the Congolese government. Although large portions of the communities undertook a negotiated departure, no land was provided by the government, leaving them landless and dependent on host communities. Other communities refused to leave the forest despite the violent attacks, rebuilding villages that had been burned down.

Park authorities then intensified efforts to crack down on remaining Batwa, combining waves of arrests of Batwa still inside the park with targeted raids to arrest two leaders. In 2019 and 2020, more than 50 Batwa were arrested in and around the PNKB, mostly on charges such as ‘illegal occupation of the Park’. Batwa reported experiencing miserable conditions and dehumanizing treatment in custody that may constitute torture.

The park management also sought to co-opt certain Batwa leaders, deploying a strategy of ‘divide and rule’ to overcome resistance from within the community. Some leaders reported being offered apartments and employment in exchange for acquiescing to park authorities and agreeing to depart from the forest. The PNKB has since relied on co-opted leadership to deny wrongdoing in connection with large-scale violence perpetrated against Batwa civilians. This strategy has

further fragmented the community and represents an attempt to erode the collective will of the marginalized Batwa people through a program of force and terror accompanied by cooptation, denialism and criminalization of dissident leadership.

The July 2021 Attacks

In July 2021, Batwa communities who had refused to leave their ancestral lands inside the park were targeted once again in a major assault conducted by park guards and soldiers on at least three Batwa villages (Muyange, Maruti and Tchibwisa) in Kalehe territory.

This wave of attacks was more vicious than previous operations but followed the same pattern of park guards and soldiers opening fire on unarmed civilians with automatic rifles before shelling the villages and burning them to the ground, subjecting Batwa to acts of grievous violence as they tried to escape.

In the focal point of this operation, park guards and soldiers fired upon Muyange, a village inhabited by an estimated 100-200 Batwa, with automatic rifles, at least one belt-fed machine gun, as well as heavy weapons such as mortars and rockets, targeting civilians according to eyewitnesses, before burning the village down entirely as the population fled. The joint contingent shot and killed two Batwa men, one of whom was killed execution-style according to eyewitness accounts.

During the July 2021 attacks, park guards and soldiers were also described as forcibly raping at least nine Batwa women—one of whom was 17 years old—for approximately one hour, tying them up or pinning them to the ground before multiple park guards and soldiers—in an estimated group of 20—raped each individual woman. Two of these women died in the days following this act of group rape.

The November – December 2021 Attacks

In the most recent wave of attacks on Batwa villages beginning in mid-November 2021, seven villages were targeted and burned to the ground entirely. In these attacks the research team found that at least five Batwa were killed, and at least 20 Batwa women were subjected to mass group rape by park guards and soldiers.

In these attacks, park guards and soldiers were described by eyewitness sources as intentionally burning two children alive. The team conducted interviews with immediate relatives and eyewitnesses of the incident and visited the freshly dug graves of the children. Eyewitnesses

described park guards and soldiers burning down the home inhabited by the two children, then forcing the door to the home shut while they frantically tried to escape the flames. Those who buried the children said their corpses had been visibly immolated. This incident was consistent with the modus operandi described by survivors of the July 2021 attacks who said that, after destroying a village, park guards burned shrubbery with the intention of forcing out any Batwa hiding inside or burning them alive.

Eyewitnesses also described park guards and soldiers performing grotesque mutilations of Batwa corpses in these attacks. Eyewitnesses described a finger being removed from the corpse of a 16-year-old boy as a trophy, and the hand of another corpse being taken as a trophy. In the November-December 2021 attacks, eyewitnesses described park guards and soldiers cutting open one corpse and stuffing another corpse inside, decapitating at least one and placing the head on a piece of wood, apparently to terrorize other Batwa.

International Support

Throughout the three-year period beginning when Batwa communities returned to the forest in October 2018, organized violence targeting Batwa civilians has been underwritten, supported and in effect condoned by the PNKB's international backers. During the time period relevant to this report, the PNKB's international supporters have included US and German government agencies, international conservation organizations such as the Wildlife Conservation Society, and other international actors such as private military contractors and consulting companies.

Despite knowledge of unresolved human rights grievances and escalating threats of violence from the park authorities toward Batwa communities inside the park, the PNKB's international backers continued to provide financial and material support to the park in advance of the July-August 2019 operation. This support continued and intensified even as (i) park authorities publicly collaborated on law enforcement activities with a Congolese general sanctioned by the UN for allegedly organizing and supporting death squads elsewhere in the DRC, (ii) the park's Rapid Intervention Unit came under the command of an individual under military prosecutor investigation for allegedly raping a minor and later shooting her, and (iii) an international advocacy organization wrote an urgent warning letter received by all major international supporters of the park in May 2019 stating that Batwa were being shot at by park guards and summarizing the Park Director's ultimatum for Batwa to leave the park or else be removed by force.

In the months leading up to the July-August operation, specific support to the PNKB's paramilitary apparatus included the provision of equipment by the Wildlife Conservation Society such as uniforms, tents, radios, rations, GPS systems, camp beds and other non-lethal military equipment. Park guards in the PNKB's Rapid Intervention Unit who participated in attacks also described receiving sessions of 'refresher' combat training from foreign private military contractors that included instruction on the use of heavy weapons such as mortars, which were used weeks later in attacks against civilians during the July-August 2019 operation.

Multiple sources close to the matter described support for training to park guards violating the UN Security Council's arms embargo in the DRC, which is enforced by binding international law. In particular, the support for training received courtesy of the US Fish and Wildlife Service, KfW, the Wildlife Conservation Society, Maisha Group and GFA Consulting Group (and potentially others) since at least 2014 was described as being in violation of the UN arms embargo. The specific 'refresher' combat training conducted by foreign private military contractors whose affiliation is unknown to the research team in the immediate run-up to the July-August 2019 offensive was also in likely violation of the arms embargo.

Conclusions

The research team found that the operations carried out within the park management's ongoing program of forced expulsion were thoroughly planned, well-organized acts of violence deliberately carried out against Batwa civilians on a massive scale, enabled by the support of international actors, who acted with full knowledge of a credible, serious risk of major human rights abuses in the PNKB and apparent disregard for international law when they provided key material and financial support to the PNKB's paramilitary apparatus, violating the UN arms embargo and directly enabling systemic abuses of human rights in the name of conservation. This campaign of

organized violence and terror has been sanctioned and planned at the highest level by the park authorities. It amounts to an institutional policy undertaken to expel the indigenous Batwa, deter them from returning and neutralize any opposition to the militarized conservation project taking place on their ancestral lands without their free, prior and informed consent. This has contributed to the further fragmentation and oppression of an already marginalized indigenous people subjected to decades of dispossession, cultural erasure, grinding poverty, death and discrimination on the outskirts of the park.

Beyond violations of the rights to life, liberty, security of person, property, housing, an effective remedy, freedom from torture, cruel, inhuman or degrading treatment or punishment, forced displacement, arbitrary detention and discrimination, their collective rights to ancestral lands and resources and free, prior and informed consent, the organized violence perpetrated by the PNKB with the support of its international backers and the Congolese Army may constitute crimes against humanity, including through widespread and/or systematic acts of murder, rape and persecution in furtherance of a state policy.

Despite counter-narratives that justify militarization as necessary to overcome poachers and armed militias in the PNKB and attempts to frame the Batwa as criminal ecological threats and dismiss their claims to their ancestral homeland, the story of the Batwa of Kahuzi-Biega is not an isolated incident. Instead, it is emblematic of the widespread, systemic violence inherent in the rigidly colonial conservation model widely used in East and Central Africa, funded and facilitated by a network of international backers, with deadly consequences for indigenous peoples and local communities living in the vicinity of protected areas. The events detailed in this report have been made possible by a culture of impunity that devalues indigenous life in service of a highly militarized conservation apparatus designed to maintain an 'unpeopled' wilderness to be accessed and enjoyed by foreign tourists and international conservationists to the exclusion of the land's original inhabitants in violation of international law.

III. Come July: Introduction

Almost exactly two years after the July-August 2019 operation, on 23 July 2021, park guards and soldiers again targeted and destroyed Batwa villages inside the PNKB. The author had been in the final phases of drafting this report when frantic calls came from Batwa leaders and community members, describing scenes of carnage. In the following days and weeks, the research team was able to document a devastatingly violent joint assault on three Batwa villages inside the PNKB by park guards and soldiers who opened fire on unarmed civilians and burned the villages down entirely.

A group of human rights organizations sent a joint letter to the PNKB and its international supporters about this attack on 29 July 2021. The letter detailed the grave human rights abuses committed by joint contingents of park guards and soldiers that the research team was actively documenting in the field. Despite this letter, which was intended to put a stop to further violence, multiple, renewed attacks by joint contingents of park guards and soldiers targeting unarmed Batwa civilians with heavy weapons and automatic rifles and raping Batwa women were later reported in November and December 2021, with seven villages razed to the ground. Field work conducted in response to both the July 2021 and November-December 2021 attacks corroborated allegations of grave human rights abuses contained in initial reports received by the author.

Perhaps the most striking aspect of the dramatic organized violence documented in July, November and December 2021 was its similarity to the joint operation described by hundreds of sources as occurring in July-August 2019, which was ordered, planned and organized at the highest level by the park authorities.

When the research team began its fieldwork (in October of 2020, more than one year after the violence which had taken place in 2019), it was shocked to discover the scale and severity of PNKB violence described by Batwa community members, especially because it seemed that the operation conducted in July-August 2019 (described below, see Section V) had not yet been thoroughly documented in the public domain.

While the team had been working diligently to corroborate shocking accounts of organized violence, come July 2021 earlier accounts were tragically supported by the occurrence of new, similar acts of massive violence.

The field research immediately following the attacks of July, November and December 2021 gathered a preponderance of physical evidence demonstrating that park authorities and soldiers targeted Batwa civilian sites inside the PNKB in acts of organized violence in which unarmed Batwa were killed and villages were burned to the ground, with a chillingly similar *modus operandi* to that which was employed in July-August 2019. Acts of violence undertaken in subsequent operations progressively escalated, becoming more brutal and gratuitous over time, and were described by eyewitnesses as involving multiple instances of group rape, mutilation of victims, and the taking of Batwa body parts as trophies. The research team's findings are thus consistent with a policy of retribution and deterrence, first articulated by the PNKB's Director in February 2019 (see Section V below).

The overwhelming physical evidence gathered by the research team and the harrowing accounts of survivors and eyewitnesses, as well as interviews conducted with park guards and soldiers who participated in attacks, crucially demonstrate that the PNKB—despite denials on the part of park authorities, international supporters and some 'independent', yet park-friendly researchers—is indeed actively engaged in a program of forced expulsion targeting Batwa civilians living on their ancestral lands inside its perimeter. This program, spanning at least three years, has entailed overwhelming and horrific displays of force in which entire Batwa villages have been completely burned to the ground and shelled with heavy weapons while unarmed Batwa civilians have been killed, maimed, raped and otherwise severely injured by park guards and soldiers.

International support from German and US government agencies, conservation NGOs like Wildlife Conservation Society, and private military contractors like Maisha represent a crucial part of the program of forced expulsion, most dramatically in the case of the operation of July-August 2019 where park guards described receiving special 'refresher' combat training from a contingent of what they referred to as 'white mercenaries'—including in the use of heavy weapons such as mortars—weeks before those heavy weapons were used to target Batwa civilian sites in the PNKB.

This report is not, therefore, simply the story of how a Congolese national park employed brutal tactics to keep communities out of a protected area. It is the story of how

internationally funded paramilitaries targeted civilian sites for destruction and raped, murdered, mutilated and terrorized members of an indigenous community. This report is not an exercise in historical analysis, nor is it a

piece of anthropology: it is an urgent, detailed account of ongoing, systematic acts of violence targeting some of the planet's most marginalized people and criminalizing their way of life.

IV. 1935-2018 | The Prelude

PNKB, the Batwa, the Original Expulsion and the Return

Kahuzi-Biega National Park (PNKB): Origins and Structure

The PNKB is a multi-million US Dollar conservation project, UNESCO World Heritage Site and tourist destination. It was created in the era of Belgian colonial rule in the Congo, with the establishment of ‘The Zoological and Forest Reserve of Mount Kahuzi’ via colonial decree² in 1937. The Belgians extended this reserve to include Mount Biega in 1951, laying the groundwork for the conflict that would emerge in the coming decades between the PNKB and its international backers and an indigenous forest-dwelling community known as the Batwa of Kahuzi-Biega.

The park, which sits in the eastern DRC, is managed by the Congolese Institute for Nature Conservation (*Institut Congolais pour la Conservation de la Nature*, ICCN), a body in the Congolese government. However, the park has received the majority of its funding and substantial material support from KfW, GIZ, USAID and the Wildlife Conservation Society, among other international entities.

International supporters of the PNKB not only fund the park’s activities, but directly orient and impact its behaviour as an institution, crucially promoting, funding and supporting a militarized approach to conservation that has led the park authorities to employ brutal tactics to keep communities out of the park, resulting in egregious human rights abuses. Specifically, international actors have contributed to organizing, equipping and training the PNKB’s elite Rapid Intervention Unit, a combat-ready corps of park guards equipped with military-style weapons (see Section V below). In some cases, the PNKB’s international backers have paid for foreign private military contractors to train park guards in combat tactics and have provided material support such as equipment to the Rapid Intervention Unit, which in turn conducted large-scale human rights abuses as documented in this report.

The Batwa of Kahuzi-Biega

Batwa (plural form, singular is *Mutwa*) are an indigenous community, regarded as one of the most marginalized ethnic minorities in the DRC.³ Members of

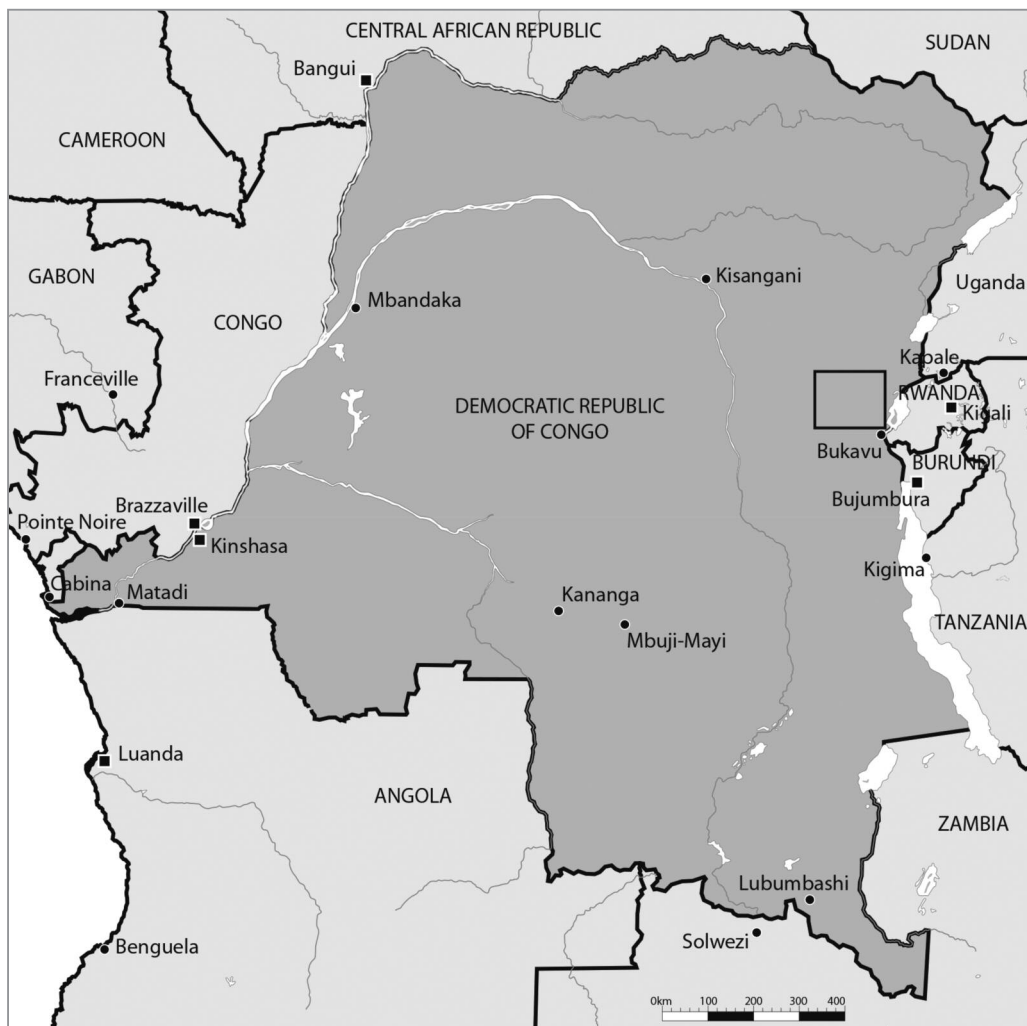
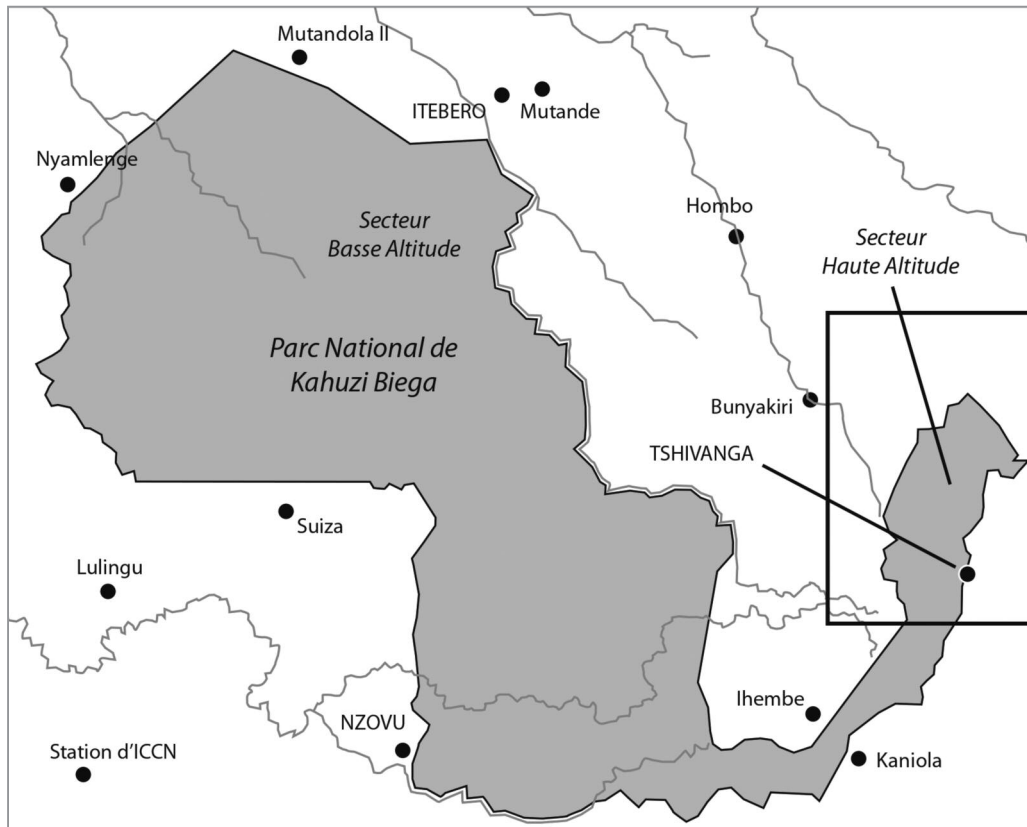
the community are—often derisively—referred to as ‘pygmies,’ although some self-identify as ‘indigenous pygmies’ while speaking French.⁴ The Batwa of Kahuzi-Biega—one of many Batwa communities throughout Central Africa—are a semi-nomadic forest-dwelling people that have inhabited the forests around Mounts Kahuzi and Biega since time immemorial, organized as small, mobile hunter-gatherer communities while enjoying an egalitarian mode of life deeply rooted in their relationship with their natural surroundings.

The forests, for the Batwa of Kahuzi-Biega, represent the centre of intellectual, spiritual and cultural life, a core part of their collective and individual identity. Leveraging their intimate knowledge of the region’s plants and animals cultivated over centuries, the community sustained itself through a variety of food, medicinal and fuel sources. The forests were also where the Batwa of Kahuzi-Biega buried their ancestors and performed sacred rites and other cultural practices central to their identity. For this reason, the community derives its distinct identity from its sacred relationship with the forest.

Although throughout the Belgian colonial period the Batwa of Kahuzi-Biega were able to continue living in the forest, in the decades following colonial rule, external pressure would mount on the post-independence government to expand the protected area,⁵ placing further pressure on the communities living inside.

The Original Expulsion ~ 1975

When the DRC gained independence from Belgian rule in 1960, the forest reserve was not dismantled by the incoming government. Instead, an influential Belgian conservationist, Adrien Deschryver, lobbied the Congolese government to expand the protected area, convert it into a National Park and expel the communities living inside. Deschryver, the son of the last Belgian Minister of the Colonies, visited the forest reserve and became enamored with the rich flora and fauna in the forest—especially the Eastern lowland gorillas (called ‘Grauer’s gorillas’).⁶ A stranger to the complicated terrain, Deschryver approached Batwa communities, asking for their assistance guiding him through the forest as he tracked and studied gorillas and took measurements of the landscape.⁷



One elder Mutwa man interviewed by the research team was a child when Deschryver first came to the forest, recalling:

That white man came and asked for our help: he wanted to see the animals; he wanted us to show him different locations in the forest. He acted like he was a friend of the community, and we trusted him. Then he left, returned to Europe, and used the information we gave him to plan to expel us. When he came back to the forest, he came with soldiers, told us that our home is now the property of the state and that we have to leave. We cried, said to him 'We were the ones who showed you this forest!' But the soldiers forced us out.⁸

Using the Batwa's intimate knowledge to gain access to the forest and its rare gorillas, Deschryver returned to the forest alongside armed park guards and soldiers in the mid-1970s to violently force Batwa out of their villages,⁹ which were burned to the ground or otherwise destroyed. Though the expulsion spanned several years,¹⁰ the majority of Batwa community members were expelled in 1975 when the park was extended to include a 'lowland sector'.

In an influential study of the Batwa of Kahuzi-Biega and their expulsion written by scholar Albert Barume, a Mutwa woman is quoted recalling:

We did not know they were coming. It was early in the morning. I heard people around my house. I looked through the door and saw people in uniforms with guns. Then suddenly one of them forced the door of our house and started shouting that we had to leave immediately because the park is not our land. I first did not understand what he was talking about because all my ancestors have lived on these lands. They were so violent that I left with my children.¹¹

After the forest was purged of the Batwa and their settlements, Deschryver became the first warden of the PNKB and the principal architect behind its policy of excluding the Batwa from the forest in the interest of saving the Grauer's gorillas.¹²

The Batwa—whose society and lifestyle had been suddenly, forcefully dismantled—were not provided with resettlement options or compensation of any kind for the dispossession of their land.¹³ Non-Batwa were either allowed to remain on their lands inside the PNKB or compensated, which reflects the relatively marginalized position of Batwa in Congolese society.

Decades of Landlessness and Broken Promises – 1975-2018

As a direct consequence of violent expulsion from their ancestral home, the Batwa of Kahuzi-Biega have faced decades of severe marginalization and skyrocketing mortality. The community was forced to live as squatters dependent on non-Batwa host communities, became increasingly sedentary as they no longer had access to the forest for hunting and gathering, were discriminated against and exploited as a cheap labor force, and were severed from the land that represented the core of their identity and their autonomous existence as a people.

The population of the community precipitously declined in the wake of their violent expulsion, with an estimated 50 per cent of those expelled from the forest dying in the following two decades.¹⁴ Batwa faced grinding poverty and severe material deprivation outside the forest, resulting in high rates of malnourishment, disease and death. Infant and maternal mortality rates are described as especially high among the Batwa of Kahuzi-Biega when compared with those of other communities.¹⁵ A Mutwa community member in Barume's study is quoted describing the situation: 'Since we were expelled from our lands, death is following us. We bury people nearly every day. The village is becoming empty. We are heading towards extinction. Now all the old people have died. Our culture is dying too'.¹⁶

After their forced removal from the forest, Batwa were left without land for housing, socio-economic activity, agricultural activities, and cultural and spiritual practices, while also largely lacking access to basic public services such as healthcare and education. Batwa were also left without meaningful political representation, leaving them with little self-determination and effectively in the hands of non-Batwa communities that reportedly discriminated against them when meting out punishments, allocating land, adjudicating local disputes and mediating access to public resources.

An elder Mutwa man recalled to the research team: 'Our people were starving outside the park, we had no food, we had no land, we were left with nothing. We relied on the other communities that hated us for everything. We only survived by remembering our life in the forest, when we had our freedom, when we were still truly free'.¹⁷ As another elderly Mutwa man commented, 'since then our community lives like refugees'.¹⁸

Left destitute and desperate, more than a decade ago members of the community filed a case in Congolese courts seeking to remedy the expropriation of their land, to no avail.¹⁹ With the support of Minority Rights Group (MRG) and the Congolese human rights organization *Environnement Ressources Naturelles et Développement*, the

Batwa filed a case challenging their evictions before the African Commission on Human and Peoples' Rights, which remains pending on the merits more than six years on.²⁰

In 2014 international advocacy efforts culminated in the beginning of a dialogue process under the auspices of what is called the 'Whakatane Mechanism',²¹ an approach to remedying the dispossession of indigenous peoples' land by conservation projects.²² In the DRC, the initiative brought PNKB management, representatives from Batwa communities and other stakeholders²³ together to lay out a 'road map' to meet the Batwa's 'short-term' needs—by guaranteeing access to land, education, healthcare and economic opportunities—and ultimately identify land that Batwa communities could collectively own and manage in a sustained manner.²⁴

The process stalled, and for several years the park authorities persistently failed to implement almost every commitment made in the 2014 dialogue.²⁵ In 2017, as resentment grew among community members over more fruitless efforts to seek justice, a 17-year-old Mutwa boy was shot and killed by park guards for collecting medicinal plants with his father inside the park.²⁶ The boy's father was also shot but recovered from his injuries. Some civil society actors²⁷ noted that this incident signified the final breakdown in trust between the PNKB and many Batwa, who lost all faith in the park management as a good faith actor ready to remedy past injustices.

Accordingly, the following year, segments of the Batwa communities around the park organized a more direct effort to reclaim their ancestral home in the forest.

The Return to the Forest – 2018

In October 2018, several dozen families of Batwa in Kalehe territory who had been living as squatters outside the park returned to the forest, re-constructing villages inside the PNKB in a matter of weeks. Soon thereafter, Batwa in Kabare territory and the area around Bunyakiri also returned.²⁸

Commenting on the return, one Mutwa told the research team, 'We've been stuck in this process that has given us no solutions for decades. When we saw that no solutions would come of it, we decided to return, all of us, to our home'.²⁹ Batwa community members told the research team that while the villages were being built, they would enter the park in secret, spending days working to build structures under the jungle canopy before returning

outside the PNKB to sleep at night.³⁰ The communities cut complex networks of paths connecting villages under the forest canopy. This winding set of roads were only passable by foot and spanned dozens of kilometers, connecting villages from the southernmost stretch of Batwa-inhabited park land to the northernmost.

The impressive sites came to accommodate many, the park becoming home to perhaps 2,000 or more in total (see below section V for more detailed population estimates) – still only a fraction of the originally displaced population. The newly reconstructed villages became centres of spirited meetings of community members, sites of sacred cultural practices, hubs for agriculture and commerce, and destinations visited by delegations of trekking Batwa from other parts of east Congo. Most villages would consist of dozens of structures erected around a *baraza*—an assembly area for community meetings generally overseen by the acting chief of the settlement—as well as dozens more structures populating hills rolling out from the 'centre' of the village.

Upon their return to the forest, Batwa were blamed for deforestation (up to 300 hectares) in the Kalehe sector of the park. This spurred condemnation, which proved to be a simplistic response to a more complex dynamic around resource extraction that was occurring in the park: the return of Batwa presented an opportunity for others to exploit resources under the cover of the Batwa's historical and legitimate claim to the forest. PNKB authorities further admit that certain Batwa were instrumentalized by more powerful groups to engage in charcoal production.³¹ Yet, it is the Batwa who have been consistently and disproportionately blamed for environmental destruction.

The villages that were built in a matter of months also constituted symbols: of many community members' loss of faith in institutions, the state and the international community to redress the injustice of their expulsion, and of a commitment to directly reassert their claim to their ancestral land. The communities that returned to the park openly defied the established order and Congolese law in a decision that was an act of peaceful protest as much as an assertion of moral independence and collective autonomy, and ultimately an exercise of their right to self-determination.

Batwa leaders—particularly in Kalehe territory—framed the 2018 return as a decisive turning point in which the community chose to directly oppose a project that the Batwa viewed as violent, unjust, and dedicated to their destruction as a people.³²

V. ‘Mara ya Pili’³³

2019 | The Second Expulsion

‘They lied to us for 30 years. For 30 years we had no home, no place to live. That’s why we decided to return to the forest. After that, we were expelled for the second time’.³⁴

‘In 2019, the park decided to expel us again. When the time came, every day we could hear the bullets ringing out’.³⁵

Introduction

In response to the Batwa’s return to the forest in late 2018, the PNKB’s management and the Congolese Army began orchestrating a highly coordinated campaign to expel them once again from their ancestral home. Increasingly threatening and violent behaviour by park staff towards Batwa communities eventually culminated in a highly orchestrated, large-scale operation involving attacks perpetrated against at least three Batwa settlements inside the PNKB (Bugamanda, Buhoyi, and Masiza) in July-August 2019. This resulted in numerous deaths, grievous bodily injuries, the mass destruction of homes and looting of property. In the lead-up to these joint attacks, the PNKB’s international supporters were made aware of the park authorities’ threatening and violent posture toward the Batwa, but nonetheless continued to provide material assistance during this critical period, facilitating the commission of grave human rights abuses perpetrated by joint contingents during the operation.

‘Looking For War’: The Ultimatum and Steadily Escalating Violence

‘[The Park Director] wanted to convey a message to the pygmies: ‘If you enter the park, you are looking for war’. Park guard,³⁶ commenting on impetus for attacks on Batwa in early 2019

Increasing Violence and ‘Shoot-to-Kill’ Authorization

Months after Batwa returned to the forest in October 2018, community members, park guards, Batwa leaders and

civil society actors described a campaign of steadily escalating violence in early 2019 to force the Batwa out of the PNKB. This was initially characterized by violent incidents, including individual shootings and killings associated with a reported order from the PNKB’s Director, De-Dieu Bya’Ombe, to conduct a sweep across at least seven villages in Kabare territory and the area around Bunyakiri inside the park, forcing Batwa community members to flee from their homes. As one Mutwa leader characterized it, ‘the authorities were insulted and outraged by the move [to resettle inside the park], so they began planning a response. An order came from the authorities: start killing the Batwa, force them out.’³⁷

Two park guards told the research team that, in response to the return of many Batwa to the park, Director Bya’Ombe announced changes to the ‘rules of engagement’ for their patrols. The park guards³⁸ explained that often they would encounter Batwa in the forest using machetes to chop wood to cultivate charcoal. In such cases, the park guards did not have authorization to engage, as Batwa posed no serious threat. However, in early 2019 Director Bya’Ombe encouraged them to use lethal force if they encountered Batwa with machetes. One park guard said that the order became an effective shoot-to-kill order, paraphrasing ‘if you see a pygmy in the forest, kill him’.³⁹

Then, in April 2019, a Mutwa man⁴⁰ was discovered shot and killed near a PNKB patrol post. Several sources⁴¹ indicated that he was shot and killed by park guards. Copies of the man’s death and burial certificate, issued by local authorities, specify that the man was killed by three bullet wounds,⁴² as well as photographs of the man’s corpse which showed various other wounds, indicative of torture.⁴³ Reports from civil society further state that Batwa community members allegedly retaliated by attacking two park guards, killing one and injuring another.⁴⁴

The Ultimatum

Weeks after the body of the man was discovered near the park, Director Bya’Ombe reportedly⁴⁵ issued a public ultimatum to Batwa living inside the PNKB.

Multiple park guards interviewed by the research team recalled that Director Bya’Ombe announced plans for a campaign inside the park targeting Batwa settlements with

the goal of conveying the message that they would be subjected to large-scale violence if they chose not to leave the park.⁴⁶ One park guard told the research team: '[The Park Director] wanted to convey a message to the pygmies: 'If you enter the park, you are looking for war,' adding that the park began planning—with the Congolese Army—to confront and expel the pygmies'.⁴⁷

One international advocacy organization summarized the ultimatum in a letter to the park in May 2019, writing 'the Director of PNKB gave the Batwa an ultimatum to leave their lands in PNKB. He said they must withdraw immediately and that after 30th April (today) PNKB will use any means, including force, to remove them from inside the park'.⁴⁸ For more on this letter, which represented a crucial warning of the coming violence to the PNKB's international supporters, see below.

Collaboration with the Congolese Army

Interviewed park guards⁴⁹ said that it was in April 2019 when joint operations between the park authorities and the Congolese Army began to intensify with the specific objective of removing Batwa from the park. As early as February 2019, the PNKB publicly acknowledged collaboration with the Congolese Army and the leading role in this partnership played by General Charles Mundos, then-Commander of the '33rd Military Region' (encompassing all of South Kivu).⁵⁰ It announced via its official website personal visits by General Mundos to PNKB headquarters, and described planning for 'collaboration' between the Congolese Army and park guards with the aim of 'the total eradication' of what were described as 'armed threats' inside the park.⁵¹ General Mundos' close partnership with the PNKB was solidified by being 'decorated' with a 'medal of ecological merit' by Director Bya'Ombe for his operational support of the park's paramilitary activities.⁵²

General Mundos was a key supporter of the campaign to clear the park of unwanted Batwa populations, referring to himself as 'one of the greatest animal rights activists in the Congo', while referring to the Batwa inside the park as 'terrorists'.⁵³ The General's choice of words was notable, given his unique personal history. Before assuming command in South Kivu, he commanded operations in another region of the DRC to combat the Allied Democratic Forces, an armed group that has been called a terrorist organization for conducting mass killings of civilians while having an ostensibly Islamist orientation.⁵⁴ In May 2016, the UN Group of Experts on the Congo uncovered evidence that while leading operations to combat the Allied Democratic Forces, General Mundos personally organized units of rebels that carried out indiscriminate killings against civilians. While doing so,

the Group of Experts found General Mundos *also* supported Allied Democratic Forces elements with weapons, ammunition and uniforms.⁵⁵ In connection with the evidence of his participation in organizing mass killings of civilians, General Mundos was sanctioned by the UN Security Council in February 2018,⁵⁶ imposing restrictions on him and preventing international actors like the UN peacekeeping mission in the DRC (MONUSCO) from directly collaborating with or supporting him.

The public position taken by the PNKB was that collaboration with General Mundos and the soldiers under his command was designed to rout armed groups inside the park. Indeed, the Director Bya'Ombe—whom the research team attempted unsuccessfully to interview on six separate occasions⁵⁷—publicly acknowledged 'military operations' within the park, but only in the context of targeting what he called 'farms' where he alleged 'armed men' were present.⁵⁸ This was contradicted by the accounts of park guards,⁵⁹ Congolese Army soldiers⁶⁰ and Batwa community members⁶¹ who told the research team that the joint operations were specifically designed and carried out to force Batwa out of the PNKB and dismantle their settlements, contrary to the official narrative.

While Director Bya'Ombe's proffered motive for collaborating with the Congolese Army has been robustly challenged through this research, his statements demonstrate an open acknowledgement of military operations in the PNKB about which several sources who personally know him indicated he was exceedingly enthusiastic.⁶² Commenting further on these military operations, he has added 'I've done what others didn't dare to do'.⁶³

Kabare and Bunyakiri Evictions: May-July 2019

After the April ultimatum reportedly took effect, an unprecedented campaign of violence began. In June 2019, Batwa leaders⁶⁴ and civil society actors⁶⁵ documented a two-week stretch of operations by the park authorities to dismantle Batwa settlements across an estimated six to eight villages inside the park in Kabare territory and the area around Bunyakiri. Park guards were described as burning homes to the ground, forcing Batwa out of villages at gunpoint, and arresting others in a sweeping crackdown, consistent with Director Bya'Ombe's reported ultimatum.

This violence continued into the month of July, when another settlement in the PNKB in a village called 'Lulimbi'—where an estimated 50 Batwa had been living⁶⁶—was reportedly attacked by a joint contingent of park guards and soldiers. Eyewitnesses⁶⁷ told the research team that park guards arrived in the afternoon, opened fire on

community members, injured at least three people—including a 17-year-old boy—and killed at least one Mutwa.⁶⁸ The research team also spoke to 20 community members who, after the violent incident, fled this settlement and returned to living as squatters outside the park.⁶⁹ They recalled that the panicked flight out of the village caused one pregnant woman to go into labor, resulting in a miscarriage.⁷⁰ As the community fled from the violence, homes were burned down by the park guards who also stole goats, cattle and pigs belonging to the community.

The incident was widely documented by local civil society organizations,⁷¹ one of which reported that a park guard ‘opened fire on [...] children,’⁷² consistent with the findings of the research team. International media⁷³ also covered the incident, but—quoting a PNKB official—framed it as a ‘clash’ between Batwa and park guards. Remembering the incident, one of the interviewed Batwa concluded, ‘After that day, we fled the forest and did not return, living as refugees. This life is hard, we lack food, we lack a home that is our own, but at least we are not stalked by soldiers’.⁷⁴

The violent attack on Lulimbi was just one of several attacks on Batwa settlements during this period. By July 2019, park guards, reportedly in concert with Congolese Army soldiers, completed several rounds of violent evictions throughout the southern reaches of its highland sector. At this critical juncture, Innocent Mburanumwe assumed control of the PNKB’s vanguard Rapid Intervention Unit, a combat-ready unit of elite park guards that international supporters of the PNKB describe as playing a ‘law enforcement’ role in and around the park. Mburanumwe came to the PNKB after serving as the Deputy Director at Virunga National Park. While working at Virunga, Mburanumwe allegedly raped and impregnated a 15-year-old girl. After reportedly raping her several times across several years, he then shot her at ‘point blank range,’ injuring her severely. She ‘only barely survived’ according to the media report, which quotes the young girl as saying ‘He tried to kill me’ and notes that several women, including at least one other underage girl, have allegedly been sexually abused by Mburanumwe.⁷⁵ A formal complaint was filed with the military prosecutor of North Kivu,⁷⁶ which initiated an investigation, and Mburanumwe was removed from his role as Deputy Director at Virunga. After his dismissal, Mburanumwe was recruited almost immediately⁷⁷ to lead the PNKB’s Rapid Intervention Unit, even as the investigation into his alleged crimes by the North Kivu province’s military prosecutor was ongoing. His recruitment came weeks before the Rapid Intervention Unit, now under his command, would carry out the large-scale operation in Kalehe in July-August 2019 described below.

By July 2019, the park authorities and the Congolese Army were working in lockstep under the leadership of Director Bya’Ombe, Mburanumwe and General Mundos, and had already accomplished several violent evictions of Batwa in Kabare territory and the area around Bunyakiri inside the park. Although many Batwa impacted by this violent campaign decided to flee, much like the civilians in Lulimbi, the Batwa communities in the major villages of Kalehe territory—who had been the first to return to the park, consistently the most vocal in their opposition to the PNKB and its policies, and had largely yet to be impacted directly by the violence—were not prepared to abandon the villages that they had built months earlier.

In response, the park authorities began to plan and train for an even larger operation to dismantle the Batwa settlements in Kalehe territory. Commenting on this fact, one interviewed park guard remembered ‘The message was clear to the pygmies in Kabare, they started to leave their villages. But in Kalehe, they wouldn’t leave. [...] That’s what brought us to that gruesome war in Kalehe, where so many people died’.⁷⁸

‘The War’: The Organized Violence in Kalehe – July-August 2019

*‘I remember the war. We saw soldiers and park guards pouring into the park. The bomb blasts, rifle fire singing out, and pygmies fleeing into our village in terror’.*⁷⁹

Community member, non-Batwa village adjacent to the park

*‘They came to purge the forest by force’.*⁸⁰

Mutwa community member who fled village targeted in operation

*‘We are like soldiers. We had to execute orders’.*⁸¹

Park guard who participated in the operation

To describe the coordinated strikes against Batwa villages in Kalehe that occurred in July-August 2019, almost all interviewed sources—including park guards,⁸² soldiers,⁸³ community members,⁸⁴ leaders, and non-Batwa community members⁸⁵ who witnessed the violence—used the phrase *‘hii vita’* (‘the war’) to convey the scale and all-encompassing destruction that characterized the campaign.

The Kalehe operation, which most sources estimated spanned nearly an entire week, involved joint contingents of park guards and soldiers launching repeated and deadly

attacks on at least three of the most populous villages inside the park: Bugamanda, Buhoyi and Masiza. Park guards⁸⁶ stated that they and the soldiers supporting the operation used heavy weapons like mortars and PKM belt-fed machine guns and burned all the structures in the settlements to the ground as Batwa fled in their hundreds. One remembered: ‘When we’d arrive at one village, we’d start spraying bullets, so many of the pygmies would flee to another one of their villages. The next day we’d arrive there [to the village they had fled to] and open fire again’.⁸⁷

The joint operation in Kalehe is distinguishable from the smaller-scale evictions that occurred in Kabare territory and the area around Bunyakiri in the preceding weeks and months. The Kalehe operation in July-August 2019 entailed the use of overwhelming force to destroy settlements and bomb communities into submission. Park guards estimated that the combined forces totaled more than 60 soldiers and park guards,⁸⁸ explaining that the Rapid Intervention Unit sent 24 park guards who were reinforced by two sections of elite Congolese Army commandos (totaling 24 soldiers)⁸⁹ and standard infantry soldiers. Soldiers who participated in the operation⁹⁰ confirmed that it spanned several Batwa villages in the park, involved the use of weapons such as mortars and PKM belt-fed machine guns, entailed razing homes, and resulted in several civilian casualties, though the soldiers’ estimates varied.⁹¹

Generally, the park guards interviewed described having a crisis of conscience about the violence. One commented, ‘In my conscience, I knew it was wrong. But this is our work. We are like soldiers. We had to execute orders’.⁹² However, they, and soldiers also expressed racist and paternalistic attitudes about the Batwa. One soldier noted that ‘the pygmies are like children’,⁹³ while a park guard commented that ‘their intellect is so inferior’.⁹⁴

Batwa Casualties in the July-August 2019 Kalehe Operation

Community members’ descriptions of being targeted by rifle fire and heavy weapons were consistent with injuries presented to the research team by several community members. Across three locations in the PNKB, seven Batwa⁹⁵ were interviewed who visibly sustained injuries from weapons used by the park guards and/or soldiers during the July-August 2019 attacks, two of whom suffered from dismembered body parts⁹⁶ and several of whom were otherwise seriously injured.

Another 15 people⁹⁷ were interviewed with visible wounds sustained while fleeing into the wilderness in the dark, which supports the accounts that the contingent struck before dawn at some locations, making it more difficult for civilians to escape the attack. Interviewees said that there were many more injured in the operation,

however, they were unable to interview all individuals who allegedly sustained injuries.

Batwa Killed in the July-August 2019 Kalehe Operation

In total, across the multiple locations targeted, 12 community members⁹⁸ stated that an immediate relative was killed in the offensive, all of whom named the family members killed and some of whom identified their gravesites. Six such gravesites were visited across two locations in the park.⁹⁹

In addition, three community members¹⁰⁰ stated that loved ones—children and an elderly person—starved to death or disappeared while fleeing into the forest. Most interviewed community members indicated that the total number of children and elderly people who disappeared or starved to death in the forest was far higher; this was simply the total number of individuals who told the research team that an immediate relative died in this manner.

It is important to note that, given the overall geographic scope of the research, it was only possible to conduct fieldwork in key villages impacted by the July-August 2019 operation for periods encompassing three to five days. The above figures should not therefore be taken as exhaustive totals, but rather as illustrative of the scope, scale and impact of the violence.

The total number of Batwa killed in the offensive is difficult to determine and estimates varied widely. Some park guards and soldiers who participated in the operation estimated that there were many fatalities, whereas others indicated that a small number were killed. One park guard stated ‘Many pygmies died. I know of five gravesites for pygmies [who died during the operation], but others were unburied. So many died on their side,’¹⁰¹ whereas another park guard estimated that only three Batwa died in total in the operation.¹⁰² Batwa leaders and community members in different locations too made vastly different estimates, from three to 25 or more dead¹⁰³—as to the total toll of the operation.

The disagreement could be attributed to a variety of factors, most importantly that, by all descriptions, deaths occurred in a context of chaos in which hundreds were fleeing in a panic into the forest, sometimes in the dark. Furthermore, most individual sources—apart from the interviewed park guards and soldiers—only witnessed the violence at one of several locations impacted. As for disagreement among park guards, it is likely that some park guards may want to downplay the human toll of an operation they participated in. It is also difficult for an individual participant in an operation to know how many people in total were killed, especially when most sources

indicated that upwards of 60 soldiers and park guards were involved in the assault.

Rather than attempting to arrive at a comprehensive estimate, the team sought to gather as much evidence relating to specific individuals killed in the operation.

Attack on the ‘Capital City’ of Bugamanda

Bugamanda is comprised of a cluster of structures spanning approximately five kilometers rolling outward from an assembly area where communities meet—often receiving ‘delegations’ of Batwa from other regions in the eastern DRC. Batwa community members¹⁰⁴ called the village their ‘capital city’ in Kalehe territory, describing it as the seat of leadership structures and the centre of commerce, culture and political activity for the Batwa of Kalehe.

The research team spoke to more than 300 Batwa community members who were in Bugamanda when the July-August 2019 operation began, describing an ambush in which a large contingent of park guards and soldiers opened fire with rifles, shelled the village with an estimated 20 mortar bombs,¹⁰⁵ then burned much of the village to the ground as community members fled.

More than 100 Batwa said the homes they had been living in were burned down,¹⁰⁶ but the research team did not survey all inhabitants of Bugamanda, meaning likely far more people were directly impacted. Others whose homes were not destroyed lived in the hills surrounding Bugamanda centre, in less accessible areas on the other side of steep hills and narrow, snaking paths cutting through dense forest that would be difficult to reach quickly for a large contingent of park guards and soldiers.

Community members¹⁰⁷ said that after initially fleeing, some returned to Bugamanda only to find that the village would be attacked again the following day, noting that the joint contingent returned every day for four or more days, opening fire on those who had returned, forcing them to flee deeper into the forest or into host communities outside the park. Multiple leaders¹⁰⁸ and community members¹⁰⁹ estimated that at least three Batwa were killed in Bugamanda, and the research team visited four gravesites of individuals allegedly killed in the multiple-day attack.¹¹⁰

Community members¹¹¹ present at Bugamanda said resistance was organized with sticks and machetes, but that those who resisted did not have firearms. Eyewitnesses¹¹² further said that others who could not flee and were not shot were physically beaten by the park guards, and with dozens rounded up, arrested and processed through detention facilities where they faced severe discrimination and inhumane conditions, as described more fully below.

Some of the circumstances of the assault on Bugamanda—including the notable death of a Mutwa

man whose burial is described below, the names of four individuals seriously injured by gunfire in the assault, and other general aspects of the attack documented by the research team—were corroborated in accounts gathered by civil society actors.¹¹³

Attacking the Mourners

After the initial ambush on Bugamanda, the joint contingent left the village, lulling some community members into believing that the offensive was over. Many Batwa returned to the mostly destroyed village, gathering to organize a traditional burial of a Mutwa man who had been shot and killed.

As the community members dug a grave and began burying the body, they reportedly heard approaching rifle fire and mortar blasts signaling the return of the joint contingent. One community member who witnessed the incident remembered ‘we had already started to bury him, then we started hearing bomb blasts. So we quickly put him in the soil and started to flee. Some of the others said ‘Let’s go quickly so they can’t kill *us*!’¹¹⁴

Eyewitnesses then described how park guards pulled the partially interred body out of the ground, stripped the corpse naked, and mutilated it by shooting at the deceased man’s face until it was unrecognizable. The research team spoke to more than 90 community members¹¹⁵ who described attending his burial and witnessing the incident, including two direct relatives of the man.¹¹⁶ One interviewed park guard also recalled being present for this incident and witnessing other park guards shoot the man’s corpse in the face.¹¹⁷

The body reportedly lay out, naked and mutilated, for several hours before some Batwa were able to safely return to re-bury it.¹¹⁸ The deceased man’s father told the research team that when the corpse was buried a second time, ‘I couldn’t recognize my own son’s face,’¹¹⁹ given the extent of the mutilation.

The Use of Heavy Weapons at Bugamanda

Though eyewitnesses described the use of heavy weapons at all villages targeted in the operation, the research team found some of the strongest physical evidence supporting the use of such weapons in Bugamanda.

Batwa who fled described the village being shelled with mortar bombs from adjacent hills and recounted at least two community members losing limbs in mortar bomb blasts.¹²⁰ One community member remembered that ‘they fired on us with their bombs like we were rebels. We were unarmed’.¹²¹

The research team interviewed one man¹²² whose leg was dismembered in a mortar blast (see Figure 2) who

described seeing park guards firing in his direction from the hills before losing his leg.

At one hillside location where eyewitnesses reported seeing park guards and soldiers assemble to begin firing onto the village below with mortars, the research team recovered a metal object lying on the ground (see Figure 1) that two expert sources identified as a mortar bomb canister cap.¹²³

Soldiers and park guards also told the research team that heavy weapons were used in the operation.¹²⁴ Additionally, more than 10 inhabitants of a village near Bugamanda remembered hearing dozens of bomb blasts,¹²⁵ as did more than 200 Batwa community members who fled Bugamanda during the operation.¹²⁶

Importantly, according to park guards who participated in the training,¹²⁷ the use of mortars in Bugamanda came weeks after specific training conducted by foreign private military contractors, including instruction in the use of heavy weapons, was given to the Rapid Intervention Unit, which led the offensive on Bugamanda (as further detailed in below).



Figure 2: A man with a dismembered leg, reportedly from mortar blasts.



Figure 1: A metal object later identified as a 60mm mortar bomb canister cap that was recovered by the research team on a hill from which park guards reportedly shelled a Batwa village.

The Knock-On Effect

As the large-scale operation caused displaced and panicked Batwa to flee into neighbouring villages along the rims of the park, it caused a knock-on effect impacting these non-Batwa villages.

In a village neighbouring Bugamanda, the research team spoke to more than 15 community members¹²⁸ and viewed an informal camp for displaced people where Batwa who fled from the operation were still living. The community members here directly witnessed the beginning of the attack on Bugamanda. The chief of the village recalled to the research team:

*The park guards came and tried to force the pygmies to flee. When they refused, the park guards started shooting. We could hear their bombs detonating from here. This continued every day for almost the whole week. [...] And we, our population, this war left us in a seriously dire situation. We received an overwhelming number of pygmies fleeing into our village.*¹²⁹

The inhabitants of the neighbouring village recalled a wave of Batwa fleeing out of the PNKB and coming to live as displaced people in the village. After the assault, many Batwa returned to the park, but others stayed behind and lived among host families and in an informal camp for displaced people in squalid conditions, fearing retribution if they returned to the park.

The chief of one of the neighbouring communities also told the research team that the displaced Batwa became dependent on the community's food, seriously taxing the village's food supply even more than a year since the attacks. There is no formal program for internally displaced people (IDPs) in this village or in nearby villages, and the chief estimated that tens of families (i.e., hundreds of people) who fled Batwa villages in the park currently reside in and rely on food from this small village.

The chief and community members¹³⁰ also recalled that, during the operation, soldiers ate food from the community's field, leaving the fields mostly barren after about a week of attacks inside the park. Community members in Bogamanda also recalled being forced off their fields—which are outside the park—by soldiers and park guards to clear the way for the joint contingent as it moved on foot toward Bugamanda, inside the park.

One community member recalled 'Our fields are *outside* the park. But now even *we* began to fear going to our land,' adding that 'I think, with the way things are going, until the pygmies obtain their solution and dialogue can begin with the state, *we*, the people outside the park, have no peace. As this war continues, we must also live with the insecurity and live in fear'.¹³¹

Buhoyi in Flames

South of Bugamanda sits Buhoyi, another major Batwa settlement inside the PNKB in Kalehe territory that descends from a steep hill overlooking a striking green valley that leads out of the park. The numerous structures in Buhoyi are home to an estimated population of more than 450 Batwa community members,¹³² who spend most days working fields deeper in the park before returning to sleep in their hillside homes straddled by a small brook where children occasionally play and wash up.

According to community members,¹³³ park guards¹³⁴ and Batwa leaders,¹³⁵ after the initial ambush on Bugamanda,

Buhoyi was the next village targeted in the joint offensive. The research team spoke to more than 100 Batwa community regarding the attack on Buhoyi.¹³⁶ They remembered the attack beginning in the early morning, when some community members who had already awoken saw a large contingent of soldiers and park guards advancing rapidly through the valley on foot approaching the village.¹³⁷

As some community members woke others in a panic, most began to flee deeper into the park as the contingent opened fire. Community members told the research team that the entire village was burned down as the community fled, though nobody was killed in the attack.¹³⁸ Notably, the majority of the inhabitants had already fled by the time the contingent arrived.

Although eyewitnesses told the research team that all the structures in Buhoyi were burned down, most were reportedly rebuilt by the community members who decided to return after the attack.¹³⁹ Nonetheless, some structures were never rebuilt. The research team visited and counted more than 15 destroyed structures that bore visible signs of having been burned down such as charred wood and blackened walls.¹⁴⁰ These included 14 homes, one cultural centre, and one *baraza*—a structure for leaders and community members to convene (see Figure 3).

The research team also interviewed two community members who had inhabited some of the structures that were burned down and never rebuilt. One of them¹⁴¹ told the research team that before the original eviction of the Batwa in the 1970s, his parents lived at the location in the



Figure 3: Remnants of a home that was burnt down in Buhoyi.

park where Buhoyi now sits. After the Batwa's original expulsion from the forest, he was born outside the park and lived with his family among non-Batwa host communities, remembering that 'we struggled to eat, we were discriminated against and had to live like exiles. When I was a child, we were pushed by other communities from one village to another, constantly moving. We suffered so much'.¹⁴² Thereafter, he recalls being proud to return with his community to the park and building the home where he would live with his wife and young children.

After he and other Batwa built homes throughout Buhoyi, he remembered hearing reports and rumours that the park authorities would come to force them out. He recalled: 'No one can avoid feeling fear. But I was reassured knowing that this was the land of our ancestors'.¹⁴³

He then recalled, one morning, being awoken with his family by other community members, running through the large village screaming 'they're coming to burn the homes!'

I grabbed my children and ran with them and my wife. The children were screaming, crying. We started hearing rifle fire as we fled, then the bomb blasts. As I looked back, I could see the park guards in the distance, and I could see they had long guns.

After hiding in the wilderness for several days, he remembered returning to the burnt village with his wife and children to find that their home had been burned down and all of their belongings taken.

*I remember my children crying as they went back into our destroyed home, they were devastated. [...] But it wasn't just our house. They burned all the homes here in Buhoyi, they didn't leave a single one.*¹⁴⁴

The research team also interviewed a park guard¹⁴⁵ and showed him photos of the burnt homes viewed by the research team in Buhoyi. The park guard confirmed that these structures were indeed destroyed by park guards and soldiers in this offensive.

If, as community members described, *all* structures were burned in this village, judging from the number of structures currently present in the settlement plus the structures that were never rebuilt, upwards of 50 structures may have been destroyed, likely impacting several hundred people.¹⁴⁶

In Buhoyi, like the other sites targeted in the offensive, the research team heard sporadic accounts of some community members attempting to defend the village from the joint contingent with spears and machetes,¹⁴⁷ though such resistance seemed to be far more limited in Buhoyi than in other villages in the park.

Pre-Dawn Attack at the Last Batwa Holdout: Masiza

*'The corpses. What I remember is seeing the corpses of our people as we fled'.*¹⁴⁸

Mutwa community member who fled Masiza

In the farthest northern reaches of the PNKB's highland sector sits the Batwa village of Masiza, which is tucked under jungle canopy and is home to an estimated several hundred community members.¹⁴⁹ After the Batwa 'capital city' of Bugamanda was attacked and reportedly largely destroyed alongside Buhoyi, this remote site on the northernmost rim of the PNKB was one of the only major populous settlements in Kalehe territory left unscathed in the operation.

Park guards told the research team that they took PNKB trucks to the nearby multi-ethnic trading town of Katasomwa, which sits on the rim of the park. The PNKB has an outpost in the town, where park guards told the research team they slept before setting out on foot early the next morning to surprise the sleeping Batwa community members in Masiza.

Community members described the attack beginning before dawn.¹⁵⁰ Park guards and soldiers arrived on foot and opened fire into the village, first with automatic rifles, then with heavy weapons. Community members recalled hearing more than a dozen mortar blasts.¹⁵¹ The research team spoke to more than 170¹⁵² Batwa residents of Masiza who described scenes of bloodshed and destruction. In Masiza, Batwa community members as well as park guards estimated that many people—far more than in the other villages targeted in the operation—were killed.

Multiple Masiza residents¹⁵³ and one park guard¹⁵⁴ also described comparatively stronger Batwa resistance to the attacks in Masiza than at the other villages targeted in the offensive. The research team spoke to one Masiza resident who described an immediate family member using a rifle to repel the attackers,¹⁵⁵ although all sources who addressed this dynamic indicated that there was not more than one Mutwa resisting with rifle fire.¹⁵⁶ The majority of those who sought to repel the attackers—mostly to 'buy time' for women, children and elderly Batwa to flee—were described as doing so with spears and machetes.

Human toll

As the Batwa, especially elderly community members and children, tried to flee into the dark, pre-dawn wilderness, Masiza residents said that many people were injured and many children and elderly people became separated from their families.¹⁵⁷ Community members told the research team that several children and elderly Batwa

disappeared in the forest, some later being discovered to have starved to death.¹⁵⁸

Park guards and soldiers were described as burning down roughly half of the houses they encountered whereas the other half they destroyed by other means (e.g. by kicking them down). The research team spoke with 41 community members who said that the homes where they had been living were burned down and 20 people who said that the homes where they had been living were otherwise physically destroyed.¹⁵⁹

In Masiza, the research team interviewed 11 Batwa community members¹⁶⁰ who said that an immediate relative was killed in the offensive, all of whom provided the names of the relatives who were allegedly killed and some of whom showed the research team the gravesites of the deceased individuals. The research team visited two such gravesites in Masiza. The research team also spoke to three people¹⁶¹ who said that loved ones—children and an elderly person—starved to death or disappeared while fleeing into the forest, meaning that in total the research team spoke to 14 Masiza residents who said that an immediate relative died as a consequence of the operation. Importantly, most interviewed community members indicated that the total number of children and elderly people who disappeared or starved to death in the forest was far higher than the three whose relatives spoke to the research team.¹⁶²

Some Batwa community members described being injured by rifle fire during the operation. Four people¹⁶³ presented bodily injuries such as visible scars from bullet wounds. Several more Masiza residents described being injured while frantically fleeing into the dark forest in the midst of the attackers. Some described tripping over trees, falling down hills, breaking limbs, being cut on sharp branches, tripping into fires that were burning to cook food or burn charcoal, or otherwise injuring themselves while fleeing into the impassible terrain of the pre-dawn forest. 15 people¹⁶⁴ presented such injuries—visible scars distinctive from bullet wounds—to the research team, consistent with accounts stating that Masiza came under surprise attack in the hours before dawn. Others who were not killed or injured and did not flee in time were described as being rounded up by park guards and taken to detention facilities.¹⁶⁵

Panic Migration

The joint operation in July-August 2019 proved to be a large displacement event for the Batwa of Kahuzi-Biega. In the short term, it forced entire villages to flee deep into the forest or into non-Batwa villages on the rims of the park. In the long term, it resulted in an estimated several hundred¹⁶⁶ permanently relocating outside the PNKB where they once again face discrimination, poverty and perpetual

landlessness. The large-scale operation effectively returned many to the state of precarity in which so many suffered for decades before their return to the forest in 2018.

Crucially, and as described above, park guards told the research team that this was precisely the main objective of the operation: to push out Batwa communities and make them afraid to return and rebuild. The research team visited four villages outside the park where it spoke to Batwa communities that frequently called themselves '*bakimbizi*,' a *Kiswahili* word commonly translated as 'refugees,' which more literally means ('running people,' or 'people who had fled').

The research team spoke to more than 100 displaced community members who described leaving behind the villages they had built in the park after the campaign of organized violence that took place in the PNKB in 2019.¹⁶⁷ Notably, the conditions of life in such villages—where Batwa live as landless squatters, entirely dependent upon non-Batwa host communities who frequently discriminate against them—were depicted as being miserable. The displaced Batwa described being vulnerable to exploitation, living in squalid conditions and struggling to secure basic means of survival.¹⁶⁸

Batwa respondents explained that as news quickly spread village to village about the assault on Bugamanda, they fled out of terror. They explained that this was the case in multiple such Batwa villages that were not targeted in the operation. One person told the research team, 'We heard about the violence in the other villages, so we started to flee. We could see that they wanted to terrorize all Batwa out of the forest with these attacks'.¹⁶⁹ Importantly, such interviews indicate that the operation prompted a massive panic migration out of the PNKB, even in villages which were not targeted in the offensive.

The research team could not determine whether the majority of those who fled such villages (i.e. those that were not actually targeted) did so only temporarily (e.g. hiding deeper in the forest or among host communities for a few weeks before returning to their settlements) or if a substantial portion fled permanently.

In total, the research team estimates that at least 1,900 Batwa community members may have been *immediately* displaced by the operation,¹⁷⁰ experiencing forced migration out of the villages. According to a 2017 census, the number of Batwa of Kahuzi-Biega living in the broader region totals approximately 9,600 people,¹⁷¹ representing almost the entirety of the population of this Batwa clan. Assuming the research team's estimated minimum number of Batwa community members who were forced to flee during the offensive is correct, this corresponds to roughly 20 per cent of the *total overall* population of Batwa of Kahuzi-Biega having their lives violently, suddenly uprooted in the days following the violence of July-August 2019.

After the operation, although several hundred community members decided to return and rebuild their villages, at least several hundred never returned out of fear, deciding to live in conditions of squalor and discrimination rather than in terror inside the park. The operation thus triggered large-scale displacement in the short and long term, resulted in several deaths, and deepened the marginalization and desperation of the community overall.

With such displacement being a specific objective of the campaign, it can be said that the landless existence of such communities was effectively reimposed upon them by the park management, which apparently sought singularly to force them out by any means and at any cost. Commenting on life outside the park, one Mutwa man remarked ‘We are Congolese. Every tribe here has its home. We have no land, no home, we live like refugees in our own country’.¹⁷²

Batwa Resistance and Reprisals

At the three major villages targeted in the July-August 2019 offensive, some Batwa attempted to resist the encroaching fighting force, mostly with sticks, spears and knives. This resistance was described¹⁷³ as spontaneous: an immediate reaction to the ambush, as opposed to being planned in advance and/or well-organized. Some described those who resisted as trying to buy time for women and children to flee the villages under attack.¹⁷⁴

All park guards interviewed by the research team noted that, overwhelmingly, resistance took the form of small groups of community members wielding ‘traditional arms’¹⁷⁵ such as spears, knives or machetes as a desperate effort to repel the offensive. The park guards expressed that resistance *with firearms* was extremely sporadic, and all stated that they were aware of the existence of only five to six firearms in total being in the possession of the more than 1,000 Batwa community members living in the Kalehe territory inside the park.¹⁷⁶

This crucially demonstrates that Batwa resistance to the offensive was—as community members described—mostly limited to rudimentary weapons and therefore did not pose a serious threat to the heavily armed, well-trained fighting force comprised of dozens of elite soldiers and park guards. Park guards¹⁷⁷ further told the research team that they were not seriously menaced by the Batwa resisting with simple weapons or by sporadic rifle fire from the hills, noting that each soldier and park guard in the 60+ man joint contingent¹⁷⁸ was armed with an automatic rifle, and several members of the fighting force were equipped with belt-fed machine guns, mortars and RPGs.

The interviewed park guards expressed discomfort at the fact that an operation consisting of highly trained elite

soldiers and paramilitaries equipped with heavy weaponry was expected to confront at most six rifle-carrying Batwa and a small number of others wielding rudimentary weapons. One park guard commented, ‘Many guards really didn’t want to attack the Batwa. Even the pygmies who fought back were just using spears or knives. We had our rifles’.¹⁷⁹

One eyewitness to the attack on Bugamanda—in which the research team was told members of the population fought back with sticks, machetes and spears but no firearms¹⁸⁰—remembered ‘our people who tried to resist used sticks and machetes. We were horrified to see that they’d try to blast them with bombs’.¹⁸¹ Indeed, an interviewed soldier who described participating in the operation recalled that ‘when the pygmies came to attack with sticks, we’d just shoot and kill them,’¹⁸² which spurred laughter among the other soldiers gathered in the location where the interview was conducted.

The minimal resistance does not negate the fact that the vast majority of reports described the operation as mostly impacting unarmed Batwa civilians. It also does not negate the fact that the operation was described as *targeting* the villages themselves as opposed to armed individuals within them, meaning that in effect this was an operation with civilian sites as targets, regardless of incidental and limited Batwa resistance.

In addition to sporadic resistance to advancing joint contingents, a widely publicized killing¹⁸³ of a park guard on 1 August 2019 garnered national attention.¹⁸⁴ In the incident, a PNKB patrol post came under attack by assailants armed with a variety of weapons. Official reports varied widely about the incident and who was responsible for the violence, with official sources in the PNKB claiming that ‘*Mai Mai*’ (i.e., members of so-called ‘*Mai Mai*’ militias, not Batwa) conducted the attack.¹⁸⁵ Importantly, as quoted in Congolese media, official sources made no mention of Batwa involvement in the attack.

Contrary to the official narrative, however, park guards¹⁸⁶ and Batwa community members familiar with the incident¹⁸⁷ describe the attack as being conducted *primarily* by Batwa community members armed with machetes, spears and sticks¹⁸⁸ as a reprisal for the escalating violent evictions conducted by the PNKB.¹⁸⁹ The park guard who witnessed the attack stated that a PNKB superior at the post enthusiastically called out, ‘Let’s kill all those pygmies,’ but the guards refused the order out of discomfort at shooting people wielding rudimentary weapons. The source also told the research team that one park guard in the post went out alone and without his weapon in an attempt to engage the Batwa in hand-to-hand combat before he was killed.¹⁹⁰ All interviewed park guards described this post as being destroyed ‘in the war’¹⁹¹—the phrase used to describe the wave of violent evictions throughout Kalehe territory—although the sequence of

events is not entirely clear, nor why the official PNKB account did not mention the Batwa.

In all, the research team obtained information relating to three instances of Batwa community members committing violent reprisal attacks against park guards.¹⁹² These attacks were in all cases conducted in direct response to large-scale, organized violence committed by park guards and soldiers against community members, and therefore fail as a justification for organized violence. Some community members organized attacks against park guards and soldiers because they had come under attack, not vice versa. Put differently, Batwa community members have not posed any threat to park guards and soldiers until their communities came under direct attack. Reprisals appeared, in all cases, to have been organic, spontaneous, poorly organized, and conducted with crude weapons such as sticks, spears, knives, and machetes, and cannot therefore be meaningfully understood as representing armed mobilizations.

Arrests, Discrimination in the Justice System and Violence in Detention

As many Batwa targeted in the July-August 2019 attacks were fleeing into the forest, others were reportedly rounded up by park guards and soldiers, physically beaten and detained before being processed into some of South Kivu's detention facilities, where they experienced dehumanizing treatment and miserable conditions.

Those detained in the operation joined others already languishing in South Kivu's detention facilities, and several more waves of arrestees would be processed through these prisons in the coming year, especially as the park's efforts to crack down on Batwa communities that resisted park authorities would continue and intensify (see below Sections VI and VII). In 2019 and 2020, the research team found that more than 50 Batwa were arrested in and around the PNKB, mostly on charges such as 'illegal occupation of the park,' often being arrested directly by park guards before being processed through the justice system.¹⁹³

The research team spoke with four Batwa actively detained at one major prison,¹⁹⁴ six who had been previously detained in multiple facilities throughout the region,¹⁹⁵ two family members of detainees,¹⁹⁶ one officer at a detention facility in the region,¹⁹⁷ two human rights lawyers working with Batwa in detention facilities in the region,¹⁹⁸ and three civil society sources involved in documenting the conditions experienced by incarcerated Batwa.¹⁹⁹

Many Batwa—like those detained in the July-August 2019 Kalehe operation—were arrested for living inside the

park or on charges such as 'the destruction of the park'.²⁰⁰ Others, living outside the park, are disproportionately punished for petty crimes or accused of crimes of which they are often innocent. Civil society organizations have documented instances of arbitrary arrests, including cases of Batwa outside the park being detained and imprisoned for months without being presented with a warrant or informed of the reason for their arrest.²⁰¹

One human rights lawyer who works with detained Batwa told the research team that members of the community are 'frequently arrested for small crimes. They are seriously impoverished and that leads community members to engage in petty theft, small acts of stealing foods and such, for which they are disproportionately punished'.²⁰² For this reason, many described a sense of being trapped between two forms of persecution,²⁰³ being treated as criminals inside and outside the park, and in both cases facing the real threat of being arrested and processed through detention facilities where they are brutalized because of their identity.

All Batwa detainees—those arrested for presence in the park and those arrested outside—described similar experiences once incarcerated: facing degrading and violent treatment that may rise to the level of torture. Most described receiving uniquely horrific treatment and conditions while in detention, facing discrimination because of their identity. Although non-Batwa detainees in prisons throughout South Kivu are also subjected to severe deprivation and difficult conditions, prison guards seemingly sought to inflict extreme mental and physical suffering on Batwa detainees specifically because of their identity. Batwa detainees,²⁰⁴ civil society actors and a human rights lawyer²⁰⁵ told the research team that prison guards meted out punishments reserved exclusively for Batwa that were not experienced as severely or at all by members of other ethnic groups. Such discriminatory treatment may constitute torture under international standards.²⁰⁶

Batwa detainees told the research team that they were smeared with human faeces and physically beaten by prison guards,²⁰⁷ experienced violent illnesses for which they did not receive adequate medical attention,²⁰⁸ were deprived of food for days by guards who would eat their meals,²⁰⁹ were left with fetid water to clean themselves²¹⁰—sometimes instead using their own saliva to wash up²¹¹—and were left to sleep on the hard ground.²¹²

The research team interviewed Batwa detainees who appeared visibly emaciated and severely ill, noting that they often only ate when civil society organizations brought them food. They also reported falling violently sick when given prison food.

One Mutwa told the research team that his brother died in detention from the dismal conditions,²¹³ and a civil

society organization also documented the death of another Mutwa in prison.²¹⁴ Civil society organizations have documented general severe, life-threatening deprivation experienced by most incarcerated Batwa, including lack of access to adequate medical care, deprivation of food and being forced to sleep on the ground.²¹⁵

Referring to members of another ethnic group, one formerly detained Mutwa noted ‘They’d never treat *Bashi* the same way they treated us in prison’.²¹⁶ Another formerly incarcerated Mutwa man recalled prison guards regularly shouting ‘die, pygmy!’ before physically beating him. He also recalled prison guards dousing old t-shirts in human faeces and using them to whip Batwa detainees.²¹⁷

Another former detainee recalled ‘we slept on bricks, we didn’t have food, [...] we literally lived in shit and wore tattered clothes falling off our bodies and leaving us naked’.²¹⁸ Others noted ‘We were almost never fed while in prison. We thought we’d starve,’²¹⁹ and ‘We lived in shit and we slept hungry every night, this was our life in prison’.²²⁰

One detainee when interviewed by the research team remarked ‘We are constantly suffering here’.²²¹ Another told the research team ‘I’ve aged from illness, hunger, and suffering here in prison,’²²² adding ‘Look at me. I am filthy. I have to clean myself with my own spit’.²²³ Another detained Mutwa told the research team ‘I can’t keep living like this. All I want is freedom’.²²⁴

Unlike Batwa community members, many of whom still languish in prison, park guards who perpetrate violence against Batwa are rarely subject to any sort of criminal prosecution or judicial proceeding.²²⁵ Across hundreds of victims and eyewitness interviews, the research team was not made aware of a single instance in which any of the abuses documented in this report have been the subject of a criminal prosecution or formal judicial proceeding.

The Role of International Actors in the Immediate Run-Up to the July-August 2019 Operation

Immediately preceding the July-August 2019 operation in Kalehe, international backers of the PNKB provided key support to the Rapid Intervention Unit, providing it with equipment and training, even as park authorities were publicly²²⁶ collaborating with UN-sanctioned General Mundos and commanded by defrocked conservationist Mburanumwe. As described above, the research team found that weeks after this support was provided, the Rapid Intervention Unit led a large-scale offensive against villages inside the park which were shelled with heavy weapons and burned to the

ground in attacks killing and maiming several Batwa community members and displacing hundreds.

Paramilitary training in advance of the July-August 2019 operation

Interviewed park guards described participating in training sessions weeks before the Kalehe operation.²²⁷ The sessions, organized jointly with the Congolese Army, were supported by foreign private military contractors who the park guards called ‘white mercenaries’.²²⁸ These training sessions included training in combat techniques and the use of weapons such as the unit’s mortars, rocket-propelled grenades, and belt-fed PKM machine guns. The park guards reported that although Congolese Army instructors took the lead, private military contractors directly participated in instruction relating to the use of heavy weapons such as mortars.²²⁹

Park guards listed the names of several trainers, described as European nationals,²³⁰ who were involved in multiple training sessions at some point between May and July 2019.²³¹ They could not specify with certainty the affiliation of these private military contractors, but suggested that the trainers may have been working for Maisha, an Israeli private security company that has worked in the PNKB at least as recently as 2017,²³² and reportedly more recently than that.²³³

While the affiliation of these private military contractors is difficult to confirm with certainty, it is important to note that this training—like other training conducted in the PNKB before and after July-August 2019—was conducted in likely violation of the UN Security Council’s arms embargo, as described in Section IX below.

These initial findings require urgent, independent follow-up investigations to determine the precise identity and affiliation of the trainers, especially given the fact it included techniques employed weeks later in an exceedingly violent campaign targeting Batwa civilians.

Key Material Support from Wildlife Conservation Society

In addition to the training from unidentified private military contractors, the park authorities received well-documented direct support for their paramilitary activities, crucially in the immediate run-up to the large-scale operation described above.

The primary international NGO supporting the park, the Wildlife Conservation Society—which frames the PNKB’s paramilitary activities as ‘law enforcement’—has specifically supported the 40-strong elite Rapid Intervention Unit with the payment of salary support,

provision of non-lethal military equipment, and support for training.²³⁴ The Wildlife Conservation Society provided material support to this unit in July 2019, including by supplying uniforms, tents, radios, rations, GPS systems, camp beds and other non-lethal military equipment.²³⁵ Moreover, the Wildlife Conservation Society provided support for park guard training for years before and in the months after the large-scale violence in July-August 2019.

The Warning Letter

Numerous international actors were *specifically warned* about the looming violence in a letter sent by an international human rights organization with a track record of advocacy on behalf of the Batwa of Kahuzi-Biega.²³⁶ The letter, dated 1 May 2019, was transmitted via email to key supporters of the PNKB including representatives of the park's main donors (USAID and KfW) and several representatives of Wildlife Conservation Society.²³⁷

Describing the above-addressed 'ultimatum', the letter states:

*We are hugely concerned about reports reaching us today that Batwa communities in Kahuzi-Biega are being shot at and threatened by Kahuzi-Biega National Park (PNKB) eco-guards. We see this as a hugely unfortunate, unjust and unnecessary development. [...].*²³⁸

Instead of waiting to take the route of dialogue, on 3rd April the Director of PNKB gave the Batwa an

ultimatum to leave their lands in PNKB. He said they must withdraw immediately and that after 30th April (today) PNKB will use any means, including force, to remove them from inside the park.

The Wildlife Conservation Society failed to heed this warning and began providing material support to the Rapid Intervention Unit in July 2019, two months after receiving the letter. Likewise, USAID and KfW²³⁹—both actively funders of the PNKB—maintained their financing and support as planned for months after receiving the letter,²⁴⁰ ignoring or downplaying the explicit warning of severe violence against Batwa civilians.

Despite a clear and specific warning that 'force' would be employed by the PNKB to 'remove' Batwa civilians from their villages inside the park, international backers continued underwriting activities in the PNKB, including to the Rapid Intervention Unit, on an uninterrupted basis, directly contributing to the environment of impunity for human rights abuses that enabled the PNKB to violently remove the Batwa from their ancestral lands in the forest within months, in violation of international law.

Despite troubling indicators of a rapidly deteriorating situation with respect to human rights compliance—including Mburanumwe's recruitment, operational collaboration with forces commanded by UN-sanctioned General Mundos, and reported early violent evictions in June 2019—these international backers openly and enthusiastically²⁴¹ supported the PNKB and its paramilitary activities, directly abetting the large-scale violence that immediately followed.

VI. September 2019-June 2021: Ongoing Abuses, Intimidation and Manipulation

Exodus, No Promised Land

In September 2019—one month after hundreds of people had their lives uprooted by the organized violence of the Kalehe operation—Batwa leaders throughout Kabare territory entered negotiations with PNKB authorities, and several formally agreed that their communities would entirely vacate the villages in the forest, reportedly in exchange for several hectares of land to be provided by the Congolese government. Although many Batwa communities partook in a negotiated exodus out of the park, the government did not provide the land,²⁴² leaving the community with no option but to return to living as squatters.

Likewise, many Batwa throughout Kalehe territory—particularly those from villages targeted in the operation—chose to permanently relocate outside the park, resuming an increasingly sedentary existence among host communities or living at informal sites for displaced people.

Other community members in Kalehe were undeterred by the violence and determined to stay in the forest, returning to rebuild the destroyed structures over almost one month.²⁴³ Batwa leaders in Kalehe reaffirmed their commitment to live in the park even if it meant being violently menaced by paramilitaries and soldiers, describing the situation as an existential struggle between the PNKB and a community that could only expect grinding poverty, entrenched discrimination and deeper cultural loss if they were to leave their ancestral land.²⁴⁴

Community members living inside the PNKB interviewed in 2020 and 2021 shared these sentiments often. At one focus group-style discussion, a Mutwa man stood and remarked with fiery elocution:

*A person who has nowhere to raise their child isn't treated as an equal citizen. Our government doesn't treat us like equal citizens. We have no officially recognized home. But we live here in the forest, and it is our home, regardless of whether that is recognized. I don't care what happens—even if the devil himself crawls out of hell to take our land—we aren't leaving. This is our home.*²⁴⁵

Manipulation, Cooptation and Intimidation of Batwa Leaders

Distinct strategies were employed by PNKB management to capitalize on the gains made in the wake of the organized violence of July-August 2019. PNKB authorities brokered agreements with certain Batwa leaders, initiated a steadily intensifying crackdown on Batwa community members, and sought to delegitimize and intimidate other Batwa leaders. Some Batwa leaders and community members are employed by the PNKB, reportedly receive incentives or privileges from PNKB authorities,²⁴⁶ or are otherwise supportive of the park. One interviewed source described this dynamic as the product of a broader strategy of 'divide and rule'²⁴⁷ vis-à-vis the Batwa of Kahuzi-Biega.

Other Batwa leaders have been targeted through intimidation, harassment and arrests. In the case of one Batwa leader and other community members, arrested in February 2020, the military prosecution against them was decried by international human rights organizations for a 'complete lack of judicial due process,' adding that it was 'filled with irregularities and illegalities.'²⁴⁸ After being imprisoned, these detainees faced degrading and brutal treatment in prison, like other Batwa arrested during the organized violence of 2019 (see above Section V). The arrest of another Batwa leader in November 2020 sparked peaceful protests in the town of Kabamba. As the demonstrations escalated, soldiers shot and killed three Batwa protesters.²⁴⁹ Three other Batwa were shot and seriously injured but later recovered from their injuries.²⁵⁰ Batwa with knives and machetes also killed one soldier.²⁵¹

Days later, soldiers stormed Bugamanda, opening fire on civilians and burning down homes in an attack marking the beginning of a several-day campaign targeting at least three Batwa villages in Kalehe. The research team spoke to community members and leadership that witnessed attacks in this offensive.²⁵² A civil society organization also documented the operation, noting that the attack spanned three days, targeted three villages in the park, involved homes being burned down and resulted in some Batwa being 'seriously injured,' at least four being detained, and several disappearing into the forest while fleeing.²⁵³ Notably, this attack was described as being conducted solely by the Congolese Army, as opposed to being a joint operation with PNKB park guards.²⁵⁴

VII. The Brutal Operations of July, November and December 2021

'We live in the forest. When they confront us, they rape us. Those of us who will die will die, but the forest is where we will stay'.

Young Mutwa woman who was raped by park guards and soldiers in the July 2021 attack²⁵⁵

'They started to kill us in 2019. That's when they started to organize their attacks to murder us. Until today, in 2021, we are still suffering. We aren't rebels, we're just civilians like any other community. [...] We've been expelled from every place we've ever called our own. We have nowhere else to live. If we are going to be exterminated, let us be exterminated on our land'.
Survivor of November-December 2021 attacks²⁵⁶

Introduction

While drafting this report—initially focused on documenting PNKB violence against Batwa communities in 2019 and related dynamics—the research team received information of large-scale violence committed against Batwa communities inside the PNKB in July 2021 and again in November and December 2021. Initial reports indicated that these attacks were more severe than previous ones, including the highly orchestrated, large-scale joint operation in Kalehe in July-August 2019. Among other things, the waves of attacks in 2021 entailed numerous acts of group rape perpetrated by park guards and soldiers against Batwa women inside the PNKB, mutilations of Batwa corpses, the taking of Batwa body parts as trophies of war and other forms of gratuitous violence.

Further fieldwork in July-August 2021 and November-December 2021 confirmed that these attacks were remarkably similar to the organized violence carried out in July-August 2019. The physical evidence collected supports the accounts of Batwa survivors of the July and November-December 2021 attacks, as well as the previous assault in July-August 2019. It specifically corroborates Batwa eyewitnesses who reported that park guards and soldiers used mortars, rockets, automatic rifles and PKM belt-fed machine guns when attacking Batwa villages.

This indicates a consistent pattern of systemic abuses and violent behaviour on the part of the park authorities throughout the three-year period spanning from 2019 through 2021. It also strongly demonstrates that—in the

absence of increased scrutiny and international accountability—the PNKB will continue to organize large-scale acts of violence against Batwa communities underwritten by the park's international supporters.

The Devastating Attack of July 2021

Reports from multiple sources²⁵⁷ indicated that a major assault on at least three Batwa villages in Kalehe territory—Muyange,²⁵⁸ Tchibwisa, and Maruti—was conducted by a joint contingent of park guards and soldiers on 23 July 2021. According to these reports, the operation resulted in a panicked migration of all Batwa out of these villages, and many disappeared deeper into the forest in the exodus.²⁵⁹

The day after the wave of attacks, the author conducted phone interviews with Batwa leaders, a civil society source,²⁶⁰ as well as with displaced Batwa who had fled from Muyange, who corroborated the reports.²⁶¹ Accounts from displaced Batwa described soldiers and park guards arriving early in the morning and opening fire on unarmed civilians with rifles and heavy weapons to force the communities to flee, killing two unarmed community members, and burning dozens of homes.²⁶²

One man described the violence and its impact on the affected community in Muyange:

*So we fled and now here we are as displaced people. You can hear right here behind me, our children are crying. We are hungry, we've been forced out of our home. We're living outside, we have nothing now. [...] It went on the whole day. From the morning, throughout the whole day we heard the awful sound of their weapons. In the morning was when we started to flee, everybody trying to find their children and their families, and after we fled it continued, it was the whole day. [...] Now, here, there's no food, there's nowhere to sleep. Some of us are sleeping on the road, some of us other places. [...] And they burned homes. All the homes. All of them at once. [...] And two of our people died. They shot them and they died right then and there, there on the ground, without even being brought to the hospital.*²⁶³



Figure 4: Sandals warped by fire lying among the ashes.

When asked whether elements of the population, especially those who were shot, were armed, the Mutwa man stated ‘We’re all civilians! We don’t have weapons, we are farmers and common people!’

Given the severity of the attacks, the research team re-deployed to investigate and document physical evidence of the violence within two days of the operation. The team focused on the village of Muyange, located in Kalehe territory, several kilometers away from the major village of Buhoyi and the Batwa ‘capital city’ of Bugamanda. Prior to the assault, it was a vibrant, comparatively small village inhabited by an estimated 100-200 Batwa community members.²⁶⁴ Unlike Buhoyi and Bugamanda, Muyange is located deep inside the PNKB, accessible only through several hours of hiking on foot, partially under rainforest canopy.

The team elected not to visit the other villages attacked on 23 July 2021 due to time and resource limitations. Despite this fact, Batwa leaders and eyewitnesses persistently referred to the destruction of the other two villages (Tchibwisa, and Maruti). All indicators show that Muyange was the epicentre of the operation and the location of the most ferocious attack.

Because Muyange was destroyed in its entirety, it was completely abandoned by the time the team arrived. Thus, eyewitnesses and survivors were interviewed among the scattered community that fled the attack and went into hiding. Some hid deep in the forest (beyond proper

settlements, in unsettled stretches of forest awaiting the opportunity to return to a settlement), others fled outside the park to non-Batwa villages, which others relocated to other Batwa villages inside the park.

In total, 14 Batwa eyewitnesses and survivors of the attack on Muyange were interviewed. These interviews took place in Buhoyi, among displaced Batwa outside the park, and in the uninhabited forest surrounding the hill where Muyange formerly sat. Batwa community members interviewed during the course of this investigation recounted the 23 July 2021 violence with remarkable consistency.



Figure 5: Burn scar and burnt home.

Indiscriminate Shelling and an Execution-Style Killing

Upon arrival at Muyange, the team found the village flattened. It contained dozens of destroyed structures: homes, a market, and community meeting areas, among others. Alongside this were over 100 foot-long patches of scorched earth, still smoldering from the immolation days earlier. The team found tattered clothing, children's toys and backpacks warped by flames, blood-soaked greenery, and hundreds of shell casings from automatic rifle rounds strewn throughout the village.²⁶⁵ (See Figures 4, 5, 6, and 7).

Batwa eyewitnesses explained that in Muyange, a joint contingent of park guards and soldiers (which eyewitnesses differentiated by their clothing) arrived in the morning and set up a machine gun position where they started opening fire with automatic rifles and belt-fed machine guns into the village.

The eyewitnesses²⁶⁶ explained that after opening fire into the village from the machine gun position, the park guards and soldiers advanced to the village on foot, burning every structure they encountered, starting with the large market area at the entrance of the village, before

moving to the homes. They also burned shrubbery—aware that Batwa might be hiding there—in an apparent effort to force hiding community members out or burn them alive.

Eyewitnesses described two men being shot and killed, with one killed execution-style by park guards and soldiers who bound his arms, drove a bayonet into his stomach, placed the barrel of an AK-47 inside his mouth, and murdered him as his 15-year-old nephew looked on. The team obtained crude cellphone photographs of the man's corpse that are consistent with eyewitness accounts of his execution.

The man's 15-year-old nephew told the team that 'after I watched him die, I fled out of the park. I lay down on the ground and I could hear the bomb blasts and rifle fire. I said to myself, weeping, 'Oh my god, everyone in Muyange has been killed!'²⁶⁷ The teenage boy's father was the other man killed in the attack. Two days later, he returned to Muyange to discover the village destroyed and the corpse of his father. 'My father's corpse was there decaying. All I could do was weep. [...] I wanted to give him an honorable burial, but we were terrified because we heard there were still park guards and soldiers in the forest. So we quickly dug the hole and threw his body into the dirt'.²⁶⁸



Figure 6: Ruins of a destroyed home.



Figure 7: An aerial photo of Muyange, reduced to long patches of scorched earth.

Holding back tears, the 15-year-old boy stated:

These attacks are to steal our land. The soldiers and park guards say that we don't have the right to live on our land. But this is our land. We have nowhere else to live.

*I will never leave this forest. This is not a park, this is our forest. The Batwa were the first to live in this forest. My great grandfather died in this forest. My father's father died in this forest. And now my father has been killed in this forest. I will die in this forest. Even if they kill us all, if they want to wipe us all out. Let them. I'd sooner die than leave. We will never leave the place where they buried my father. We are sitting here in front of my father's grave now. I will never leave the land where he was buried.*²⁶⁹

Another survivor recalled the brutality of the attackers, remarking, 'We've been left asking: are we humans or are we animals?'²⁷⁰

Group Rape as a Weapon Against Batwa Women in Muyange

All the eyewitnesses interviewed described park guards and soldiers repeatedly raping at least nine Batwa women in Muyange,²⁷¹ two of whom died from the trauma in the following days²⁷² and one of whom suffered a miscarriage

after the assault.²⁷³ Most community members interviewed estimated that approximately 20 park guards and soldiers were involved in this group rape, which reportedly lasted for no less than one hour, and occurred under the threat of execution (specifically, the women were told they would be executed if they fled or cried for help). A total of six Batwa women described being violently and repeatedly raped by soldiers and park guards during the 23 July 2021 attack.

Some of the raped women stated that they were raped *because* they are Batwa. One woman noted that the park guards and soldiers that raped her said they were doing it to heal their backs.²⁷⁴ This is in reference to a commonly-circulated racist belief that having sex with a Mutwa woman can heal injuries and ailments.²⁷⁵ Other women believed the park guards and soldiers raped them as 'spoils of war,' or to terrorize the community to fulfil the objective of forcing them off their ancestral homeland.²⁷⁶ One 19-year-old survivor remembered that 'they followed me into the forest, they caught me and raped me. Three soldiers and park guards raped me,' adding 'they are attacking us because they want to take our land'.²⁷⁷

A 17-year-old girl recalled that when gunfire first erupted, she thought the joint contingent would only attack the men, assuming that women would be left alone. She then described seeing approximately 20 soldiers and park guards approaching her and other women around her. She described being raped by two park guards and two soldiers, recalling 'they ripped off my clothes, they

held me down by the arms, and they raped me. When one finished the next would come'.²⁷⁸

One woman who suffered a miscarriage after being violently raped by one park guard and two soldiers stated, 'They grabbed us like animals who are being slaughtered. [...] When one left, another entered me. They raped me for one hour'. At the end of the interview, she stated with resolution, 'We won't leave our land. If they want to finish us off, they will finish us off. But this is our land'.²⁷⁹

A 20-year-old woman²⁸⁰ recounted hiding from the park guards and soldiers with her infant child when the child started to cry. She recalled that a group of park guards and soldiers found her, threw the baby on the ground, tied her arms and legs to tree branches and began to rape her for more than one hour as her baby lay next to her.

Another survivors stated, 'We're terrified. But we say this: if they're going to come shoot us, come shoot us and kill us there where they killed our brothers and fathers. We will die there, we will not leave our land again. [...] We live in the forest. When they confront us, they rape us. Those of us who will die, will die, but the forest is where we will stay'.²⁸¹

The Physical Evidence

The physical evidence gathered corroborates witness accounts of the nature and scale of the violence in Muyange and the overwhelming force unleashed by park

guards and soldiers during the assault, in a chillingly similar *modus operandi* to the July-August 2019 operation.

The team located ammunition boxes left behind, a container for a charge used by a GP7 RPG (the recovered container is for a GP7 propelling charge) and a fully intact 60mm mortar canister case.²⁸² The team also recovered 7.62x39mm shell casings (from rounds used in AK-47 automatic rifles) and 7.62x54Rmm shell casings (from rounds used in PKM belt-fed machine guns)²⁸³ (see Figure 8).²⁸⁴

Moreover, the research team visited four freshly-dug graves of Batwa killed in the assault.²⁸⁵ Two of the graves were adorned by Batwa mourners with shell casings and munitions boxes left behind by the attackers on the graves, a potent reminder that the deceased were targeted and killed by a well-equipped paramilitary force (see Figure 9 and Figure 10).

The Urgent International Condemnation Letter

As evidence was being gathered in the immediate aftermath of the 23 July 2021 attack, Batwa leaders remained concerned about the movements of park guards and soldiers in areas adjacent to Buhoyi and Bugamanda, major Batwa villages that had been spared in the more recent assault.²⁸⁶ Scattered reports circulated about plans for follow-up waves of attacks.



Figure 8: AK and PKM shell casings left on the ground.



Figure 9: A makeshift headstone holding an open munitions box.

On 29 July 2021, a letter—not made public—was co-signed by 12 Congolese and international advocacy organizations and sent to the PNKB and ICCN leadership. The correspondence was forwarded by email to representatives of key international backers, including the Wildlife Conservation Society, KfW, GIZ, GFA Consulting Group, USAID, and the US Fish and Wildlife Service.²⁸⁷ Every major international park supporter was made explicitly aware of the serious

abuses documented within days of the attack. The letter stated:

*The undersigned organizations are writing to express their deep concern and dismay over reports that joint contingents of park guards of the Kahuzi-Biega National Park (‘PNKB’) and soldiers of the Armed Forces of the Democratic Republic of the Congo (‘FARDC’) have recently attacked villages inside the PNKB and committed serious human rights abuses, including the killing of two Batwa civilians. [...] It is reported that, beginning on or around the morning of Friday, 23 July 2021, dozens of PNKB guards and FARDC soldiers advanced on villages in the Mabingu grouping and near Kayeye and opened fire on Batwa civilians with an arsenal of rifles and heavy weapons. [...] Batwa children have been reportedly separated from their families and have yet to be reunited. Park guards and soldiers have burned dozens of homes, rendering hundreds homeless, reportedly forcing some Batwa to sleep on the road or to seek shelter with non-Batwa communities.*²⁸⁸

None of the PNKB’s international supporters publicly condemned the violence, nor conducted the independent investigation into the allegations called for in the letter



Figure 10: A headstone adorned with shell casings and an RPG propelling charge canister.



Figure 11: One of many homes burnt and destroyed in a major attack targeting Batwa villages in July 2021.

and corroborated by this report. They also did not alter their support of the PNKB.

The German Ambassador Arrives

Eleven days after the PNKB's horrific assault targeting Batwa civilians in July, on 4 August, the German ambassador to the DRC, Oliver Schnakenberg, made an official visit to the park in a public demonstration of support for the PNKB that was unrelated to the violence committed against Batwa communities days earlier. The ambassador was welcomed by Director Bya'Ombe and a representative of GIZ.

The German ambassador and the GIZ representative were likely visiting the park in connection with the German government's longstanding funding and support of the PNKB. Although it seems that the German ambassador—whose government has helped underwrite the PNKB's operations for decades—was not aware of the horrific acts of violence of a few days earlier, it is notable that representatives of GIZ received the above-described letter five days before this well-publicized event at the park. During their visit, the ambassador reportedly expressed his appreciation for the work of the park authorities, promised to encourage German tourists to

visit PNKB and took photographs with park leadership and guards.²⁸⁹

The PNKB took advantage of this public expression of support to publish an article on their website touting the safety of the park for visitors and highlighting the German government's backing of the PNKB. It made no mention of the violence that had taken place days earlier.²⁹⁰

Isolated Acts of Destruction and Intimidation Foreshadowing More Violence to Come

In late August 2021, community members and leaders²⁹¹ reported further movements of park guards adjacent to the villages of Buhoyi and Bugamanda. Many park guards reportedly threatened Batwa, telling them that if they failed to leave, their villages would be burned and they would be shot.²⁹²

Batwa also reported that park guards had set up camp on top of a hill near the major village of Buhoyi. All the Batwa women were reportedly evacuated from the village (including rape survivors who had fled to Buhoyi from Muyange in July) out of fear that the park guards would rape more Batwa women in an impending attack.²⁹³ On



Figure 12: Screenshot from a video taken by a Mutwa community member in which Batwa homes were burnt by park guards in the wake of the July 2021 operation targeting Batwa villages.

25 August, park guards burned down a small number of homes on the rims of the village of Buhoyi (no more than five homes), threatening to return the following day to burn down the rest, although the threat did not immediately materialize. The isolated destruction of these homes was documented by a Batwa leader who photographed the burning homes.²⁹⁴ Commenting on isolated acts of destruction and the park's broader strategy, the leader stated, 'It's clear. Their objective is to expel us just like they expelled our ancestors'.²⁹⁵

This assessment turned out to be prescient. On September 2021, after a meeting between PNKB representatives and local civil society organizations to discuss growing concern over the situation of the Batwa, Director Bya'ombe told civil society representatives that they needed to figure out a way to convince the Batwa inside the park in Kalehe to leave or else he would have no choice but to use force.²⁹⁶

In this same time period, the research team also received reports of efforts on the part of the PNKB to co-opt Batwa leaders resisting the forced expulsion from the park. One leader reported receiving an offer from the park authorities in which he would receive an apartment in the city of Bukavu in exchange for his commitment to force Batwa under his leadership to abandon their villages inside the park.²⁹⁷ The team was unable to confirm that such offers had been made, relying on firsthand accounts of Batwa leadership. These offers were reportedly refused by multiple Batwa authority figures.

In a dramatic reversal, at the end of September 2021 reports were received of efforts to arrest the Batwa leaders to whom the park had reportedly attempted to make overtures weeks earlier that had been rebuffed. Three major Batwa leaders based in Kalehe were reportedly driven into hiding, with PNKB guards hunting them in villages throughout the region, reportedly harassing family members of at least one

in an effort to track him down. At the time of the writing of this report, some remain in hiding.

Operation of November – December 2021

After months of relative calm, park guards and soldiers carried out a new wave of attacks beginning on 11 November 2021, this time targeting seven Batwa villages inside the park (Muyange, Bugamanda, Maruti, Tchibwisa, Buhoyi, Kayeye I and Kayeye II), and burning them to the ground entirely.²⁹⁸ These attacks, which spanned several weeks, ranked among the most gruesome and devastating since 2019. According to eyewitness accounts two Batwa children were burned alive, at least three community members were shot and killed, before their corpses were mutilated and displayed to terrorize community members, and upwards of 20 Batwa women were subjected to mass group rape by park guards and soldiers. These abuses were documented by the research team over the course of several days in early December—two weeks after the initial attacks on 11 November 2021. While the research team was in the field, Batwa communities—still scattered, dispersed and homeless after the attacks weeks prior—came under attack for a second time on 3 December 2021, resulting in further egregious violence. In total more than 20 eyewitnesses and survivors were interviewed across the November-December 2021 attacks, including seven women who described being subjected to group rape by parks guards and soldiers in the attacks.²⁹⁹ The research team also visited the graves of four Batwa killed³⁰⁰ and surveyed the wholesale destruction of four villages destroyed in the attacks.³⁰¹

November Attacks

Eyewitnesses described park guards and soldiers committing successive attacks sweeping across Batwa villages beginning on the 11 November 2021. On 11 and 12 November, the villages of Muyange and Tchibwisa, both destroyed in the July 2021 attack but gradually rebuilt and repopulated, came under attack by park guards and soldiers who opened fire and burned the villages to the ground a second time, forcing residents to flee.

Eyewitnesses described a large contingent of park guards and soldiers arriving in Bugamanda on 13 November 2021, which had been burned to the ground in the July-August 2019 operation but was rebuilt and repopulated by hundreds of Batwa for more than two years. Consistent with the *modus operandi* documented by the research team across numerous attacks on Batwa villages beginning in 2019, park guards and soldiers were described as opening fire with automatic rifles and heavy

weapons, forcing Batwa to flee before burning down the entire village, destroying almost all the homes and structures including a major school.

Eyewitnesses reported that although many community members had already fled Bugamanda, two children from one family hid in their home. Several eyewitnesses³⁰² and the children's mother told the team³⁰³ that when the attackers arrived at this home, they began to burn it down, forcing the door shut while the children inside frantically tried to escape the flames. Eyewitnesses described the children burning alive inside the home before their burnt bodies lay for several days in the abandoned village.³⁰⁴

One eyewitness who described returning to the burnt village two days later recalled 'when we saw the children, all that was left was their skeletons. Skeletons lying among the ashes where they had been burned alive'.³⁰⁵ Another eyewitness said, 'At first, I thought that the soldiers and park guards had cooked an animal in one of the houses. Then I went closer and I saw that it was the skeletons of children that they had burned alive'.³⁰⁶ The research team visited the burnt home where the children were described as being burned alive³⁰⁷ and also visited the graves of the children.³⁰⁸

Community members³⁰⁹ including an immediate relative of the children,³¹⁰ said that after burning the children alive and destroying Bugamanda, the park guards and soldiers shot and killed a teenager, severing one of his fingers to keep as a trophy. The research team visited the grave of this Mutwa teenager.³¹¹

Community members also stated that, during the three-day period (11-13 November), two Batwa women had gone into the forest to make charcoal, where they were confronted by park guards and soldiers who kidnapped them, brought them to a position from which they had been coordinating attacks on Batwa villages, and repeatedly raped and severely physically abused them. While the team was unable to conduct interviews with these women directly, the incident was described by numerous community members.³¹²

By the time the team began conducting interviews on 2 December 2021, hundreds of residents of Bugamanda and the smaller nearby village of Maruti were dispersed and homeless. The few that returned to Bugamanda were sleeping outside on the ground while many were still missing and/or hiding in the forest.

Reflecting on the attacks, one community member commented:

*They burned four of our villages down in three days. For three days: burning homes, burning homes, killing people, killing people, and raping women? What can I even say?*³¹³

Another community member stated:

*What we saw confounded us. [When the soldiers and park guards arrived] they started to burn homes and to burn Batwa. They've burned us alive, they've murdered many of us, they've raped many of our women. They've destroyed everything. All good things they have destroyed with fire. Our school, our homes, our people. All burned.*³¹⁴

December Attacks

While *en route* to Bugamanda to continue conducting interviews on the morning of 3 December 2021, the research team heard heavy automatic rifle fire emanating from a nearby village. The team also began receiving calls from community members who described park guards and soldiers organizing new attacks on the dispersed populations hiding around the destroyed village. After several days, the team returned to the park to document the violence associated with the 3 December 2021 attack.

Community members described park guards and soldiers returning to attack those hiding near Bugamanda, killing at least two Batwa in the process. Commenting on the timing of the 3 December 2021 attack, one survivor remarked:

*After the initial attacks [in November] they stopped. They stopped attacking us so they could hunt us where we were hiding in the forest. They did their patrols, they did their surveillance, then once they found us and our children, again they continued attacking and killing us. When they found us, they opened fire on us again and more died.*³¹⁵

Community members described a gruesome episode in which a teenager wielding a spear to fend off the attackers was shot and killed by park guards and soldiers who proceeded to cut up his body with machetes, taking one of his hands as a trophy, cutting him open from the back, and stuffing the corpse of another Mutwa who had been killed inside him.³¹⁶ Eyewitnesses who observed the mutilated corpses said that at least one of them had been decapitated and the head was placed on a sharp piece of wood left in the ground.³¹⁷

A survivor of the 3 December attack remarked:

They started to kill us in 2019. That's when they started to organize their attacks to murder us. Until today, in 2021, we are still suffering. We aren't rebels, we're just civilians like any other community. And we're being burned alive in our homes, we're being murdered. Just the other day they killed two more of us. They cut one open and stuffed the other

*inside. They did this to terrorize us. So that we would all see the corpses that they slaughtered, so that we'd flee. But we have no place to go. We've been expelled from every place we've ever called our own. We have nowhere else to live. If we are going to be exterminated, let us be exterminated on our land.*³¹⁸

Another survivor commented on the mutilated corpses, remembering that:

*They cut the first one open like they were slaughtering a cow or a pig. Then they decapitated him and put his head on a stick to terrorize the rest of us. And they took his hand and went with it. Haven't I already told you? This is a genocide!*³¹⁹

Community members³²⁰ and direct victims³²¹ also described park guards and soldiers subjecting several Batwa women to group rape in this attack. The research team interviewed seven women who described being forcibly raped at gunpoint by multiple park guards and soldiers.³²² All interviewed sources who described the incident, including the seven interviewed women themselves, said that more than 20 women in total were raped in this attack.

Consistent with descriptions of group rape in the July 2021 attacks, Batwa women said that while park guards and soldiers fired on the men, they encouraged the women not to flee. After dispersing the men, Batwa women recounted park guards and soldiers raping them at gunpoint for more than one hour, some while their infant children lay on the ground next to them.³²³ Every woman interviewed described being raped by multiple individual park guards and soldiers. One woman sustained such severe injuries that she was unable to sit down, preferring to stand for the interview.³²⁴ Most sources, including victims themselves, said that Batwa children as young as 10 years old had also been raped, although the team did not interview any children who described being subjected to group rape.³²⁵

One recurring theme heard consistently in the interviews was articulated by one Mutwa woman who had been raped:

They're doing this to force us off of our land. It is the land of our ancestors. [...] They kill our men, but when they find us, they tell us not to flee. After the men have fled, they rape us. This is to expel us from our land. But we've already refused. We won't leave our land.

Sporadic reports were received to suggest that, in an apparent reprisal for the 3 December 2021 attack, some Batwa community members organized an act of vengeance

on park guards in which one guard was attacked with blunt weapons and severely injured. The team was unable to verify this information.

At the conclusion of its fieldwork in December 2021, Batwa community members inside the park remained in an extremely vulnerable and precarious state. Some were missing at the time the research team conducted its fieldwork. All community members interviewed by the research team assumed that, between the earlier attacks in November 2021 and the repeat attack on 3 December, at least several of those who had been missing had likely starved to death while hiding in the forest.

Others were experiencing obvious and extreme hardship in the aftermath of these vicious attacks. One woman subjected to the group rape said she had not eaten for several days, suffering from the dramatic disruption of their lives. Commenting on this fact, she noted:

*There is nothing to eat. We are living in hiding in the forest, our villages have been turned to ash. There's nothing to wear, nowhere to live, nothing. We have nothing. They have destroyed it all.*³²⁶

Director Bya'Ombe's Response to Serious Allegations of Human Rights Abuses

On 10 August 2021, Director Bya'Ombe issued an official denial of the specific claims made by national and international advocacy organizations in a letter sent to the park and its supporters on 29 July, in relation to the 23 July 2021 attack.³²⁷

At its core, the PNKB's official denial revolves around a simple claim: that the Congolese Army alone, without park guards, conducted operations on 23 July 2021 targeting predominantly ethnically Hutu rebels associated with what are called *Nyatura* groups. Director Bya'Ombe maintained that park guards played no role in the July 2021 attacks *and* that Batwa were not targeted. Both claims are demonstrably false.

Importantly, *all* Batwa eyewitnesses and survivors interviewed specified that Muyange came under attack on 23 July 2021 by a *joint* contingent of soldiers and park guards, differentiating the units by their uniforms, distinctive even at a distance. Batwa sources correctly described the uniforms of PNKB park guards, and survivors such as the women who were raped and the teenager who witnessed his uncle's execution saw the attackers up close for extended periods of time.

To corroborate eyewitness accounts, multiple park guards were interviewed, two of whom directly participated in the 23 July 2021 attack. They stated that the operation was conducted by park authorities in collaboration with the Congolese Army, noting

preparations that occurred beforehand and describing the operation being conducted by both park guards and soldiers.³²⁸ Crucially, a participating park guard specified that the joint contingent's operation against Hutu rebels of *Nyatura* groups was entirely separate from the attack on the Batwa civilian village of Muyange. According to the park guard, the explicit objective of the attack on Muyange was to destroy the village with the purpose of 'removing the pygmies from there'.³²⁹

Director Bya'Ombe's claim that Batwa were not targeted is further contradicted by what is documented in this report, the wholesale destruction of a Batwa village: homes, a market and areas for children to play. The graves viewed by the team did not belong to Hutu rebels but to Batwa community members, including two women who died after violent group rape by park guards and soldiers, reportedly *because they were Batwa*. No evidence was found linking the destroyed Batwa village to Hutu rebels, nor any indication that the 23 July 2021 attack had any other objective than—in keeping with the park's *modus operandi* since early 2019—the violent eviction of Batwa from their ancestral homeland.

There were July reports in Congolese media of army operations (i.e., operations not involving the PNKB) targeting rebels of the predominantly ethnically Hutu armed group known as the CNRD (the so-called National Council for Renewal and Democracy, an offshoot of the infamous FDLR comprised of the forces that perpetrated the Rwandan genocide in 1994 before organizing a strategic retreat into the eastern DRC).³³⁰ Director Bya'Ombe's denial appears to refer to these operations (although the CNRD are not a *Nyatura* group as such), which he notes occurred around a site inside the park called Mugezi.³³¹ Importantly, Mugezi is several kilometers away from Muyange.³³²

The author has no reason to doubt the official claim that a Congolese Army operation targeting the predominantly Hutu CNRD did occur in late July 2021. It may have been conducted exclusively by the FARDC or involved park guards. Regardless, it is undeniable that in the same time period—perhaps under the cover of operations to rout Hutu rebels—soldiers and park guards razed at least one Batwa village, executed Batwa civilians and raped several Batwa women. Whether or not Hutu rebels—of *Nyatura* or the CNRD—also came under attack at a separate location is immaterial to the veracity of the facts documented.

No evidence uncovered indicates any armed elements among the Batwa living in Muyange, and unlike in villages targeted in the campaign of summer 2019, the research team found no evidence of any resistance to this attack whatsoever. Put simply, all indicators confirm this was an attack *targeting civilians*.

PNKB authorities engaged in similar stonewalling and denialism in relation to the November–December 2021 attacks. On 17 November 2021, Director Bya'Ombe responded to a follow up communication sent by MRG regarding renewed attacks alleged to have taken place between 12–14 November 2021 in Kalehe (see above).

Like the earlier denial, Director Bya'Ombe rejected any suggestion of PNKB involvement in military operations against Batwa civilians, attributing any violence that might have taken place to operations by the Congolese Army to rout militias that had fled to the PNKB following attacks on the city of Bukavu on the evening and early morning of 9–10 November. He also referred to an alleged attack of the Tshibati patrol post by armed militias on 6 November 2021, without specifying how it might be connected to allegations of widespread attacks on Batwa civilians.³³³ Notably, the attacks on Bukavu conducted on 9–10 November were conducted by a major secessionist movement with no relationship whatsoever to Batwa communities. In fact, elements of this secessionist movement *also* conducted attacks targeting Batwa, and attacks by the park targeting Batwa villages therefore cannot be justified by reference to these incidents. Put simply, the reference is a *non sequitur*.

The Park Director's response disputed the existence of any Batwa civilian villages located inside the PNKB, implying that any Batwa located inside the park had allied themselves with armed militias engaged in illegal mineral extraction.³³⁴ However, the team spent several months over a year working in and around the Batwa villages located inside the park, none of which are mining operations, nor can they be considered anything other than Batwa settlements.

The letter concluded by wrongly suggesting that 'some international and national NGOs are contributing to the destabilization of the east of the country by advising the Batwa to be human shields for armed groups in order to prevent operations on grounds of violation of rights'.³³⁵ This remarkable allegation is not accompanied by any evidence, nor did the team uncover any evidence indicating that Batwa at any point served as 'human shields' for armed groups in the park. Across hundreds of interviews with Batwa community members in a wide variety of settings, not so much as an insinuation to this effect was expressed.

The PNKB's official denials represent an effort to deny that the park targeted Batwa on 23 July 2021 and on 12–14 November 2021. The contents of these contradictory denial letters are easily disproven, but nonetheless contributed to some of the park's major supporters initially abandoning efforts to investigate the attack of 23 July. For instance, in an e-mail communication, representatives of KfW noted, 'We received in copy

[Director Bya'Ombe's] answer as of 10th August 2021, [...] based on the information that is available to us we have found no evidence that would suggest a participation of [PNKB guards] in the given case'.³³⁶

Although KfW representatives later reversed this position, expressing concern and requesting further information about the documented abuses, the

organization's initial impulse was to entirely dismiss allegations of severe and organized abuses by park guards—based at least partially on the text of a letter containing major factual inaccuracies. This demonstrates the readiness of some of the PNKB's international supporters to protect the park even in the face of credible reports of grave human rights violations.

VIII. Denialism by the PNKB and its Supporters

Obfuscation and Lack of Political Will to Investigate Credible Allegations of Abuse

Though the PNKB leadership did not respond to repeated attempts to seek comments about the findings of this report,³³⁷ the PNKB does not publicly acknowledge direct violence against Batwa communities. Its media apparatus creates public narratives about park violence framing PNKB paramilitaries as simply enforcing the law, maintaining peace, safeguarding biodiversity and ‘securing the Park for tourists’.³³⁸ Nonetheless, this report documents evidence of an operation with the explicitly stated intention of dismantling Batwa settlements in July-August 2019, and two subsequent, comparable operations in July and November-December 2021, resulting in well-organized and premeditated violence against Batwa civilians. This section of the report explores the denialism on the part of the PNKB and its supporters and the reasons offered up to justify violence against Batwa communities.

Presence of Armed Groups in the PNKB

The PNKB’s public statements paint a picture in which the *only* military-style operations conducted were targeted at armed groups rather than Batwa communities. In discussing military-style operations inside the PNKB, park authorities have referred to the presence of ‘armed groups’³³⁹ such as *Nyatura* and *Mai Mai* groups—several of which are parties to active hostilities in and around the PNKB.

Though several such armed groups are in conflict with the Congolese Army and, to a certain extent, the PNKB’s paramilitary force, these do not directly relate to the decades-long struggle of the Batwa to return to the forest. Park guards told the research team that, internally, the PNKB leadership justify operations targeting Batwa villages in the park by claiming that the Batwa of Kalehe had established alliances with armed groups and were actively collaborating with them inside the park.³⁴⁰ Apart from a limited alliance-of-convenience in 2019 with an armed group led by a rebel called Cisayura—who reportedly guaranteed the Batwa protection from the

state—no evidence of this was found by the research team. Importantly, this alliance of convenience did not result in any actual armed mobilization of Batwa communities inside the park, and ended in 2020, prior to multiple operations targeting Batwa in 2021.

Regardless of the truth of the claim linking Batwa communities in Kalehe to armed groups, it fails as a plausible justification for the Kalehe operations in July-August 2019, July 2021 and November-December 2021 in which the *targets themselves* were not individual militants or armed group training camps but rather the Batwa villages. The operations—which did not so much as disrupt the activity of armed groups in and around the park—were comprised of coordinated strikes on Batwa villages to forcibly displace unarmed civilians from their ancestral lands. Despite this, the PNKB’s narrative around combatting armed groups as a justification for military operations targeting Batwa villages has been embraced in the media.³⁴¹

No evidence was uncovered indicating that Batwa villages were home to armed groups, used as bases, or otherwise related in any way to the conflict between the Congolese authorities and armed groups. Even if incidental linkages were to exist, there are still no reasonable criteria by which these villages could be considered legitimate targets in a military operation to rout armed groups.

Moreover, participants in the July-August 2019 operation described its primary objective as the expulsion of Batwa communities from the forest by force, primarily to instill a message of terror consistent with Director Bya’Ombe’s ultimatum of several months earlier.³⁴² Although Director Bya’Ombe reportedly denied making such an ultimatum,³⁴³ park guards privy to internal conversations and the subsequent evictions confirmed that it was issued.³⁴⁴ The subsequent large-scale attacks in November-December 2021 were also reportedly preceded by another ultimatum from Director Bya’Ombe to local civil society organizations in September 2021 urging them to convince Batwa to leave the PNKB or else the park authorities would expel them by force (discussed in Section VII above).

These ultimatums confirm what an armed group-focused framing of the park's military-style operations obfuscates: a concerted plan to target civilian sites inside the PNKB to violently expel Batwa from the park. Within two months of 30 April 2019, the date on which the original ultimatum supposedly took effect, large-scale evictions at nearly 10 villages in the park were reported, clearly demonstrating that the PNKB was employing violence with the express intention of evicting Batwa communities, not combating armed groups. It further demonstrates that the July-August 2019 operation was planned far in advance (at least as far back as 3 April of 2019, when the original ultimatum was announced, although likely even earlier) and sanctioned at the highest level by PNKB authorities.

Thus, the presence of armed groups within the park, as consistently used by the PNKB, is an unjustifiable pretext for the commission of large-scale violence against Batwa men, women and children civilians living on their ancestral lands in the forest.

Failure to Investigate Credible Allegations of Human Rights Abuses in the PNKB

Despite numerous unresolved human rights abuses against Batwa, dating back several years, no independent investigation has been conducted in the PNKB to date. Beginning in 2019, international supporters of the park were notified in writing multiple times of the specific risk of large-scale violence and provided with reports of egregious human rights abuses committed by park guards they support.

Despite this, these organizations failed to leverage their financial and political power to facilitate an investigation into credible allegations of serious human rights abuses.

On 24 December 2021, following multiple exchanges with KfW (the German development bank) detailing the overwhelming evidence documented during the investigation, MRG received a communication from the Director of ICCN's human rights unit indicating that it was planning a 'mixed and independent' investigation into allegations of human rights abuses in the PNKB.³⁴⁵ As of the date this report went to press, the investigation was in the early stages of being planned, and it is unclear to what extent the findings of the mixed and independent investigation will be made public. It also begs the question of whether in the absence of the investigation underlying this report, allegations raised by civil society would have been sufficient to prompt ICCN to investigate.

This underscores the failure of the PNKB and its supporters to adequately respond to serious allegations of human rights abuses and provide redress, compounded by the absence of adequate grievance or monitoring mechanisms in the PNKB, and an apparent lack of political will by the park's international supporters to robustly investigate such allegations with any sense of urgency, despite knowledge of allegations of human rights abuses committed in the PNKB. This puts the onus on civil society and human rights organizations to investigate and corroborate abuses, as done in this report. Such organizations do so with very limited funding to conduct investigations as compared to the millions of dollars international supporters pour into the PNKB. This dynamic contributes to an institutional culture of impunity that thrives on willful blindness and plausible deniability, and ultimately enables further abuses to take place unabated.

IX. The UN Arms Embargo

Violations of Binding International Law by the PNKB's Supporters

The DRC is under a mandatory, legally binding UN Security Council arms embargo, which requires member states supporting the Congolese government with arms and related *materiel*³⁴⁶ or 'any provision of assistance, advice or training related to military activities in the DRC' to notify the UN Security Council's DRC Sanctions Committee of such support.³⁴⁷ If any such assistance is provided without a notification, it is in violation of the arms embargo. Support that is provided by private actors to the Congolese government must also be covered by a notification to the Sanctions Committee.³⁴⁸ Thus, if governments or private actors (such as international conservation organizations or private security firms) support military or paramilitary activities in the DRC without a notification, it represents a violation of the UN arms embargo.³⁴⁹

Such embargoes, usually part of a broader sanctions regime levied by the Security Council, are generally imposed in countries where there is an armed conflict or where armed actors carry out violence against civilians. Such regimes have been described as being designed to 'coerce states and non-governmental actors to improve their behavior in the interests of international peace and security'.³⁵⁰

Three well-placed sources with knowledge of the UN Security Council's arms embargo in the DRC indicated that some major support for the PNKB's paramilitary apparatus—especially support for training park guards—provided in the last five or more years has been supplied in violation of the UN arms embargo.

More specifically, the well-placed sources told the research team that some of the park's international supporters provided support for training or non-lethal military equipment to PNKB park guards without any notification to the UN Sanctions Committee.³⁵¹

The entities that provided training or support for training in this time period—in violation of the UN arms embargo—include, but are not limited to, the US Fish and Wildlife Service (a U.S. government agency), KfW (a German state development bank), the Wildlife Conservation Society, GFA Consulting Group, and Maisha Group Ltd. GFA Consulting Group supports the park under a biodiversity project funded by KfW.³⁵² The Wildlife Conservation Society has supported the park under projects funded by the US Fish and Wildlife Service and USAID.

In written responses to this report, The Wildlife Conservation Society and GFA Consulting Group acknowledge that their training and support to park guards was done without an advanced notification to the UN Security Council's DRC Sanctions Committee but argue that it nevertheless did not constitute a violation. Instead, they claim that the notification requirements under the UN arms embargo do not apply to support and/or training provided to Congolese government entities, such as the Congolese institute for the Conservation of Nature (ICCN), citing paragraph 2 of UN Security Council Resolution 1807.³⁵³ This interpretation is contradicted by a plain reading of the resolution itself, specifically the provisions at paragraph 5 (as renewed by successive resolutions), which explicitly requires that all support related to any military activities in the Congo (including 'any shipment of arms and related materiel, [...] any provision of assistance, advice, or training') must be covered by a specific advance notification to the Security Council.³⁵⁴ This applies to support provided to governmental entities in the DRC as reflected in the applicable Security Council guidelines.³⁵⁵

Importantly, the specific forms of training and support for training provided to park guards included training in 'combat tactics' and 'weapons handling,' and park guards told the research team of a specific training session occurring immediately before the July-August 2019 operation conducted by foreign private military contractors that included specific instruction in the use of heavy weapons such as mortars that would weeks later be used to shell Batwa villages (see above Section V). Although the research team could not identify which specific international actors conducted *this* training weeks before the July-August 2019 operation, credible sources³⁵⁶ indicated that there was not a notification covering such training in the time period in question, meaning that it also would have represented a violation of the arms embargo.

Violations of the arms embargo—imposed by legally binding Security Council resolutions—are significant offenses in their own right. Moreover, in light of the findings of this report, that the *specific paramilitary unit supported via these violations* led a campaign of organized violence against civilian sites, it is crucial and urgent that steps be taken to further investigate the specific alleged violations and hold responsible parties to account.

Specific Projects and Support from International Backers that Violated the Arms Embargo

US Fish and Wildlife Service

In 2015, the US Fish and Wildlife Service partnered with the Wildlife Conservation Society in a project in the PNKB aimed at ‘improving law enforcement and wildlife security’.³⁵⁷ In connection with this project, Maisha was contracted to provide security services to the PNKB and its paramilitary guards, including ‘support for training’. Interviewed sources indicated that no notification was made to cover such training activities in this time period, meaning that this US Fish and Wildlife Service project, supported by Maisha and the Wildlife Conservation Society, was provided in violation of the arms embargo.

Wildlife Conservation Society

In connection with the above-referenced project, the Wildlife Conservation Society partnered with Maisha to ‘provide training services’ to PNKB guards through 2017, when Wildlife Conservation Society stopped contractual work with Maisha.³⁵⁸ Thereafter, the Wildlife Conservation Society assumed a more direct support role to PNKB paramilitaries beginning in 2019. Approximately two months after the large-scale attacks in July-August 2019 in Kalehe, the Wildlife Conservation Society brought a ‘law enforcement advisor’ to the PNKB to support the training of the park guards of the Rapid Intervention Unit. This training entailed the ‘correct handling of weapons,’ ‘patrol techniques’ and combat tactics, among other lines of instruction³⁵⁹. The research team found that, the Sanctions Committee had not been notified of such activities, thus Wildlife Conservation Society provided support in violation of the arms embargo.

Maisha Group Ltd.

Maisha—named for the *Kiswahili* word for ‘life’—is a private security company founded by a former Israeli special forces operative that markets and sells security services to conservation departments and NGOs in Africa,

supporting militarized conservation (often in partnership with the Wildlife Conservation Society)³⁶⁰ throughout the continent, including in the Central African Republic, where it faced allegations that it provided support to a nefarious rebel group.³⁶¹

Maisha was subcontracted by the Wildlife Conservation Society to ‘support [...] training’ as part of a US Fish and Wildlife Service project aimed at ‘improving law enforcement and wildlife security,’ and ‘provide[d] training services to ecoguards’ through 2017 in collaboration with Wildlife Conservation Society.

Maisha may have supported the PNKB more recently than 2017, with reports as recently as 2020 of Maisha playing a role in training park guards.³⁶² The research team’s sources indicated that such training activities in the period in which Maisha is known to have supported training of park guards (at least 2016-2017) and in the later period where some reports indicate that Maisha was still present (2017-2020) were not covered by a notification to the Sanctions Committee and therefore would represent violations of the UN arms embargo.

KfW

KfW funded the training and support for training of PNKB guards conducted by GFA Consulting Group between 2014 and 2016 under the Programme Biodiversité et Forêt, a KfW project that supports six protected areas in the DRC, including the PNKB.³⁶³

GFA Consulting Group

In connection with the above-reference project, GFA Consulting Group—a German consultancy firm which has worked in the PNKB under a biodiversity project funded by KfW—began supporting training of PNKB guards in at least 2014, building a training camp for guards to facilitate their training in ‘anti-poaching combat’,³⁶⁴ then supporting training for PNKB guards, including training in combat tactics in 2016.³⁶⁵ The research team’s sources indicated that no notification to the Sanctions Committee covered such support for training to park guards in this time period, meaning that this support was provided in violation of the arms embargo.

X. International Law

Potential Violations and Accountability

International Human Rights Law

The evidence collected and corroborated over the course of several months demonstrates that the PNKB authorities committed serious human rights violations against members of the Batwa community. The Congolese government bears primary responsibility for these violations. It can violate its human rights obligations through direct action or omission, including through its institutions or agencies at the national and local levels.³⁶⁶ It follows that agencies and units within the government, including the ICCN and the Congolese Army, are directly bound by the DRC's international human rights commitments.

The abuses documented in this report describe numerous violations of state human rights obligations, including deprivations of the rights to life, liberty, security of person, property, housing and an effective remedy, as well as infringements on their right to be free from torture, cruel, inhuman or degrading treatment or punishment, forced displacement, arbitrary detention and discrimination. The DRC is a party to several binding instruments which prohibit violations of these fundamental human rights. These include the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the African Charter on Human and Peoples' Rights, among other instruments. Moreover, pursuant to the DRC's Constitution, international treaties, duly ratified by the State, take precedence over domestic laws.³⁶⁷

The foregoing international human rights standards impose positive and negative obligations on the DRC to guarantee the human rights of the Batwa. In the first instance, the state must respect the human rights of Batwa by refraining from interfering with their enjoyment of human rights. Thus, acts of unlawful killings, rape, serious bodily harm, arbitrary detentions, torture and property destruction committed by park guards and soldiers directly violate the DRC's human rights obligations. The DRC has the further duty to protect against human rights violations committed by non-State actors (including

armed groups and other non-Batwa communities), as well as to ensure the Batwa's right to a remedy under international law for gross violations, including '[a]dequate, effective and prompt reparation for harm suffered' and access to justice and relevant information.³⁶⁸

As indigenous peoples, Batwa are afforded further specific protections under international human rights law. In 2007, the DRC voted in favor of adopting the UN Declaration on the Rights of Indigenous Peoples ('UNDRIP'), which articulates the minimum standards of protection owed under applicable human rights law for the survival, dignity and well-being of indigenous peoples, such as Batwa.³⁶⁹ UNDRIP ensures the rights of indigenous individuals to 'life, physical and mental integrity, liberty and security of person' and for indigenous peoples to have the 'collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence'.³⁷⁰ Beyond physical integrity violations, UNDRIP also prohibits the forced removal of indigenous peoples from their lands and territories and guarantees their rights to lands, territories, natural resources and free, prior and informed consent in connection with any legislative or administrative measure than may affect them.³⁷¹ While UNDRIP is non-binding, its near universal and repeated endorsement reflects State consensus around the scope and content of the rights of indigenous peoples such as Batwa under existing human rights instruments, including those ratified by the DRC.

Crimes Against Humanity

Acts of violence perpetrated by park authorities and the Congolese Army against Batwa communities inside the PNKB during July-August 2019, July 2021 and November-December 2021 potentially rise to the level of crimes against humanity under applicable international criminal law. There is no international convention on crimes against humanity, but it is widely accepted that the prohibition of such crimes is a peremptory norm of international law, from which no derogation is permitted and which is applicable to all states regardless of their treaty obligations.³⁷² The DRC has ratified the Rome Statute of the International Criminal Court ('Rome Statute'), which articulates the clearest and most

commonly accepted definition of crimes against humanity. Under the Rome Statute, crimes against humanity constitute certain enumerated acts committed as part of a widespread or systematic attack directed against any civilian population pursuant to or in furtherance of a state or organizational policy to commit such attack.³⁷³

Such an attack does not need to be both widespread and systematic—the presence of either element suffices. The term ‘widespread’ has been interpreted to mean a large-scale attack with a ‘multiplicity of victims’.³⁷⁴ It does not have to meet a numerical threshold, but is dependent on the size of the civilian population that was attacked.³⁷⁵ The term ‘systematic’ has been defined to mean ‘the organized nature of the acts of violence and the improbability of their random occurrence’.³⁷⁶ It can be established through evidence of a plan or policy to commit an attack.³⁷⁷

Pursuant to the Rome Statute, several enumerated crimes can constitute a crime against humanity, including the crimes of murder, rape or persecution, as long as they are committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.³⁷⁸ Multiple unlawful killings (murder), rape and acts of persecution have been committed by park guards and soldiers against members of the Batwa community. Murder is the killing of one or more persons.³⁷⁹ Rape is the invasion of another persons’ body by force, threat or coercion, resulting in penetration.³⁸⁰

Persecution is defined under the Rome Statute as the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.³⁸¹ The severe deprivation of fundamental rights necessary to claim a crime of persecution includes acts of murder, rape and torture, but also property destruction, such as the burning and looting of Batwa villages and dwellings.³⁸² However, not all individual acts must necessarily rise to this level; rather, underlying acts of persecution can be considered together.³⁸³ Persecution occurs when members of a group (racial, ethnic, cultural, gender, etc.) are targeted for violence because of their membership in that group. Because of this, evidence of discrimination against a group is an important element of a persecution claim.

The evidence substantiated through this report demonstrates that Batwa inside the PNKB were targeted for violence for being Batwa, an ethnically and culturally distinct indigenous people with strong spiritual and cultural ties to the Kahuzi-Biega forest. It is because of the Batwa’s identity as an indigenous forest-dwelling people that they are disproportionately targeted by militarized conservation policies undertaken on their ancestral lands in the Great Lakes region (including, but not limited to, the PNKB, Virunga National Park (DRC), the Bwindi Impenetrable Forest National Park (Uganda) and the Parc

des Volcans (Rwanda)). As a direct consequence of these policies, the Batwa have been violently dispossessed of their lands and persecuted by park authorities when they return. Without access to their homelands, they have difficulty practicing their culture and transmitting their way of life and distinct identity to future generations. This has subjected them to the violent and militarized policies of deterrence operationalized by park authorities to police the boundaries of the national parks created on their ancestral lands without their free, prior and informed consent. In the PNKB, these policies target the Batwa due to their cultural and spiritual links to the Kahuzi-Biega forest on which their individual and collective identity depends.

Discrimination underpinning the severe deprivation of the Batwa’s fundamental rights can be observed in the specific objective of the PNKB to remove Batwa from the park, racist and paternalistic attitudes expressed by interviewed park guards and soldiers (discussed in Section V),³⁸⁴ disparate treatment of Batwa prisoners in detention (discussed in Sections V and VI), and in the group rape of Batwa women reportedly based on the racist belief that sex with Batwa can magically heal certain ailments (discussed in Section VII). This deeply rooted discrimination underpins all the physical, structural and cultural violence suffered by the Batwa of Kahuzi-Biega since their original expulsion from the forest in the 1970s.

As described in detail in Section V above, the July-August 2019 operation was conducted consistent with an ultimatum given by Director Bya’Ombe in early 2019, threatening to forcibly remove Batwa communities that refused to voluntarily depart from villages they had constructed in the forest. The clear objective of the joint operation was to displace Batwa communities out of their villages with an overwhelming display of force, and therefore the target of this operation was civilian sites: the villages themselves.

Several months of preparation and escalating violence demonstrates that the July-August 2019 attacks conducted by the PNKB were planned far in advance, and 1,900 Batwa estimated to have been forcibly displaced (see above Section V) demonstrates the widespread nature of the offensive in terms of its impact on Batwa communities. Furthermore, the fact that the operation spanned several days and targeted at least three villages across dozens of kilometers that were attacked repeatedly by a joint contingent estimated to number more than 60 soldiers and park guards is further illustrative of the widespread and overwhelming character of the violence visited upon Batwa communities in July-August 2019.

Although the specific objectives and planning behind the July 2021 and November-December 2021 operations are less apparent, park guards and soldiers carried out strikingly similar attacks in July and November-December 2021, shelling Batwa villages with heavy weapons and

opening fire on communities, establishing a pattern of conduct with a consistent *modus operandi*. This violence spanned numerous days and dozens of Batwa were killed, maimed or raped by park guards and soldiers, indicative of the type of large-scale attack with a multiplicity of victims upon which a crimes against humanity claim can be made.

For the reasons detailed in this report, the violent campaigns orchestrated by the PNKB leadership and carried out by park guards and soldiers against Batwa community members inside the park likely meets the standard of a widespread or systematic attack directed against a civilian population pursuant to or in furtherance of a state or organizational policy to commit such an attack.

In 2015, the DRC passed legislation which expressly implemented the Rome Statute into its domestic laws.³⁸⁵ Among other things, this ensures that DRC law comports with the international consensus concerning crimes against humanity. Thus, the DRC is obligated to prosecute those responsible for crimes against humanity and other serious international crimes under its domestic legal regime, including crimes committed by members of its security forces. The first step in this process is to commission an independent and impartial investigation into the abuses committed by the PNKB against the Batwa to determine whether crimes against humanity occurred and to establish individual responsibility for any such crimes committed.

International Humanitarian Law

The evidence collected in this research does not support any claim that an armed conflict existed between

the Batwa of Kahuzi-Biega and any government authority, including the PNKB. The Appeals Chamber for the International Criminal Tribunal for the former Yugoslavia ('ICTY') articulated a test for the presence of an armed conflict: '[a]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State'.³⁸⁶ In determining whether protracted armed violence between governmental authorities and organized armed groups exists, the ICTY has provided two criteria: (1) the intensity of the conflict; and (2) the organization of the parties of the conflict.³⁸⁷ These criteria are used to distinguish protracted armed conflict from 'banditry, unorganized and short-lived insurrections, or terrorist activities, which are not subject to international humanitarian law'.³⁸⁸ The conflict between the Batwa and the PNKB satisfies neither the intensity nor the organization criteria.

As described in detail in Section V above, Batwa armed resistance to the July-August 2019 operation was limited, poorly organized, and by all indications an organic response to the offensive not rising to the level of organization necessary to constitute an armed group. The violence in July 2021 and November-December 2021 featured even less Batwa armed resistance, if at all. Put simply, there is no evidence to suggest that there were protracted armed confrontations between the PNKB and Batwa groups, or ones that contained the requisite level of intensity and degree of organization indicative of an armed conflict. As a result, international humanitarian law does not apply to the instant case.

XI. Conclusion

Organized violence since 2019 has been the culmination of a decades-long process of brutality, marginalization and immiseration that has wrought the immense cultural, societal, spiritual and in some cases physical destruction of the Batwa people and their traditional lifestyle.

At its core, the park authorities' brutalization of Batwa communities is rooted in an inherently violent ideology which mandates clearing natural landscapes of their populations to create a mythic 'unpeopled wilderness,' in part to be enjoyed by wealthy, foreign tourists. Although conservation projects like the PNKB generally frame their efforts as being primarily designed to preserve biodiversity—a vital aim in a world experiencing irreparable biodiversity loss—this cannot be accomplished without support from communities in and around said projects, especially indigenous peoples like Batwa that have shaped and protected their natural surroundings for centuries.

The fortress conservation ideology which underpins the PNKB as a project renders it in its current form incompatible with the existence of the Batwa of Kahuzi-Biega in the forest, which is their right under international law. The Batwa are a community the cultural and material survival of which relies on their access to their ancestral home, and the denial—as documented in this report, by overwhelming force exercised against civilians—of their right to access, govern and own this land is tantamount to denial of an inter-related series of rights core to their survival as a people.

After being pushed out of the forest to clear the way for the creation of the PNKB, the Batwa were subjected to conditions of life that directly resulted in slow, devastating physical destruction of large segments of their community, through violence from members of other ethnic groups, malnourishment, starvation and disease. As Albert Barume described it, the precipitous decline of their population meant that the community was literally 'heading towards extinction'³⁸⁹ because of their expulsion from what became the PNKB, resulting in a state of desperation that prefaced the act of defiance that was their 2018 return to the park. Upon returning to their ancestral homeland, they were confronted by the full force of the PNKB's paramilitary apparatus, funded and supported by international backers, with their villages targeted by park guards and army commandos, shelled with heavy weapons, and burned to the ground.

The PNKB as a project is incompatible with the existence of the Batwa of Kahuzi-Biega *as such*, and the park authorities have employed egregious violence against Batwa communities in service of denying them access to their ancestral home.

Militarization from Above

The support from the PNKB's international backers is not incidental to systemic violence against the Batwa. Rather, it has played an integral role in promoting aggressive approaches to conservation and shaping the park into a paramilitary 'law enforcement' apparatus.

From Adrien Deschryver taking advantage of the Batwa's intimate knowledge of the forest before personally accompanying soldiers and park guards as they forced communities out at gunpoint, to the 'white mercenaries' arriving in the PNKB to instruct elite paramilitaries in the use of heavy weapons weeks before they were used to shell Batwa villages into submission, at each flashpoint in the history of PNKB-related violence against communities, international actors, as key supporters of the PNKB and its operations, have been complicit in this violence.

Although the PNKB is managed by the Congolese government and its campaign against the Batwa has been supported by the Congolese Army, this decades-long process cannot be flattened into a simple example of a state in the Global South conducting violence. This is more than just state violence. As a project, the PNKB's impetus, initiative and ideological underpinning came from and continues to be supported by international actors.

International actors have directly and consistently supported the militarization of the PNKB's guards for at least six years, including with training, equipment and funding. When specifically warned about impending large-scale violence in 2019, these external backers ignored the warning, maintaining and in some cases intensifying support for specific paramilitary activities that came into play in the operations to expel Batwa from their villages weeks later during the July-August 2019 operation in Kalehe. Much of the support in park guard training was provided in violation of the UN arms embargo, demonstrating wanton disregard for international law in the frenzy to militarize the park.

These actors have not, demonstrated themselves capable of placing human rights at the centre of their approach to conservation. Rather, they represent some of the strongest champions of militarized approaches that directly resulted in the violence against Batwa communities. For this reason, efforts to control human rights abuses in the PNKB by transferring direct management and control of the park to these international actors—an approach taken in other protected areas, called the ‘public private partnership’ (PPP) model—should be roundly rejected.

Pressures to militarize are rooted in the ideology imported by international conservation actors and supported by the same actors who fund the park’s paramilitary force, provide equipment to those paramilitaries and fly in foreign private military contractors to conduct combat training with them. The fact that Congolese soldiers and park guards carry the rifles and conduct the operations is only half of the story.

While international actors frame their support for militarization as ‘improving law enforcement,’ Batwa experience it as brutality and aggression with the singular purpose of preventing them from accessing and living in their ancestral homeland. Although entering the park is

technically illegal under domestic Congolese law,³⁹⁰ most Batwa do not accept the idea they are breaking the law in the first instance. More accurately, most find any law that denies them their ancestral home to be fundamentally unjust, a relation of power maintained at the tip of a rifle in service of a project created via forced relocation to satisfy the desires of foreign conservationists, effectively criminalizing their way of life in the process. Therefore, for many Batwa, there is a sense that there cannot really be justice on stolen land.

Moreover, Congolese laws and regulations that resulted in the Batwa eviction from their ancestral lands without their free, prior and informed consent and have since prevented them from exercising their right to self-determination (including in relation to their ancestral lands), violate international law.

The accounts of horror and devastation documented in this report represent examples of the incalculable human toll of an approach to conservation that is founded on the violent dispossession of indigenous peoples’ lands. In the PNKB, this approach has sparked conflict over land, resources and identity, and actively devalues and destroys Batwa life under the hoisted colours of conservationism.

XII. Recommendations

To the DRC Government, including the Congolese Institute for Nature Conservation (ICCN)

With regards to indigenous peoples' rights:

- Uphold human rights commitments to recognize, respect and protect the rights of indigenous peoples, and ensure that international human rights standards, including UNDRIP, are fully integrated into conservation policies and management plans in the PNKB and across all other protected areas in the DRC;
- Adopt all necessary policy, legal and administrative measures for the full recognition of the rights of indigenous peoples over their lands, territories and resources as enshrined in international human rights law, including taking all necessary actions to enact and implement the *Proposition de Loi Portant Protection et Promotion des Droits des Peuples Autochtones Pygmées*;
- Provide effective mechanisms of redress and adequate, effective and fair remedies in connection with all historical and contemporary injustices perpetrated against indigenous peoples in the DRC, including through restitution of ancestral lands;
- Undertake all necessary measures to effectively implement UNDRIP, including by incorporating UNDRIP's protections into the DRC's domestic legal regime and harmonizing existing national laws with UNDRIP's protections.

With regards to conservation policy in the PNKB:

- Legally recognize, respect and protect the Batwa's collective rights to self-determination, free, prior and informed consent and customary ownership of their ancestral lands, territories and resources contained within the PNKB, and prioritize Batwa ownership, management and participation as central to conservation policy in the PNKB;
- Support and facilitate the Batwa's collective ownership and management of their ancestral lands through appropriate co-designed mechanisms;
- Protect and support the Batwa's right to determine, develop and implement their own conservation

initiatives in the PNKB, including through assistance programs as contemplated in Article 29 of UNDRIP;

- Commission an independent study into the environmental effectiveness of the current policies and strategies employed in the PNKB, ensuring meaningful consultation and effective participation of a representative cross-section of the Batwa community, and documenting the extent of and responsibility for unsustainable, extractive activities inside the park;
- Consult with a representative cross-section of the Batwa community to arrive at innovative solutions to problems of unsustainable resource extraction in the PNKB and commit to address underlying drivers of biodiversity loss;
- Recognize, respect, and protect the Batwa's traditional forest knowledge, acknowledge their positive contributions to conservation, and promote them as the best custodians of their natural environments;
- As a member of international and intergovernmental organizations, promote indigenous rights-respecting conservation agendas, including demanding the inclusion of robust safeguards in the CBD's post-2020 Global Biodiversity Framework with respect to indigenous peoples' lands, territories and resources;
- Refrain from entering into any PPP arrangement that would confer management or co-management authority in the PNKB to any entity, foreign or domestic, including any international conservation NGO, which has not demonstrated a proven track record of respecting the rights of indigenous peoples and other marginalized, local communities in conservation, and instead, commit to support Batwa governance of the PNKB, including through financial and technical assistance, in consultation with a representative cross-section of the Batwa community.

With regards to human rights investigations and mechanisms of reparations and redress:

- In conjunction and consultation with a representative cross-section of the Batwa community, commission an independent, impartial, thorough and transparent investigation into the human rights abuses committed by PNKB guards in and around the park, including, but not limited to those abuses documented in *To Purge the Forest by Force*;

- Publicly disclose and communicate the results of all investigations (internal or external) of conservation-related human rights abuses in and around the PNKB to all relevant stakeholders, including the PNKB's partners, donors, local civil society, the South Kivu provincial government and the Batwa community;
- In conjunction and consultation with a representative cross-section of the Batwa community, take all necessary measures to provide adequate, effective and fair remedies to affected Batwa for their displacement from the Kahuzi-Biega forest and the ongoing violations of their human rights, including:
 - Full restitution of their ancestral lands with co-designed mechanisms including resources made available to restore, rehabilitate and repair any environmental damage caused;
 - Elimination of all restrictions on the Batwa's usage rights with respect to their territories and resources;
 - Financial compensation based on, but not limited to, lost opportunity costs, revenues derived from the PNKB since its creation, and any physical, mental, moral or material damages incurred by the community;
 - Medical, psychological and social care for victims;
 - A public apology, acknowledging responsibility for the unlawful evictions and ongoing human rights violations;
- Promote and facilitate increased access to justice for Batwa community members to seek remedies and redress for past or current human rights violations related to the PNKB, including through supporting and collaborating with local civil society;
- Establish and support an independent, on-site and culturally appropriate grievance mechanism in the PNKB to promote transparency and provide access to justice for affected members of the Batwa community and other marginalized, local communities;
- Take all necessary steps to facilitate the reporting of abuses by park guards, including through awareness raising, community outreach and collaborating closely and productively with local civil society;
- Respond to Complainants' Submission of the Merits in the case captioned *Minority Rights Group International and Environnement Ressources Naturelles et Developpement (on Behalf of the Batwa of Kahuzi-Biega National Park)*, Communication No. 588/15, pending before the African Commission on Human and Peoples Rights.
 - Engaging in a gradual disarmament process in order to reduce and ultimately abolish the use of lethal weapons by PNKB guards;
 - Issue clear and consistent guidelines regarding protocols and conditionalities for FARDC interventions inside the PNKB, including joint patrols with park guards;
 - Provide indigenous-led human rights and sensitization training to all PNKB personnel, including guards;
 - Engage in a vetting and lustration process within the PNKB to determine the extent to which park leadership and individual guards should be removed from their positions based on their lack of compliance with human rights standards;
 - Initiate and support prosecutions against PNKB guards, FARDC soldiers and all other persons credibly accused of directing or committing unlawful acts of violence against Batwa community members, including those documented in *To Purge the Forest by Force*;
- During the demilitarization process, commit to using unarmed PNKB personnel to conduct consultations and otherwise maintain community relations with the Batwa;
- Cease making inflammatory statements that falsely accuse Batwa community members of being terrorists or associating with armed groups as justifications for militarized interventions in the PNKB.

With regards to conflict resolution:

- Recommit to and abide by the various commitments made during prior conflict resolution dialogues between the Batwa, the park authorities and other stakeholders;
- Commit to a new and genuine dialogue process with a representative cross section of Batwa community members and staffed with independent mediators and mechanisms to ensure that agreements are respected and implemented;
- Cease making and promptly retract all inflammatory and unfounded accusations directed towards civil society organizations supporting the rights of the Batwa, blaming them for instrumentalizing the Batwa or otherwise furthering the conflict in the PNKB.

With regards to justice systems and prison conditions:

- Guarantee that Batwa detainees and prisoners are afforded legal aid, judicial due process and a fair trial in connection with any arrests and/or detentions associated with their activities inside the PNKB;
- Ensure that Batwa detainees and prisoners are treated with respect and inherent dignity, free from torture or

other cruel, inhuman or degrading treatment or punishment and commit to ensuring that conditions of confinement meet international standards;

- Cease sending Batwa civilians directly to the military justice system.

To Other International Conservation NGOs in the PNKB

With regards to indigenous peoples and human rights in conservation:

- Respect and promote the rights of indigenous peoples as recognized under international human rights law and prioritize conservation initiatives and programing that advances the recognition and protection of indigenous peoples' rights to self-determination, lands, territories and resources;
- Integrate all human rights commitments into a single policy document with strengthened internal safeguards in the context of protected areas and other conservation initiatives, including tailored protections for indigenous peoples in line with UNDRIP;
- Establish specific safeguards in the overall governance of international conservation NGOs, to ensure that human rights principles are mainstreamed within their vision, strategies, planning of activities and oversight;
- Commit to not support any conservation initiative which entails the forced or coerced displacement of indigenous peoples, or any curtailments of their rights whatsoever, without obtaining their genuine free, prior and informed consent;
- Withhold support for any conservation project that was initiated without the free, prior and informed consent of indigenous peoples, unless and until negatively impacted communities receive an adequate, effective and fair remedy;
- Advocate for stronger indigenous peoples' protections and safeguards within conservation policymaking fora, including within processes at the International Union for Conservation of Nature and the Convention on Biological Diversity;
- Undertake a process of reflective learning of the extent to which such organizations are implicated in the erection and maintenance of structural racism and/or discrimination in the context of their conservation work.

With regards to human rights due diligence, monitoring and transparency:

- Comply with all applicable due diligence obligations, including proactive human rights monitoring and ensuring compliance with indigenous peoples' rights in connection with project assessments;

- Integrate indigenous peoples' rights into due diligence processes, including by:
 - conducting a specific risk assessment with respect to indigenous communities after robust and meaningful consultations with a representative cross-section of indigenous peoples who may be affected;
 - ensuring effective participation of indigenous peoples in the conception, design, implementation and management of projects;
 - scrutinizing the extent to which free, prior and informed consent has been obtained from affected indigenous peoples, and the adequacy of any consultation or processes employed;
- Ensure that indigenous rights and human rights commitments are incorporated into all agreements entered into with governments and other partners in connection with conservation work and make all such agreements publicly available;
- Maintain a clear and consistent protocol for responding to allegations of human rights abuses committed by park guards and any other entities receiving funds or other support;
- Increase the transparency around conservation work, including by continuously monitoring and reporting on the integration of human rights and publicly disclosing organizational challenges and levels of compliance with human rights obligations and commitments to indigenous peoples;
- Guarantee that effective and transparent mechanisms are in place to monitor the park authorities' conduct and investigate allegations of wrongdoing;
- Maintain and operationalize certain protocols to ensure that allegations of park guard abuses are promptly reviewed and timely communicated to donors and other partners through formal communication channels;
- Hire an independent expert(s) on indigenous rights to oversee community consultations, free, prior and informed consent and other direct engagement with indigenous peoples for each supported protected area.

With respect to the support of the PNKB:

- Unequivocally support the recognition, respect and protection of the Batwa's customary land rights in the PNKB;
- Take all necessary measures to ensure that internal human rights commitments are implemented and operationalized in the PNKB;
- Build genuine partnerships with local human rights CSOs advocating on behalf of the Batwa and support civil society initiatives aimed at strengthening the Batwa's rights and governance over their lands, territories and resources;

- Acknowledge and promote the efficacy and utility of the Batwa's conservation governance and traditional knowledge systems;
- Condition ongoing support of the PNKB on:
 - The completion of a thorough, independent and transparent investigation into the human rights abuses committed by PNKB guards in and around the park, including, but not limited to those abuses documented in *To Purge the Forest by Force*;
 - The provision of an adequate, effective and fair remedy to affected Batwa for both historical and contemporary harms associated with the PNKB;
 - The implementation of adequate guarantees of non-repetition that safeguard against repeat violations;
 - The establishment of an on-site and culturally appropriate grievance mechanism in the PNKB;
- Seek to develop bona fide and equal partnerships with the Batwa community to support their effective participation in and governance over conservation projects, including by exchanging conservation knowledge and providing financial and technical support when appropriate.

With regards to human rights investigations and mechanisms of reparations and redress:

- For World Conservation Society, publicly acknowledge and apologize for its role in promoting and supporting fortress conservation projects which have infringed on the rights of indigenous peoples and other local communities;
- Support the Batwa's claims for a remedy and reparations in connection with their expulsion from the Kahuzi-Biega forest and recurring human rights violations, including through financial compensation, elimination of usage restrictions and restitution of their ancestral lands.

With regards to the demilitarization of the PNKB:

- Cease all forms of militarized park guard training, including any support or instruction on weapons handling, combat tactics, advance surveillance technologies or patrol strategies;
- Cease contracting private military contractors to train PNKB guards;
- Adopt and operationalize detailed human right commitments specifically tailored to any law enforcement and/or anti-poaching support;
- To the extent that World Conservation Society or any other international conservation NGO continues to provide or support military or paramilitary training of PNKB guards, promptly notify the UN Security Council Sanctions Committee regarding such activities;

- Reflect upon and publicly report on the extent to which advanced surveillance technologies present an increased human rights risk to indigenous peoples and local communities, particularly when such equipment is commandeered by elements of the FARDC;
- Commit to promoting more nuanced messaging around anti-poaching and the illegal wildlife trade in ways that reflect the lived experiences of indigenous and local communities and the challenging contexts in which they have been forced to live in as a direct consequence of fortress conservation.

To the PNKB's Donors

With regards to indigenous peoples and human rights in conservation:

- Urge governments and partners to respect and protect the rights of indigenous peoples in connection with all donor-supported conservation initiatives;
- Incorporate human rights commitments into all agreements entered into with governments and partners in connection with conservation assistance and make such agreements publicly available;
- Actively seek to diversify biodiversity assistance, with an emphasis on reallocating funds to increasingly support indigenous peoples, including through direct funding for:
 - indigenous peoples' own conservation initiatives and local and grassroots projects;
 - projects that seek to secure indigenous land tenure rights;
 - human rights due diligence and social impact studies;
 - separate consultations with indigenous communities and robust processes to obtain their free, prior and informed consent;
 - investigating and documenting cases of alleged human rights violations by park guards;
 - redress mechanisms and the payment of compensation for human rights abuses committed by park guards whose activities were funded by a given donor;
- Suspend or withdraw funding for conservation projects with unresolved allegations of serious human rights violations, for which funding should not be reinstated until such allegations have been independently investigated, necessary safeguards (supervised externally) have been fully operationalized, and adequate remedies are provided to victim(s).

With regards to monitoring, controls, oversight and transparency:

- Implement adequate controls to ensure that donor support does not contribute to human rights violations against indigenous peoples;
- Proactively monitor compliance of funded conservation projects with relevant international human rights standards and domestic laws, including through extensive and ongoing consultations with civil society and indigenous communities throughout the life of conservation projects;
- Ensure that all funded projects contain an adequate budget for monitoring and responding to alleged human rights violations;
- Disclose detailed information on how protected areas are funded, including specific amounts for each protected area, who the money is directed to, how it is used and what conditions are placed on such funds;
- Automatically treat the funding of protected areas as a 'high risk' activity and implement robust due diligence requirements before agreeing to provide assistance, including ensuring that the free, prior and informed consent of affected indigenous communities is obtained prior to the implementation of any project;
- For every funded protected area, ensure that an indigenous rights expert is engaged and placed in proximity to the protected area in order to oversee community consultations, free, prior and informed consent processes and to engage with and address community grievances;
- Implement adequate controls to ensure that partners and subgrantees apprise donors of alleged human rights abuses committed in the context of their conservation support.

With regards to donor support of the PNKB:

- Use contractual and financial leverage to urge the ICCN and partners to adequately address and remedy human rights violations committed against the Batwa;
- Condition continued funding in the PNKB on the following:
 - the completion of a thorough and independent investigation into the human rights abuses committed by PNKB guards in and around the park, including, but not limited to those abuses documented in *To Purge the Forest by Force*;
 - the provision of an adequate, effective and fair remedy to affected Batwa for historical and contemporary violations;
 - adequate guarantees of non-repetition that safeguard against repeat violations;
 - the establishment of an on-site and culturally appropriate grievance mechanism in the PNKB;

- Promote and fund local economic development projects that specifically target marginalized Batwa populations and ensure that such projects are sustainable and respect the cultures, traditional knowledge and customary land use of the Batwa;
- Provide and encourage conservation funding and support to local civil society organizations working to ensure the Batwa's participation, management, governance and ownership of their ancestral lands in the PNKB.

To International Organizations and Intergovernmental Bodies

With regards to the UN Security Council:

- Investigate the supply of arms or related materials or technical training and assistance to the PNKB without advanced notice to the UN Sanctions Committee, and if appropriate, assess sanctions against any culpable parties.

With regards to UNESCO:

- Revise the Operational Guidelines to fully align with UNDRIP, including ensuring that the right to free, prior and informed consent is complied with in any World Heritage nomination, management and policy measure affecting their territories, lands, resources and ways of life;
- Meaningfully account for the plight of Batwa, including addressing ongoing park guard abuses, in the course of all World Heritage processes, assessments, investigations and decisions concerning the PNKB;
- Consult with a representative cross-section of the Batwa community and local civil society organizations before taking any decisions in the State of Conservation process with respect to the PNKB;
- Publicly condemn human rights abuses perpetrated against Batwa by PNKB guards;
- As part of the World Heritage State of Conservation monitoring process, implement a new program for corrective measures in the PNKB, urging the DRC government to respect Batwa's customary land rights in the PNKB, provide redress and reparations for historical and contemporary violations, take steps to integrate Batwa into the governance and decision-making in the PNKB, and re-engage in a meaningful dialogue process;
- Refrain from providing direct law enforcement assistance to PNKB guards, including through operational support or the provision of field equipment, connection with any current and future projects.

With regards to the International Union for Conservation of Nature:

- Acknowledge and apologize for its role in the establishment of the PNKB without consulting with the Batwa or accounting for the adverse impact of the PNKB on their lands, territories, resources and way of life;
- In consultation with indigenous peoples, fund and establish a truth and reconciliation process to document the history of fortress conservation and the associated harms on indigenous peoples and local communities, as well as provide a mechanism of redress for historical wrongs;
- Meaningfully address ongoing human rights violations sustained by the Batwa as a result of the PNKB and push for recognition of their rights in connection with recommendations provided to the UNESCO World Heritage Committee.

With regards to the Parties, Secretariat and Open-Ended Working Group of the Convention on Biological Diversity:

- Promote the legal recognition and protection of indigenous peoples' lands, territories and traditional knowledge systems in all Convention on Biological Diversity processes, programs and decisions;
- Condition any increase in targets for percentage of area under protected status in the post-2020 Global Biodiversity Framework on those areas being governed and managed by indigenous peoples and/or local communities.

XIII. Research Methodology

Composition of the Research Team

The research team was comprised of four individuals (Robert Flummerfelt, Bernard Kalume, Rodolphe Mukundi, and a fourth whose identity is withheld for security reasons, referred to in this report as ‘Researcher #4’) with decades of collective experience working on highly sensitive human rights investigations throughout the eastern DRC. All four individuals had conducted extensive fieldwork in South Kivu province in advance of this project. Specific members of the research team also had experience and expertise researching Batwa communities, conservation-related human rights abuses and dynamics around the PNKB.

In the course of the fieldwork, the vast majority of interviews were conducted in Kiswahili, a commonly preferred *lingua franca* throughout the region. A handful of interviews were conducted in Kinyarwanda and Lingala, and some communication with Batwa community members occurred in Kitwa. All four individuals on the research team are fluent Kiswahili speakers, and the research team also included speakers of Kinyarwanda, Kitwa, Lingala, French and English.

Overview of Fieldwork

Across nine months of fieldwork, the research team conducted interviews in nineteen (19) villages and cities in and around the PNKB. This fieldwork was conducted in three major phases (described below) and entailed conducting semi-structured interviews with Batwa community members and leaders, members and traditional authorities of other local communities, PNKB park guards, Congolese Army soldiers, sources in the UN, Bukavu-based civil society actors, and other researchers who have worked in the PNKB.

The research team conducted semi-structured interviews with eyewitnesses of park violence, individuals injured and/or raped in attacks by soldiers and park guards, family members of individuals who were reportedly killed by park guards and soldiers, Batwa actively detained in a major detention facility in South Kivu, eyewitnesses of park violence, and soldiers and park

guards who described participating in large-scale acts of organized violence inside the PNKB.

In addition to these semi-structured interviews, the research team conducted focus group-style discussions with Batwa as well as with members of other local communities. The research team also sought to corroborate the accounts of Batwa communities and other sources by gathering physical evidence of violence associated with the PNKB and cross-referencing accounts with the prior research of civil society organizations.

This report generally describes specific operations and well-organized acts of violence by the PNKB authorities, and aims to detail the contours of such acts of violence by drawing on concordant information from Batwa eyewitnesses and victims, non-Batwa eyewitnesses, park guards and soldiers who described participating in these acts of violence, civil society actors, as well as physical evidence.

The research team was acutely aware of the sensitivity of the issues discussed with Batwa sources, and sought stringently to conduct interviews in a thoughtful, respectful and sensitive manner that would minimize the risk of re-traumatizing victims of violence and abuse, particularly with respect to victims of sexual violence.

Phase I of the Fieldwork (October – November 2020)

In October 2020, the research team began conducting interviews in South Kivu province, speaking first with civil society actors and other researchers who had previously documented such abuses and worked in the PNKB before proceeding to conduct semi-structured interviews with Batwa leadership in Kabare territory and Batwa communities living outside the park.

The communities the research team first spoke with represented themselves as ‘refugee’ communities (see Section V), being comprised of Batwa who returned to the forest in 2018, built villages inside the park, then were subsequently forced out by large-scale, organized acts of park violence in 2019 and later. Through a combination of semi-structured interviews and focus group-style discussions, the research team heard accounts of acts of PNKB-associated violence from these community members. The research team also began speaking with

individual Batwa community members who were reportedly injured in acts of violence and presented physical injuries to the research team. The research team also gained access to a major detention facility in South Kivu where semi-structured interviews were conducted with detained Batwa in a private location without prison staff or authorities present.

Having conducted numerous interviews with displaced Batwa populations and Batwa detainees, the research team proceeded to Kalehe territory. Here, the research team began conducting fieldwork in villages inside the park, including locations that the displaced populations described fleeing from. Through a combination of semi-structured interviews and focus group-style discussions with these communities, the research team heard hundreds of accounts that strongly supported the accounts of the populations outside the park in Kabare.

Phase II of the Fieldwork (February – April 2021)

In the second phase of the fieldwork, beginning in February 2021, the research team sought to focus on physical evidence and sources of corroboration outside Batwa communities, to support the claims overwhelmingly made by Batwa community members in the first phase of the fieldwork.

The research team successfully visited the physical remnants of homes that had been destroyed deep within the park, spoke with dozens more Batwa with visible physical injuries either from gunfire or sustained in the process of fleeing, interviewed members of a non-Batwa community outside the park that witnessed the beginning of the July-August 2019 offensive, visited more gravesites of Batwa described as being killed in the offensive, spoke to several Congolese Army soldiers who described participating in the offensive, and interviewed multiple park guards who described the offensive and provided more detailed information about training, preparation, coordination with the Congolese Army, and justifications for violence on the part of the PNKB authorities.

Hundreds of concordant accounts inside and outside the park demonstrated that egregious, large-scale organized violence was conducted by park guards and the Congolese Army in July-August 2019 to expel Batwa from the villages inside the PNKB. Although the accounts were very well-supported in the sense that hundreds of Batwa at numerous geographically distant locations described similar circumstances of violence, down to highly specific details, the remarkable severity and scale of the described abuses warranted efforts by the team to further verify the accounts and uncover new evidence.

Phase III of the Fieldwork (July – September 2021)

In July 2021, upon learning of a new wave of attacks inside the park, the research team conducted additional fieldwork in the village of Muyange, the primary affected site of the July 2021 violence. Within days of the attack, the research team was in the field gathering physical evidence and obtaining witness testimonies. This entailed photographing and tallying all destroyed structures, approximating the length of burn scars, collecting and photographing remnant munitions, visiting and photographing freshly-dug graves, photographing other features of the village's destruction, and conducting semi-structured interviews and focus-group style discussions with eyewitnesses/survivors, including multiple survivors of sexual violence.

Phase IV of the Fieldwork (November – December 2021)

After learning of new attacks conducted inside the park in November 2021, the research team conducted additional fieldwork (beginning in early December) in Maruti, Bugamanda and Tchibwisa (three of the villages which were targeted), as well as Buhoyi (another village to which several Batwa fled after the attacks). The research team visited, counted and photographed destroyed structures, visited freshly dug graves, and interviewed dozens of eyewitnesses, including immediate family members of some of the Batwa who were killed and several women who described being subjected to sexual violence. While the team was in the field, new attacks were organized. The team stood down before proceeding to complete the fieldwork.

Protecting Sources and Communities

The research team maintained an acute awareness of the potential personal risk to sources who decided to participate in interviews and focus group-style discussions, given the fact that information provided to the research team directly threatened vital interests of the Congolese government and, more specifically, the PNKB. The Congolese government, the Congolese Army and the park authorities have engaged in aggressive acts of repression targeting Batwa dissidents and leadership. The research team itself received credible threats connected to its work and was menaced by the National Intelligence Agency during the research. At one point, the research had to be suspended due to security concerns that arose around the possible detention of members of the research team en route to the park.

Considering these facts, the research team sought to preserve the anonymity of its sources, conduct interviews

in private locations where the risk of being surveilled was minimal, closely guarded fieldnotes and digital information (including photos) that could identify sources (storing digital data securely and avoiding distributing it widely), and avoided conducting interviews that may attract too much attention or scrutiny to its work.

The research team also had detailed conversations with all sources about its objectives, the nature of the information that would and would not be published based on interviews, the potential dangers of sharing information with the research team, and the measures that the research team took to protect sources. The research team thus insured that all sources provided informed consent before interviews.

Given the fact that the fieldwork was conducted in the context of the Covid-19 pandemic, the research team sought stringently to prevent contracting or transmitting the virus, which of course posed a risk to the research team, to sources and other members of the public who came into contact with the research team. A strict protocol was instituted and followed to ensure the safety of the research team and all participants.

Stakeholder Review

On 25 January 2022, an advanced excerpted draft copy of this report was provided to the principal international partners involved in supporting and funding the PNKB, including the Wildlife Conservation Society, the US Fish and Wildlife Service, USAID, KfW, GIZ, GFA Consulting and Maisha. This was done to solicit responses from the park's international partners with respect to their role in supporting the PNKB and their alleged complicity in the commission of human rights abuses in the park. On 11 February 2022, the international partners, except for Maisha, provided written responses to the draft report, which have been published in full as annexes to this report.

During the research, the author attempted to contact the Park Director on six separate occasions to discuss the findings in this report. MRG also wrote to the Park Director and ICCN leadership on multiple occasions in connection with reported human rights abuses committed in July 2021 and November-December 2021, which have subsequently been documented in this report. The full exchanges between the Park Director and MRG are attached as annexes to this report. MRG has also been in consistent communication with the ICCN's Head of Human Rights Unit in connection with proposed mixed and independent investigation (referenced in Section VIII above).

Due to various security concerns that arose during this research, and in light of the serious accusations of wrongdoing levied against PNKB leadership and park guards, an advanced draft copy of this report could not be

provided to the ICCN or PNKB authorities without risking harm to the research team, its sources, local civil society and the Batwa community more generally. This decision was made in the spirit of taking every reasonable precaution to ensure the safety of the participants in this research.

General Limitations of the Fieldwork

Various Names Used for Villages Inside the Park

The research team quickly discovered that civil society actors, park guards, soldiers and Batwa communities themselves all tended to use different names for specific Batwa villages inside the park. This phenomenon was likely attributable to the fact that there are no official maps that include Batwa settlements inside the PNKB, and therefore there is not a standard set of names recognized and used by non-Batwa authorities. To overcome this limitation, the research team used a variety of means to be clear about the geographic location of specific instances of violence. For instance, when speaking with park guards, the research team presented photos that had been taken at Batwa villages (of the natural surroundings, including key landmarks) to the guards to identify specific locations. In this report the author has used the names of Batwa villages that were used by the Batwa community members and leadership.

Geographic Scope of the Research

Due to logistical limitations, the research team could not conduct fieldwork in Bunyakiri, one of three primary territories in which the Batwa of Kahuzi-Biega live and have lived inside and outside the park. The research team did conduct interviews with Batwa who had fled Bunyakiri, and gathered general information, but did not document human rights abuses in that territory as thoroughly as those in Kabare and Kalehe (where the majority of the fieldwork was conducted). The research team also consciously sought to avoid certain villages where the presence of groups collaborating closely with PNKB authorities could have jeopardized the fieldwork and the security of the research team and other Batwa community members.

Investigating Specific Attacks

The research team's successive rounds of fieldwork in 2021 that immediately followed major attacks (i.e., the work conducted in July-September 2021 and December 2021) differed from earlier phases of the research in several respects. Most importantly, the research team's work in

late 2020 and early 2021 was carefully planned far in advance, whereas the rounds of fieldwork conducted immediately after attacks in the park were quickly organized so that physical evidence of the attacks could be documented. As a consequence, the research team confronted substantial limitations of resources and security which limited the research in several important respects. Nonetheless, the research team was able to document the attacks, primarily focusing on gathering physical evidence that was more difficult to collect when the team had been investigating attacks conducted months prior. For this reason, the research team also conducted less interviews with eyewitness sources about these attacks (nonetheless interviewing dozens of such sources in July-September and December 2021).

Anonymity and Terminology

Preserving the Anonymity of Sources When Citing Interviews

In most cases the author sought to identify interviews with a unique interview code and the date of the interview that was conducted (e.g. A1, interviewed on 23 October 2020), which was not assessed to be information that may prejudice individual sources. When relevant, the author would identify the medium of interviews (e.g. K1, interviewed telephonically on 12 October 2020). Identifying information about specific sources (i.e. information that could be used to identify which individual was being interviewed) was excluded (with the exception of some civil society actors), and the author strictly respected the commitments that he and the other members of the research team made when conducting interviews and obtaining informed consent from various sources.

In cases with increased security concerns, the author *did not* include information about the date, location, or medium (i.e. whether they were conducted in person, telephonically, etc.) of interviews in the citations, instead simply including the unique interview codes of these sources (e.g. E1).

Terminology and Framing in the Report

It is worth noting that in this report, the decision has been made to refer to the indigenous community targeted

for abuses by the PNKB authorities as the Batwa of Kahuzi-Biega. This community goes by many names, several of which carry colonialist or racist implications. Batwa are, often derisively, referred to as ‘pygmies.’ Although this term has colonialist roots, some members of the Batwa community will self-identify as ‘pygmies’ when speaking French. More specifically, in French, some members of the community will self-identify as *‘Peuples Autochtones Pygmées,’* literally ‘Indigenous Pygmy People.’

While Batwa is a term derived from the Twa language, when speaking in Kiswahili, Batwa will self-identify as ‘Bambuti’, which is a term used also by members of other communities referring to Batwa when speaking Kiswahili. Kiswahili speakers generally understand the term to mean ‘pygmies’, and therefore when quotes from non-Batwa Kiswahili speakers in this report featured the word ‘Bambuti’, it was translated to ‘pygmies’. In this report, reference will be made, consistent with the term’s literal translation, to ‘Batwa communities’ or ‘Batwa villages’, but to a single ‘Mutwa’ (a Twa person).

The reader may also notice that little reference is made to the Congolese Institute for the Conservation of Nature (ICCN), the institution that manages the PNKB. The author instead emphasizes the PNKB and the park authorities when referring to institutional actions. This decision was made for several reasons. Though the ICCN does indeed manage the PNKB, and should be held responsible for the violations documented in this report, it is a national entity that plays a role in the management of numerous protected areas in the DRC. Crucially, this report conceptualizes the PNKB as a project rather than strictly a governmental institution. The impetus for creating the PNKB came from international conservationists, the project is overwhelmingly funded by external actors, and the pressures, material support and ideological underpinning of PNKB militarization come overwhelmingly from international actors that are not a part of the ICCN or the Congolese government but are indeed integral actors in the *project* that is the PNKB, a nexus between state repression and international funding and priorities. Rather than framing the PNKB as simply another park managed by the ICCN, the author aims to frame the protected area as a distinct project with a distinct history that is the product of efforts of a number of institutions—not just the ICCN—and could not exist as such were it not for the international conservation movement that has steadfastly supported it from its inception.

XIV. Notes

- 1 Letter from civil society organizations to Directors of PNKB and ICCN dated 1 May 2019, on file with author.
- 2 Governor General's Decree No. 81/AGRI (1937).
- 3 See, for instance, Minority Rights Group (undated), *Batwa and Bambuti, Profile*, available at <https://minorityrights.org/minorities/Batwa-and-bambuti/>.
- 4 In French, many Batwa identify as '*Peuples Autochtones Pygmées*,' loosely 'Pygmy Indigenous People'. The vast majority of Batwa of Kahuzi-Biega preferred to communicate in Kiswahili, in which they self-identify as '*bambuti*,' commonly understood to mean 'pygmies' but can be more accurately translated as 'forest people'.
- 5 See, for instance, IUCN General Assembly Resolution 15, 1966, available at https://portals.iucn.org/library/sites/library/files/resrecfiles/GA_09_RES_015_The_Kahuzi_Biega_National_Park_of_Co.pdf; IUCN General Assembly Resolution 5 (1969), available at https://portals.iucn.org/library/sites/library/files/resrecfiles/GA_10_RES_005_Reserves_in_expanding_urban_areas.pdf.
- 6 Mutimanwa, K.D. (2001) 'Case Study 2: Democratic Republic of Congo - The Bambuti-Batwa and the Kahuzi-Biéga National Park: the case of the Barhwa and Babuluko people', in Forest Peoples Programme, *Indigenous Peoples and Protected Areas in Africa*, 94.
- 7 Munihuri, J.K., 'The story of two pioneers in the habituation of Eastern Gorillas, *Berg Gorilla & Regenwald Direkthilfe E.V.*, 52, available at: <https://www.bergorilla.org/en/home/news-archive/article-view/the-story-of-two-pioneers-in-the-habitation-of-eastern-gorillas/>.
- 8 C3 interviewed on 3 November 2020.
- 9 UNPO, (2017) 'Batwa: Murder of Pygmy native raises questions about indigenous rights in wildlife conservation efforts', 3 November, available at: <https://unpo.org/article/20432>.
- 10 Barume, A.K. (2000), *Heading Towards Extinction? Indigenous Rights in Africa: The Case of the Twa of Kahuzi-Biega National Park, Democratic Republic of Congo*, International Work Group for Indigenous Affairs, p. 80.
- 11 Barume, *op. cit.*, p. 8.
- 12 Weber, B. and Vedder, A. (2002) *In the Kingdom of Gorillas: The Quest to Save Rwanda's Mountain Gorillas*, Simon and Schuster
- 13 Barume, *op. cit.*, p. 80.
- 14 See Barume, *op. cit.*, pp. 80 and 87: 'According to a survey carried out by Pidp-Kivu and Héritiers De La Justice, in 1995, the number of Batwa expelled from the forest declined from a maximum of 6,000 in the early 1980s to 3,000 by 1995.'
- 15 Barume, *op. cit.*, p. 87.
- 16 Barume, *op. cit.*, p. 87-88
- 17 C3 interviewed on 3 November 2020.
- 18 Z5 interviewed on 27 October 2020.
- 19 D2 (2019) 'ONG Congolaise (RDC) dotée du statut d'observation auprès de la CADHP sous le n° OBS 498, Situation des Autochtones Batwa Expulsés du parc national de Kahuzi', April, on file with author.
- 20 Minority Rights Group (2019), 'DRC: The admissibility decision of the African Commission on Human and Peoples' Rights on a case involving the eviction of indigenous people from their ancestral lands represents a beacon of hope', 2 July, available at <https://minorityrights.org/2019/07/02/drc-admissibility-decision-african-commission-on-human-and-peoples-rights-on-eviction-of-indigenous-people-from-ancestral-lands-represents-beacon-of-hope/>.
- 21 Forest Peoples Programme (2014) '3D mapping starts to bear fruit', 16 October, available at <http://www.forestpeoples.org/en/enewsletters/fpp-e-newsletter-october-2014/news/2014/10/3d-mapping-starts-bear-fruit>.
- 22 IUCN Resolution No. 072 (2016) 'Enabling the Whakatane Mechanism to contribute to conservation through securing communities' rights', available at https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2016_RES_072_EN.pdf.
- 23 D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygm es riverains: Rétrospective de quelques faits et incidents enregistrés entre 2014-2020* (2020). On file with author.
- 24 Interview with B4 on 30 October 2020.
- 25 See D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygm es*, *op. cit.*
- 26 See, for instance, D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygm es*, *op. cit.*
- 27 See, for instance, Mukumba, P., Ecumenical Network Central Africa, 'The conservation and rights of the indigenous Batwa of Kahuzi Biega National Park (PNKB), Eastern DR. Congo', pp. 5-7, on file with author.
- 28 D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygm es*, *op. cit.*
- 29 Z5 interviewed on 27 October, 2020.
- 30 B8 interviewed on 30 October 2020.
- 31 De Dieu Bya'ombe, 'Destruction de la partie haute altitude du parc National de Kahuzi-Biega par les pygmées', *Journal de Kahuzi-Biega*, 11 September 2019, www.Kahuzi-Biega.com/destruction-de-la-partie-haute-altitude-du-parc-national-de-Kahuzi-Biega-par-les-pygmees/.
- 32 I1 interviewed on 2 November 2020 and I15 interviewed on 11 February 2021. This sentiment was also conveyed in focus group-style discussions in various locations on 2 November 2020, 4 November 2020, and 5 November 2020.
- 33 From a sentence commonly heard in course the of the field work: '*balitufukuza mara ya pili*,' literally 'they expelled us for the second time.'
- 34 C3 interviewed on 3 November 2020.
- 35 Z5 interviewed on 27 October 2020.
- 36 Interview with E2.
- 37 Interview with A1 on 23 October 2020.
- 38 Interviews with E3 and E2.
- 39 Interview with E3.
- 40 Identified sometimes as Matabishi Masumbuko, sometimes as Matabishi Teso Nabukonjo, or Bienfait Masumbuko.
- 41 See, for example, D2, April 2019 ; D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygm es*, *op. cit.* Both on file with author.
- 42 Copies on file with author. Numerous civil society organizations also documented this incident.
- 43 Copies of photographs on file with author.
- 44 See, for example, Minority Rights Group, Environnement Ressources Naturelles et Développement, and Rainforest Foundation Norway (2019), 'MRG, Environnement Ressources Naturelles et Développement, and Rainforest Foundation Norway strongly condemn killing of a Batwa man

- and park guard in DRC national park and demand a prompt investigation', 3 May, available at <https://minorityrights.org/2019/05/03/mrg-environnement-ressources-naturelles-et-developpement-et-rainforest-foundation-norway-strongly-condemn-killing-of-a-batwa-man-and-park-guard-in-drc-national-park-and-demand-a-prompt-investigation/>
- 45 Letter from civil society organizations to Directors of PNKB and ICCN dated 1 May 2019, on file with author.
- 46 Interviews with E1, E2, and E3. Given the sensitive nature of the information disclosed, the date and location of interviews with park guards cannot be published without putting the sources at risk of being identified.
- 47 Interview with E2.
- 48 Letter from civil society organization to Directors of PNKB and ICCN dated 1 May 2019, on file with author.
- 49 Interview with E2. E1 also described this, although did not provide the month that such collaboration began.
- 50 Mulongoy, H. (PNKB Spokesperson) (2019), 'Le commandant de la 33eme Région Militaire du Sud-Kivu Promet son soutien au Parc National de Kahuzi Biega', *Journal de Kahuzi-Biega*, 14 February, available at <https://www.kahuzi-biega.com/le-commandant-de-la-33eme-region-militaire-du-sud-kivu-promet-son-soutien-au-parc-national-de-kahuzi-biega/>; see also Interview.CD, August 2020, 'Sud-Kivu : Le nouveau commandant de la 33ème région militaire reçu par le Vice-gouverneur', accessible at <https://l'interview.cd/sud-kivu-le-nouveau-commandant-de-la-33eme-region-militaire-recu-par-le-vice-gouverneur/>.
- 51 Mulongoy, *op. cit.*
- 52 Mulongoy, *op. cit.*
- 53 See Schlindwein, S. (2020), 'Der feind in grün', *Die Tageszeitung*, 2 March, available at <https://taz.de/Naturschutz-contre-Menschenrechte/!5666561/>: 'Ich bin einer der größten Tierschützer im Kongo.'
- 54 See, for instance, US Department of State, Media Note, March 2021, *State Department Terrorist Designations of ISIS Affiliates and Leaders in the Democratic Republic of the Congo and Mozambique* accessible at <https://www.state.gov/state-department-terrorist-designations-of-isis-affiliates-and-leaders-in-the-democratic-republic-of-the-congo-and-mozambique/>.
- 55 See United Nations Security Council Group of Experts Report (S/2016/466), 23 May 2016, page 40 paragraph 201 Report accessible at <https://www.undocs.org/S/2016/466>.
- 56 See United Nations Security Council Press Release, 1 February 2018, *Sanctions Committee concerning Democratic Republic of Congo Adds Four Individuals to Its Sanctions List*, accessible at <https://www.un.org/press/en/2018/sc13194.doc.htm>.
- 57 These six attempts to reach Director Bya'Ombe were made over the phone and via WhatsApp at two separate numbers over the course of one month. Bya'Ombe once answered the phone and requested to speak at a later date, and thereafter did not respond to any further communications from the research team.
- 58 Samir Tounsi, Agence France Press, October 12 2019, *High-Stakes Conflict Threatens DR Congo Gorillas*.
- 59 Interviews with E1, E2, and E3.
- 60 Interviews with S1, S2, S4, S5, S6, and S8. Given the sensitive nature of the information disclosed, the date and location of interviews with soldiers cannot be published without putting the sources at risk of being identified.
- 61 See, e.g., Y4, interviewed on 7 November 2020 and focus group-style discussions with Batwa community members at various locations on 2 November 2020, 4 November 2020, and 5 November 2020.
- 62 Interview with K5 on 7 April 2021, recalling a conversation with Bya'Ombe, stated 'he was so proud of that operation'. This was also discussed in interviews with K2 on 16 October 2020 and with E2 and E3.
- 63 Samir Tounsi, Agence France Press, October 12 2019, *High-Stakes Conflict Threatens DR Congo Gorillas*.
- 64 Kasole, K. (2019) 'Pygmy Leader and Chief of Indigenous Community of Kalonge,' *letter* of 5 July 2019. On file with the author.
- 65 D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmies*, *op. cit.*
- 66 Focus group-style discussions on 3 November 2020 with Batwa community members.
- 67 Interviews with C1, C2, C3, C4, and C5 on 3 November 2020. Also discussed in focus group-style discussions with Batwa community members on the same date.
- 68 Commonly referred to as Lwaboshi Mirindi or Lwaboshi Simba, alias Débande. D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmies*, *op. cit.*
- 69 Combination of semi-structured interviews and focus group-style discussions with Batwa community members on 3 November 2020.
- 70 Focus group-style discussions with Batwa community members on 3 November 2020.
- 71 See, for example, D2, *Déclaration orale à l'occasion de la 65ème Session Ordinaire de la Commission Africaine des Droits de l'Homme et des Peuples tenue à Banjul du 21 octobre au 10 novembre 2019*; D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmies*, *op. cit.*; D3, *Rapport du Field Hearing Effectue par L'equipe RCF Aupres Des Peuples Autochtones/Batwa Riverains du Parc National de Kahuzi-Biega/Sud Kivu*, All documents on file with author.
- 72 See D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmies*, *op. cit.*
- 73 Clash between Pygmies and DRC gorilla sanctuary rangers leaves one dead, Agence France-Presse, 20 July 2019, accessible at <https://www.theguardian.com/world/2019/jul/20/clash-with-pygmy-near-drc-gorilla-sanctuary-leaves-one-dead-14-injured>.
- 74 C4 interviewed on 3 November 2020.
- 75 See D4, Press Comminque, June 2019, *Poursuivez urgemment en justice Mr. MBURANUMWE NZABONIMPA de l'ICCN pour tentative de meurtre et autres exactions*, on file with author. Schlindwein, S. (2019), June 2019, 'Der Fall des Gorilla-Rettens', *Die Tageszeitung*, 24 June, available at <https://taz.de/Skandal-im-Kongo/!5602228/>.
- 76 Sosthene Mashagiro (the victim's attorney), Cabinet Kalinda, June 10 2019, N°037/CAB/KAL/SM/D1001/19, *CONCERNE : Plainte à charge de Monsieur le Conservateur MBURANUMWE NZABONIMPA Innocent*, on file with author.
- 77 Mburanumwe is reported to have begun working with the PNKB in July of 2019. See Schlindwein, 2020, *op. cit.*
- 78 Interview with E2.
- 79 G11 interviewed on 23 February 2021.
- 80 Z2 interviewed on 27 October 2020.
- 81 Interview with E1.
- 82 Interviews with E1, E2, and E3.
- 83 Interviews with S1, S2, S4, S5, S6, and S8.
- 84 The term was overwhelmingly used in focus-group style discussions and semi-structured interviews in multiple locations.
- 85 G5 interviewed on 2 March 2021 and G11 interviewed on 23 February 2021.
- 86 Interviews with E1, E2 and E3.
- 87 Interview with E2.
- 88 Interviews with E1, E2 and E3.
- 89 Interviews with E2 and E3.
- 90 Interviews with S1, S2, S4, S5, S6, and S8.
- 91 S1 estimated that four to five Batwa died in the operation, S4 and S5 estimated that three died, and the other interviewed soldiers refrained from making estimates.
- 92 Interview with E1.
- 93 Interview with S6.
- 94 Interview with E1.

- 95 M9, M10, M12, and M41, interviewed on 5 November 2020.
- 96 D35 interviewed on 4 November 2020 and M9 interviewed on 5 November 2020.
- 97 M13 and M14 interviewed on 5 November 2020 and M20, M23, M24, M25, M26, M27, M28, M29, M30, M31, M32, M33 and M34 interviewed on 24 February 2021.
- 98 M2, M3, M4, M5, M6, M7, M8, M9, M10 interviewed on 5 November 2020, M17 interviewed on 24 February 2021, M37 interviewed on 25 February 2021, and W1 interviewed on 24 February 2021.
- 99 The research team visited one grave on 4 November 2020, two graves on 5 November 2020 and three graves on 24 March 2021.
- 100 M21 and M19 interviewed on 24 February 2021 and M38 interviewed on 25 February 2021.
- 101 Interview with E2.
- 102 Interview with E1.
- 103 For example, Batwa in focus-group style discussions conducted on 5 November 2020 believed that 25 people or more were killed in the operation, whereas a leader in Bugamanda (W1, interviewed on 24 February 2021) believed that three to five Batwa were killed in the operation.
- 104 Focus group-style discussions with Batwa community members on 4 November 2020 and 5 November 2020.
- 105 Focus-group style discussions with Batwa community members on 4 November 2020, but also in semi-structured interviews with G1, G5, G6, G9, G10, G11, G12, G13, G14, G15, and G16 on 4 March 2021.
- 106 Focus group-style discussions on 4 November 2020.
- 107 Focus group-style discussions with Batwa community members in multiple locations on 27 October 2020, 28 October 2020 and 4 November 2020.
- 108 W1 interviewed on 24 February 2021 and G11, interviewed on 23 February 2021.
- 109 Focus group-style discussions with Batwa community members on 4 November 2020.
- 110 The research team visited 1 grave on 4 November 2020 and 3 more graves on 24 March 2021.
- 111 Focus group-style discussions with Batwa community members on 4 November 2020.
- 112 Focus group-style discussions with Batwa community members on 4 November 2020.
- 113 See, for example, D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmées*, op. cit. See also DECLARATION DES AUTOCHTONES BATWA DU PARC NATIONAL DE KAHUZI-BIEGA A L'EST DE LA RDC, September 2019, D2; see also See Monde D'Espoir (ME) (2020), 'Documentation des cas de violations des droits des humains des populations autochtones pygmées dans les territoires de Kabare et Kalehe en République Démocratique du Congo Du 24 octobre au 02 novembre 2020', November, on file with author.
- 114 Interview with Z13 on 27 October 2020.
- 115 Combination of semi-structured interviews and focus group-style discussions with Batwa community members on 28 October 2020, focus group-style discussions with Batwa community members on 2 November 2020 and 4 November 2020 in multiple locations.
- 116 L1 interviewed on 28 October 2020 and W1 interviewed on 24 February 2021. W1, a Batwa leader, is the Mutwa man's father.
- 117 Interview with E3.
- 118 Z13 interview on 27 October 2020 and, also generally addressed in the focus group-style discussions with Batwa community members on 27 October 2020 and 4 November 2020.
- 119 W1, interviewed on 24 February 2021.
- 120 Focus group-style discussions with Batwa community members in multiple locations on 27 October 2020 and 4 November 2020.
- 121 Z13 interviewed on 27 October 2020.
- 122 D35 interviewed on 4 November 2020.
- 123 K3 and K4 interviewed on 25 March 2021.
- 124 Interviews with E1, E2, E3, S1, S2, S4, S5, S6 and S8.
- 125 Interviews with G1, G5, G6, G9, G10, G11, G12, G13, G14, G15 and G16 on 4 March 2021.
- 126 Semi-structured interviews and focus group-style discussions with Batwa community members on 4 November 2020 and focus group-style discussions with Batwa community members on 30 October 2020.
- 127 Interviews with E1, E2, and E3.
- 128 Interviews with G1, G2, G3, G4, G5, G6, G7, G8, G9, G10, G11, G12, G13, G14, G15 and G16 on 2 March 2021.
- 129 G11 interviewed on 2 March 2021.
- 130 G5, G6, and G11 interviewed on 2 March 2021.
- 131 G5 interviewed on 2 March 2021. Emphasis added to reflect the emphasis added to particular words while the source was speaking.
- 132 I1 interviewed on 2 November 2020, who estimated the population of the village to be 480. See also focus group-style discussions with Batwa community members on 2 November 2020 and the observations of the research team, which noted the presence of several dozen structures, most of which house 5 to 10 Batwa community members.
- 133 Focus group-style discussions with Batwa community members on 2 November 2020.
- 134 E1, E2, and E3.
- 135 I1 interviewed on 2 November 2020.
- 136 Combination of semi-structured interviews and focus group-style discussions with Batwa community members on 2 November 2020 and in February 2021.
- 137 Focus group-style discussions with Batwa community members on 2 November 2020.
- 138 Focus group-style discussions with Batwa community members on 02 November 2020.
- 139 Focus group-style discussions with Batwa community members on 2 November 2020.
- 140 The research team visited these structures on 11 February 2021.
- 141 I16 interviewed on 11 February 2021.
- 142 I16 interviewed on 11 February 2021.
- 143 I16 interviewed on 11 February 2021.
- 144 I16 interviewed on 11 February 2021.
- 145 Interview with E2.
- 146 Focus group-style discussions with Batwa community members on 2 November 2020.
- 147 I15 and I16, interviewed on 11 February 2021 and I18, interviewed on 12 February 2021.
- 148 M5, interviewed on 5 November 2020.
- 149 An estimate of roughly 550 Batwa residents of Masiza was made by a Batwa leader in Masiza M19, interviewed on 24 February 2021. It was also consistent with the estimates generally made in focus group-style discussions with Batwa community members on 5 November 2020.
- 150 M16 and M18, interviewed on 24 February 2021, M37, interviewed on 25 February 2021, and focus group-style discussions with Batwa community members on 5 November 2020.
- 151 M1 interviewed on 4 November 2020 and focus group-style discussions with Batwa community members on 4 November 2020.
- 152 Combination of semi-structured interviews and focus group style-discussions with Batwa community members in multiple locations on 5 November 2020, 24 February 2021, and 25 February 2021.
- 153 M37 and M39 interviewed on 25 February 2021, M9, interviewed on 5 November 2020 and focus group-style discussions with Batwa community members on 5 November 2020.
- 154 Interview with E2.
- 155 M9 interviewed on 5 November 2020.

- 156 Interview with E2, M9 interviewed on 5 November 2020, M37 and M39 interviewed on 25 February 2021.
- 157 This was described in focus group-style discussions with Batwa community members on 5 November 2020.
- 158 For example, M38 interviewed on 25 February 2021 and M21 and M19 interviewed on 24 February 2021 all recalled the names of family members who disappeared and were later found to have died from starvation. This dynamic was also discussed with Batwa leader M19 interviewed on 24 February 2021 and in focus group-style discussions with Batwa community members on 5 November 2020.
- 159 Focus group-style discussions with Batwa community members on 5 November 2020.
- 160 M2, M3, M4, M5, M6, M7, M8, M9 and M10 all interviewed on 5 November 2020, M17 interviewed on 24 February 2021 and M37 interviewed on 25 February 2021.
- 161 M21 and M19 interviewed on 24 February 2021 and M38 interviewed on 25 February 2021.
- 162 This was expressed in focus group-style discussions with Batwa community members on 5 November 2020.
- 163 M9, M10, M12 and M41 interviewed on 5 November 2020.
- 164 M13 and M14 interviewed on 5 November 2020, M20, M23, M24, M25, M26, M27, M28, M29, M30, M31, M32, M33, and M34 interviewed on 24 February 2021.
- 165 Focus group-style discussions with Batwa community members on 5 November 2020.
- 166 This estimate is derived from more than 100 Batwa sources who said that they permanently relocated outside the park after the operation, and many noted that in total the population of Batwa who permanently relocated after the operation numbered in the hundreds, if not more.
- 167 Combination of semi-structured interviews and focus group-style discussions with Batwa community members across multiple locations.
- 168 For example, focus group-style discussions with Batwa community members in multiple locations on 27 October 2020, 28 October 2020 and 30 October 2020.
- 169 Y4 interviewed on 7 November 2020.
- 170 Taking low estimates across the board, the research team expects the figure to be closer to 2,000, or up to 2,500.
- 171 Reference to the census can be found in D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmes, op. cit.*
- 172 W3 interviewed on 24 February 2021.
- 173 Interviews with E1, E2, and E3 and in focus group-style discussions with Batwa community members on 27 October 2020.
- 174 For instance, M39, interviewed on 25 February 2021, I16, interviewed on 11 February 2021, and generally alluded to in focus group-style discussions with Batwa community member on 27 October 2020.
- 175 Park guards used the French phrase '*armes traditionnelles*.'
- 176 Interviews with E1, E2, and E3.
- 177 This sentiment was expressed in interviews with E1, E2, and E3.
- 178 Interviews with E1, E2 and E3.
- 179 Interview with E3.
- 180 Focus group-style discussions with Batwa community members on 27 October 2020.
- 181 Z5 interviewed on 27 October 2020.
- 182 Interview with S8.
- 183 See, for instance, La Prunelle RDC, 7 August 2019, *PNKB: François, l'écogarde tué le 1er Août, a été enterré ce mardi*, <https://laprunellerdc.info/pnkb-francois-lecogarde-tue-le-1er-aout-a-ete-enterre-ce-mardi/>
- 184 See, for instance, *ibidem*.
- 185 Hubert Mulongoyi, PNKB Spokesperson, quoted in La Prunelle RDC, 2 August 2019, *Sud-Kivu: un écogarde tué dans une attaque maimai au PNKB*, accessible at <https://laprunellerdc.info/sud-kivu-un-ecogarde-tue-dans-une-attaque-maimai-au-pnkb/>.
- 186 Interviews with E1, E2 and E3.
- 187 I2 and I3 interviewed on 2 November 2020 and I15, interviewed on 11 February 2021.
- 188 Interview with E3.
- 189 Interviews with E1, E2, E3 and I2, I3 interviewed on 2 November 2020, and I15 interviewed on 11 February 2021.
- 190 Interview with E3.
- 191 Interviews with E1, E2 and E3.
- 192 A recent media article suggested that five attacks have been committed by Batwa against park guards, resulting in three deaths and 13 injuries since 2017. Laurel Sutherland, *Deadly raids are latest case of abuse against Indigenous Batwa in DRC park, groups say* (21 December 2021), <https://news.mongabay.com/2021/12/deadly-raids-are-latest-case-of-abuse-against-indigenous-batwa-in-drc-park-groups-say/>.
- 193 See D2 (2019), 'Tableau des Pygmées en détention préventive', August; see also D2 (2020), 'Liste des Batwa en détention dans les prisons', June; D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmes, op. cit.*; D2, (2021), 'Statement by D2 following the recurrent violence between Pygmy indigenous people from Lemera village and Military of the Armed Forces of the Democratic Republic of Congo'. All documents on file with author.
- 194 B6, B7, B8, and B9 interviewed on 30 October 2020.
- 195 A1, A2, A3, A4 and A6 interviewed on 23 October 2020 and G4 interviewed on 4 November 2020.
- 196 A5 interviewed on 23 October 2020 and L2 interviewed on 28 October 2020.
- 197 V1 interviewed on 29 October 2020.
- 198 B5 first interviewed on 21 October 2020, and V2 interviewed on 29 October 2020.
- 199 B3 first interviewed on 20 October 2020, B4 first interviewed on 21 October 2020 and B12, interviewed on 24 March 2021.
- 200 See Monde D'Espoir (ME) (2020), 'Documentation des cas de violations des droits des humains des populations autochtones pygmées dans les territoires de Kabare et Kalehe en République Démocratique du Congo Du 24 octobre au 02 novembre 2020', November, on file with author.
- 201 ME November 2020. On file with the author.
- 202 B5 interviewed on 30 October 2020.
- 203 Focus group-style discussions with Batwa community members in multiple locations on 2 November 2020, 4 November 2020, and 5 November 2020.
- 204 B6, B7, B8 and B9 interviewed on 30 October 2020, A6 interviewed on 23 October 2020 and G4 interviewed on 4 November 2020.
- 205 B5 first interviewed on 21 October 2020, and V2 interviewed on 29 October 2020. B3 first interviewed on 20 October 2020, B4 first interviewed on 21 October 2020 and B12 interviewed on 24 March 2021.
- 206 OHCHR, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Article 1.
- 207 A1 interviewed on 23 October 2020 and G4 interviewed on 4 November 2020.
- 208 B6, B7, B8 and B9 interviewed on 30 October 2020.
- 209 All actively and formerly incarcerated sources described being denied food.
- 210 B6 B7, B8 and B9 interviewed on 30 October 2020.
- 211 B7 interviewed on 30 October 2020.
- 212 All actively and formerly incarcerated sources described being left to sleep on the ground.
- 213 L2 interviewed on 28 October 2020.
- 214 D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmes, op. cit.*
- 215 See D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmes, op. cit.* and ME November 2020, both documents on file with author.
- 216 A3 interviewed on 23 October 2020.
- 217 D4 interviewed on 4 November 2020.

- 218 A1 interviewed on 23 October 2020.
- 219 A2 interviewed on 23 October 2020.
- 220 A3 interviewed on 23 October 2020.
- 221 B6. The date and location of interviews with detainees cannot be published without putting the sources at risk of being identified.
- 222 B7. The date and location of interviews with detainees cannot be published without putting the sources at risk of being identified.
- 223 B7. The date and location of interviews with detainees cannot be published without putting the sources at risk of being identified.
- 224 B9. The date and location of interviews with detainees cannot be published without putting the sources at risk of being identified.
- 225 A notable exception is the 31 December 2020 convictions of two PNKB park guards for murder and three other park guards for bodily harm in connection with the killing of two Batwa men. Forest Peoples Programme, 'Coercive conservation on trial in the Democratic Republic of Congo', 6 January 2021, available at <https://www.forestpeoples.org/es/node/50678>.
- 226 Mulongoy, *op. cit.*
- 227 Interviews with E1, E2, and E3.
- 228 The phrase, used by E1, E2, and E3, was '*bazungu bamercenaire*' which combines French and *Kiswahili*.
- 229 Interviews with E1, E2, and E3.
- 230 Interviews with E1, E2, and E3.
- 231 The sources could not precisely remember the month, but all placed the sessions in this range, and all agreed that the training occurred in the immediate run-up to the operation of July-August 2019.
- 232 Wildlife Conservation Society, email communication, 26 March 2021. Wildlife Conservation Society contracted with Maisha and brought them into the PNKB most recently between 2016 and 2017.
- 233 See Schlindwein, 2020, *op. cit.*
- 234 Wildlife Conservation Society, email communication of 26 March 2021 and email communication of 12 April 2021.
- 235 Wildlife Conservation Society, email communication of 12 April 2021.
- 236 Letter from civil society organization to Directors of PNKB and ICCN dated 1 May 2019, on file with author.
- 237 Also in copy were representatives of UNESCO and US Fish and Wildlife Service, inter alia. Email chain contained in records received from German Federal Ministry for Economic Cooperation and Development on 13 April 2021 via Freedom of Information Request, Reference No. 188945.
- 238 Letter from civil society organization to Directors of PNKB and ICCN dated 1 May 2019, on file with author.
- 239 The letter was not directly sent to KfW, although KfW was in receipt of the communication. Email chain contained in Records received from German Federal Ministry for Economic Cooperation and Development on 13 April 2021 via Freedom of Information Request, Reference No. 188945.
- 240 USAID had been funding a project supporting the PNKB which was slated to end in July 2019, but this was not a specific action taken in response to concerns about potential human rights violations. KfW's funding continued for the rest of 2019 and beyond. Source for information about USAID project funding is Skype interview conducted by Colin Luoma (author of MRG's forthcoming report *Fortress Conservation and International Accountability for Human Rights Violations in the Kahuzi-Biéga National Park*) with USAID representatives on 26 April 2021.
- 241 See, for example, Wildlife Conservation Society (2019, 'WCS Position Statement for 43COM', June-July: 'WCS redoubles its commitment to the property and looks forward to strengthening its support to ICCN in addressing the current threats to the property,' on file with author.
- 242 D1, *Cohabitation tumultueuse entre le PNKB et les autochtones pygmés*, *op. cit.*
- 243 Focus group-style discussion with Batwa community members in multiple locations on 2 November 2020 and 4 November 2020 and semi-structured interviews with, among others, I16 and I17 on 11 February 2021.
- 244 I1 interviewed on 2 November 2020, I15, interviewed on 11 February 2021, W1 interviewed on 24 February 2021 and M19 interviewed on 25 February 2021.
- 245 M5, in a focus group-style discussion on 5 November 2020.
- 246 See Schlindwein, 2020, *op. cit.*
- 247 K2 interviewed telephonically on 16 October 2020.
- 248 Minority Rights Group, Amnesty International, Initiative for Equality, Rainforest Foundation UK, and Réseau Initiative for Equality, Joint Advocacy Statement, 13 May 2020, *Declaration of Solidarity with Indigenous Batwa Prisoners in the Democratic Republic of the Congo*, accessible at <https://minorityrights.org/advocacy-statements/solidarity-with-Batwa-prisoners/>
- 249 I15 interviewed on 11 February 2021; see also D2 (2020), *op. cit.* and in Busane, USAID 2021, both on file with the author.
- 250 I15 interviewed on 11 February 2021; see D2 (2020), *op. cit.*
- 251 W1 interviewed on 24 February 2021 and I15 interviewed on 11 February 2021.
- 252 Mutwa leader W1 interviewed on 24 February 2021, I14 and I15 interviewed on 11 February 2021, non-Bawa leader G11 interviewed on 23 February 2021.
- 253 See D2 (2021), *op. cit.*
- 254 Mutwa leader W1 interviewed on 24 February 2021 and non-Batwa leader G11 interviewed on 23 February 2021.
- 255 N2 interviewed on 26 July 2021.
- 256 FN10 interviewed on 6 December 2021.
- 257 I1 interviewed via telephone on 23 July 2021, I14 and I15, interviewed via telephone on 23 July 2021.
- 258 The village of Muyange inside the PNKB in Kalehe territory should not be confused with the other Muyange inhabited by Batwa located in Kabare territory, of which Jean-Marie Kasula is the Chief.
- 259 I1, interviewed via telephone on 23 July 2021, W1 and W4 interviewed via telephone on 24 July 2021.
- 260 W1 and W4 interviewed via telephone on 24 July 2021 and with civil society source U1 interviewed via telephone on 24 July 2021.
- 261 U2, U3 and U4 interviewed via telephone on 24 July 2021.
- 262 U2, U3 and U4 interviewed via telephone on 24 July 2021.
- 263 U2 interviewed via telephone on 24 July 2021.
- 264 I14 interviewed on 31 July 2021. This estimate comported with the observations of the research team.
- 265 Observations made on visits by the research team to Muyange on 25 July 2021, 31 July 2021, 7 August 2021, 10 August 2021 and 24 September 2021.
- 266 I14, N5, N6 and N7 interviewed on 31 July 2021.
- 267 N13 interviewed on 6 August 2021.
- 268 N13 interviewed on 6 August 2021.
- 269 N13 interviewed on 6 August 2021.
- 270 N3 interviewed on 26 July 2021.
- 271 14 eyewitness sources and focus group-style discussion with Batwa community members on 10 August 2021.
- 272 The research team visited the freshly dug gravesite of the first woman who died after being raped in Buhoyi on 4 August 2021. All sources interviewed by the research team after her death (which occurred six days after the attack) referred to the fact that she had died, including the six Batwa women who had been raped interviewed by the research team (N2 and N4 interviewed on 26 July 2021 and N9, N10, N11, and N12 interviewed on 4 August 2021). The research team learned of the second woman's death from Batwa leader I14 and through focus-group style discussions with community members.
- 273 N10 on 4 August 2021.
- 274 N11 interviewed on 4 August 2021.
- 275 N11 and N12 interviewed on 4 August 2021.
- 276 N4 interviewed on 26 July 2021, N9 and N10 interviewed on 4 August 2021.

- 277 N4 interviewed on 26 July 2021.
- 278 N9 interviewed on 4 August 2021.
- 279 N10 interviewed on 4 August 2021.
- 280 N11 interviewed on 4 August 2021.
- 281 N2 interviewed on 26 July 2021.
- 282 Both the mortar canister case and the RPG propelling charge container were identified by weapons/munitions expert K3 after viewing photos sent via WhatsApp on 1 August 2021.
- 283 Identified by K3 after viewing photos sent via WhatsApp on 30 July 2021.
- 284 The shell casings from rounds used in AK-47s and PKM belt-fed machine guns were found at the location where Batwa eyewitnesses told the research team that a machine gun position was set up and fired upon the village.
- 285 Two of the graves, belonging to the two Batwa men killed in Muyange, were visited and photographed by the research team on multiple occasions, first on 25 July 2021. The third and fourth graves belonged to women who were violently gang raped by park guards and soldiers. The third grave was visited and photographed by the research team on 4 August 2021. The second woman killed was being buried while the research team was conducting interviews on 10 August 2021. The research team briefly visited the burial ceremony and interacted with some mourners.
- 286 Such reports came, for instance, from I14 and I15.
- 287 Email from Minority Rights Group to various recipients dated 29 July 2021, in author's possession.
- 288 Letter co-signed by various international and domestic human rights organizations, sent on 29 July 2021, entitled *Urgent Request Concerning Human Rights Violations Perpetrated Against Batwa in the Kahuzi-Biega National Park*, in author's possession.
- 289 Parc National de Kahuzi-Biega (2021), 'Visite de l'ambassadeur d'Allemagne en RDC au Parc de Kahuzi-Biega', Journal de Kahuzi-Biega, 4 August, available at <https://www.kahuzi-biega.com/visite-de-lambassadeur-dallemagne-en-rdc-au-parc-de-kahuzi-biega/>.
- 290 Parc National de Kahuzi-Biega (2021), 'Visite de l'ambassadeur d'Allemagne en RDC au Parc de Kahuzi-Biega', Journal de Kahuzi-Biega, 4 August, available at <https://www.kahuzi-biega.com/visite-de-lambassadeur-dallemagne-en-rdc-au-parc-de-kahuzi-biega/>.
- 291 Telephone interviews with Batwa leaders W1, W4, I14 and I15.
- 292 Telephone communication with I14 and I15 late August 2021.
- 293 Telephonic communication with I14 and I15 early September 2021.
- 294 Destruction documented by Mutwa leader I14.
- 295 Mutwa leader figure I14 interviewed on 25 August 2021.
- 296 Email from civil society organization to Minority Rights Group dated 5 January 2022. On file with author.
- 297 The author has decided to exclude an interview code for this Mutwa leader and his associates for security reasons.
- 298 At the time of the field work, it was believed that only Muyange, Bugamanda, Maruti and Tchibwisa had been attacked. The research team visited Bugamanda, Maruti, Tchibwisa, and Buhoyi. The research team later learned from Batwa leaders and displaced community members who described the fact that Muyange, Kayeye I, and Kayeye II had also been destroyed.
- 299 FN8 and FN11 interviewed on 6 December 2021 and FN12, FN13, FN14, FN15 and FN17 interviewed on 7 December 2021.
- 300 The research team viewed one grave on 2 December 2021, two more graves on 8 December 2021 and a final grave on 10 February 2022 across two locations.
- 301 The research team visited the villages of Bugamanda and Maruti on 2 December 2021, counting more than 40 structures which were destroyed and visited the village of Tchibwisa on 8 December 2021, noting the destruction of dozens of structures. The research team additionally visited Buhoyi on 16 February 2022, again noting extensive destruction of dozens of structures which had been burned down or physically destroyed.
- 302 FN2 interviewed on 2 December 2021, FN5 interviewed on 2 December 2021, FN7 interviewed on 3 December 2021.
- 303 Interviewed on 8 December 2021.
- 304 FN2 interviewed on 2 December 2021, FN5, interviewed on 2 December 2021, FN7 interviewed on 3 December 2021.
- 305 FN5 interviewed on 2 December 2021.
- 306 FN6 interviewed on 3 December 2021.
- 307 The research team visited this home in Bugamanda on 2 December 2021.
- 308 The research team visited these graves in Tchibwisa on 8 December 2021.
- 309 FN3 and FN6 interviewed on 2 December 2021.
- 310 FN4 interviewed on 2 December 2021.
- 311 The research team viewed this grave in Bugamanda on 2 December 2021.
- 312 FN1 FN3, FN4 and FN5 interviewed on 2 December 2021, FN6 interviewed on 3 December 2021, *inter alia*.
- 313 FN2 interviewed on 2 December 2021.
- 314 FN6 interviewed on 3 December 2021.
- 315 FN11 interviewed on 6 December 2021.
- 316 FN19, FN11 and FN10 interviewed on 6 December 2021, FN16 interviewed on 7 December 2021, *inter alia*.
- 317 FN10, FN11 and FN19 interviewed on 6 December 2021, *inter alia*.
- 318 FN10 interviewed on 6 December 2021.
- 319 FN11 interviewed on 6 December 2021.
- 320 FN9 and FN10 interviewed on 6 December 2021 and FN16, interviewed on 7 December 2021.
- 321 FN8 interviewed on 6 December 2021, FN19, interviewed on 6 December 2021, FN12, FN13, FN14, FN15 and FN17 interviewed on 7 December 2021.
- 322 FN8 interviewed on 6 December 2021, FN19 interviewed on 6 December 2021, FN12, FN13, FN14, FN15 and FN17 all interviewed on 7 December 2021.
- 323 FN8 interviewed on 6 December 2021, FN19, interviewed on 6 December 2021, FN12, FN13, FN14, FN15 and FN17 all interviewed on 7 December 2021.
- 324 FN14 interviewed on 7 December 2021.
- 325 FN11 and FN19 interviewed on 6 December 2021, FN14 and FN16 interviewed on 7 December 2021, *inter alia*.
- 326 FN19 interviewed on 6 December 2021.
- 327 Email from Director Bya'Ombe to human rights organization dated 11 August 2021, on file with author.
- 328 Interviews with E4, E5 and E6. Given the high level of personal and professional risk associated with these conversations, information such as date, time, medium, and location of interview have been excluded.
- 329 Interview with E5.
- 330 See, for instance, 7SUR7.CD (2021), '*Sud-Kivu : Plus de 1.500 déplacés identifiés à Kabare et Kalehe suite aux affrontements près du Parc de Kahuzi Biega*', 26 July, accessible at <https://www.7sur7.cd/2021/07/26/sud-kivu-plus-de-1500-deplaces-identifies-kabare-et-kalehe-suite-aux-affrontements-pres>
- 331 Email from Director Bya'Ombe to human rights organization dated 11 August 2021, on file with author.
- 332 Suffice it to say, the two locations are not close to each other so there is no question that operations targeting Hutu rebels near Mugezi are distinct from an attack targeting Muyange.
- 333 E-mail from Director Bya'ombe to human rights organization dated 17 November 2021, on file with author.
- 334 E-mail from Director Bya'ombe to human rights organization dated 17 November 2021, on file with author.
- 335 E-mail from Director Bya'ombe to human rights organization dated 17 November 2021, on file with author.
- 336 E-mail communication sent from KfW on 25 August 2021. The author replaced references to 'the ICCN' and 'ICCN staff' with

- specific references to park director Bya'Ombe and PNKB guards for the sake of clarity and consistency for the reader.
- 337 The PNKB, through Director Bya'Ombe, has responded to correspondence sent by international and local human rights organizations outlining their concerns about reports of violence in July and November 2021 (discussed in Section VII above).
- 338 See Parc National de Kahuzi-Biega (2020), 'Le Parc de Kahuzi-Biega est sécurisé et prêt à accueillir les touristes', *Journal de Kahuzi-Biega*, 13 June, available at <https://www.kahuzi-biega.com/le-parc-de-kahuzi-biega-est-securise-et-pret-a-accueillir-les-touristes/>.
- 339 See, for instance, the Congolese Institute for Nature Conservation's 2019 Annual 'State of Conservation' report to UNESCO, *Rapport Sur L'Etat de Conservation des Biens de la RDC Inscrits Sur la Liste du Patrimoine Mondial en Peril*, p.28, report accessible at <http://whc.unesco.org/document/181584>. See also Tounsi, S. (2019), 'High-stakes conflict threatens DR Congo gorillas', Agence France Press, 12 October 2019.
- 340 Interviews with E1, E2 and E3.
- 341 For example, see Rainforest Journalism Fund (2021), 'Eco-guardians of the Kahuzi-Biega National Park', 30 September, available at <https://rainforestjournalismfund.org/stories/eco-guardians-kahuzi-biega-national-park>
- 342 Letter from civil society organization to Directors of PNKB and ICCN dated 1 May 2019, on file with author.
- 343 A representative of the civil society organization that sent the warning letter—noted that in response to it the Park Director 'said that there was some confusion, and that PNKB was not evicting the Batwa from the forest'. Email communication of 23 April 2021 from civil society representative to Minority Rights Group, on file with author.
- 344 Interviews with E1, E2 and E3.
- 345 Email from ICCN to Minority Rights Group dated 24 December 2021, on file with author.
- 346 A term meaning military materials or equipment.
- 347 United Nations Security Council, *Resolution 1807 (2008)* (S/RES/1807), 31 March 2008, paragraph 5 states that '... for the period referred to in paragraph 1 above, that all States shall notify in advance to the Committee any shipment of arms and related materiel for the Democratic Republic of the Congo, or any provision of assistance, advice or training related to military activities in the Democratic Republic of the Congo, except those referred to in subparagraphs (a) and (b) of paragraph 3 above, and stresses the importance that such notifications contain all relevant information, including, where appropriate, the end-user, the proposed date of delivery and the itinerary of shipments'; the referenced subparagraphs ((a) and (b) of paragraph 3) refer to the provision of materials to UN staffers and humanitarian and development workers, and therefore do not apply to the PNKB or its international backers. Resolution accessible at [https://www.undocs.org/S/RES/1807%20\(2008\)](https://www.undocs.org/S/RES/1807%20(2008)).
- 348 Although the obligation is placed on states to make a notification to the Security Council in advance of the provision of military support in the DRC, the arms embargo applies not only to support provided directly by states but also private actors and individuals. Private enterprises regularly notify the Security Council of support *through member states*. The UN Group of Experts on the DRC has identified support provided by individual trainers (i.e. not necessarily affiliated with states) as representing a violation of the arms embargo. See, e.g., Letter dated 2 June 2020 from the Group of Experts on the Democratic Republic of Congo addressed to the President of the Security Council, S/2020/482, paras 149-151.
- 349 Importantly, Resolution 1807 is still applicable and has remained applicable throughout the period in which Wildlife Conservation Society, GFA, KfW, Maisha, US Fish and Wildlife Service, among other potential actors, provided training and material support to the PNKB, because with respect to the sanctions regime, UN Security Council Resolution 2293 (2016) (S/RES/2293), 23 June 2016, renews 'the measures on arms imposed by paragraph 1 of resolution 1807 (2008) and reaffirms the provisions of paragraph 5 of that resolution' (paragraph 1, resolution accessible at [https://undocs.org/en/S/RES/2293\(2016\)](https://undocs.org/en/S/RES/2293(2016))), UN Security Council Resolution 2528 (2020) (S/RES/2528), 25 June 2020, renews 'the measures as set out in paragraphs 1 to 6 of resolution 2293 (2016)' (paragraph 1, resolution accessible at [https://undocs.org/S/RES/2528\(2020\)](https://undocs.org/S/RES/2528(2020))), and UN Security Council Resolution 2582 (2021) (S/RES/2582), 29 June 2021 renews 'until 1 July 2022 the measures as set out in paragraphs 1 to 6 of resolution 2293 (2016), including the reaffirmations therein' (paragraph 1, resolution accessible at [https://undocs.org/S/RES/2582\(2021\)](https://undocs.org/S/RES/2582(2021))).
- 350 Quotation from Stockholm International Peace Institute (SPRI), *Arms Embargo Archive*, accessible at <https://www.sipri.org/databases/embargo>
- 351 Interviews with R1, R2, and R3. Given the extremely sensitive nature of these interviews, the dates, locations and mediums (e.g., in person, telephonic, or via another medium) of said interviews cannot be published.
- 352 Email from GFA Consulting Group to Minority Rights Group dated 5 May 2021, on file with the author.
- 353 Letter from GFA Consulting Group to Minority Rights Group dated 11 February 2022; Wildlife Conservation Society Comments to Excerpts of Minority Rights Group Draft Report Concerning Kahuzi-Biega National Park (KBNP) (11 February 2022). Both attached as annexes to this report.
- 354 United Nations Security Council, *Resolution 1807 (2008)* (S/RES/1807), 31 March 2008, paragraph 5. For subsequent UN Security Council resolutions renewing the terms of the arms embargo in the DRC see endnote 349 above.
- 355 Security Council Committee Established Pursuant to Resolution 1533 (2004) Concerning the Democratic Republic of the Congo, Guidelines of the Committee for the Conduct of its Work as Adopted by the Committee on 6 August 2010, para 11(b).
- 356 Interviews with R1, R2, and R3.
- 357 US Fish and Wildlife Service Division of International Conservation *FY2015 Summary of Projects*, AFR1514, Grant # F15AP00743.
- 358 Wildlife Conservation Society email communication dated 26 March 2021, on file with the author.
- 359 The 'Law Enforcement Advisor' was brought to the PNKB two months after the likely date(s) of the large-scale Kalehe operation inside the park, in October of 2019. Wildlife Conservation Society email communication dated 12 April 2021, on file with the author. Notably, the fact that the 'Law Enforcement Advisor' is regarded by Wildlife Conservation Society as having only supported training with 'observation and guidance,' as opposed to more directly conducting the training does not exempt Wildlife Conservation Society from notifying the UN Security Council's Sanctions Committee of such activities.
- 360 See, for instance, Hammer, J. (2016), 'The fight against elephant poachers is going commando', *Smithsonian Magazine*, June, where Maisha is celebrated for its work 'professionalizing' paramilitary outfits in protected areas. Article accessible at <https://www.smithsonianmag.com/science-nature/fight-against-elephant-poaching-going-commando-180959071/>.
- 361 See 'Embedding Human Rights in Forest Conservation: From Intent to Action – Report of the Independent Panel of Experts of the Independent Review of allegations raised in the media regarding human rights violations in the context of WWF's conservation work', 17 November 2020, available at https://wwfint.awsassets.panda.org/downloads/independent_review___independent_panel_of_experts___final_report_24_no_v_2020.pdf.

- 362 See Schlindwein, 2020, *op. cit.*
- 363 This research team found that no notification was made to cover such training activities in this time period, which would mean that KfW's Programme Biodiversité et Forêt, supported by GFA Consulting Group, was provided in violation of the arms embargo.
- 364 GFA (2014), 'Ranger training camp launched in Democratic Republic of Congo', GFA Consulting Group official website, 28 August, available at https://www.gfa-group.de/news/Ranger_training_camp_launched_in_Democratic_Republic_of_Congo_3840168.html.
- 365 GFA Consulting Group email communication dated 5 May 2021, on file with the author.
- 366 See General Comment 31 on the Nature of the General Legal Obligation Imposed on States Parties to the International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add. 13 (26 May 2004).
- 367 DRC Constitution of 2005, with Amendments through 2011, Arts. 153, 215.
- 368 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, GA Resolution 60/147 (16 December 2005), para 11.
- 369 United Nations Declaration on the Rights of Indigenous Peoples, Resolution adopted by the UN General Assembly 61/295 on 13 September 2007 ('UNDRIP'), Art. 43.
- 370 UNDRIP, Art. 7.
- 371 UNDRIP, Arts. 19, 26.
- 372 International Law Commission, Report of the work of the seventy-first session, A/74/10 (2019).
- 373 Rome Statute of the International Criminal Court (2187 U.N.T.S. 90, Jul. 17, 1998) ('Rome Statute') Art. 7.
- 374 *Prosecutor v. Kunarac*, Trial Chamber, Judgment, ICTY Case No. IT-96-23, para. 428 (Feb. 22, 2001); *Prosecutor v. Jean-Pierre Bemba Gombo*, Pre-Trial Chamber II, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges, ICC-01/05-01/08, para 83.
- 375 See *Prosecutor v. Kunarac*, Appeals Chamber, Judgment, ICTY Case No. IT-96-23, para. 95.
- 376 See *Prosecutor v. Kunarac*, Appeals Chamber, Judgment, ICTY Case No. IT-96-23, para. 429.
- 377 *Prosecutor v. Tadic*, Trial Chamber, Opinion & Judgment, ICTY Case No. IT-94-1-T (May 7, 1997), para. 648.
- 378 Rome Statute, Art. 7(1).
- 379 Rome Statute, Elements of Crimes, p 5.
- 380 Rome Statute, Elements of Crimes, p 8.
- 381 Rome Statute, Art. 7(2)(g).
- 382 See *Prosecutor v. Blaškić*, Case No. IT-95-14-T, ICTY, Judgment (3 March 2000) (Int'l Crim. Trib. for the Former Yugoslavia Mar. 3, 2000) para 149; *Prosecutor v. Kordić & Čerkez*, Case No. IT-95-14/2, ICTY, Appeals Judgment (17 December 2004), para 108.
- 383 *The Prosecutor v. Popovic, et al.*, Case No. IT-05-88, ICTY, Judgment (30 January 2015) para 766.
- 384 The ICTY has held that when established the requisite discriminatory intent behind the crime of persecution, relevant evidence includes '[t]he use of derogatory language in relation to a particular group – even where such usage is commonplace'. The *Prosecutor v. Popovic, et al.*, Case No. IT-05-88, ICTY, Judgment (30 January 2015) para 713.
- 385 DRC, bill n°15/022, bill n°15/023, and bill n°15/024 of 31 December 2015.
- 386 *Prosecutor v. Dusko Tadic* (IT-94-1-A), ICTY Appeals Chamber, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 70.
- 387 For a description of factors to consider in analyzing the intensity of a conflict or the organization of an armed group, see *Prosecutor v. Boskoski (IT-04-82-T)*, ICTY Trial Chamber, Judgment, 10 July 2008, paras 175–206.
- 388 *Prosecutor v. Dusko Tadic*, IT-94-1-AR72, ICTY, Appeals Chamber, Decision (2 October 1995), para 562.
- 389 Barume, *op. cit.*
- 390 In contrast, under international law, indigenous peoples such as the Batwa have the right to own, use, develop and control their ancestral lands. See UN Declaration on the Rights of Indigenous Peoples (2007), Art. 26.

Annex I.

Minority Rights Group Correspondence with PNKB and its Donors

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République Démocratique du Congo*

*M. De Dieu By'aombe Directeur
Parc National Kahuzi-Biega
Avenue Patrice Emery Lumumba N 190 Bukavu, Sud Kivu
République Démocratique du Congo*

29 juillet 2021

Chers Directeur général Wilungula et Directeur By'aombe,

Les organisations soussignées vous adressent leur profonde préoccupation et leur consternation à la lecture des informations selon lesquelles un contingent composé de gardes du Parc National de Kahuzi-Biega (« PNKB ») et de soldats des Forces armées de la République Démocratique du Congo (« FARDC ») ont récemment attaqué des villages à l'intérieur du PNKB et commis de graves violations des droits humains, dont le meurtre de deux civils Batwa. S'ils sont avérés, nous considérons ces actes à l'encontre de ce peuple autochtone marginalisé, occupant ses terres ancestrales, comme une intensification de violences non justifiée et comme une violation du droit national et international. À ce titre, nous demandons à l'Institut Congolais pour la Conservation de la Nature (« ICCN ») et au PNKB de cesser immédiatement toute attaque contre les villageois Batwa et autres civils, d'enquêter promptement sur ces informations et de stopper toute atteinte aux droits humains du peuple Batwa.

Il a été rapporté qu'à partir ou dans la matinée du vendredi 23 juillet 2021, des dizaines de gardes du PNKB et de soldats des FARDC ont avancé dans les villages du groupement de Mabingu et autour de Kayeye, puis ont ouvert le feu sur des civils Batwa avec un arsenal de fusils et d'armes lourdes. Au moins deux membres de la communauté Batwa ont été tués : Ngubda Mbongana Kamushi et Amos Mulibanyi.¹ Les premiers rapports indiquent également que des centaines de Batwa ont été forcés de fuir les violences dans l'effolement et la panique dans divers villages hôtes à l'extérieur du parc. Les enfants Batwa auraient été séparés de leur famille et n'ont pas encore

été réunis. Les gardes du parc et les soldats ont incendié des dizaines d'abris, laissant ainsi des centaines de Batwa sans toit. Certains Batwa ont été contraints de dormir sur la route ou de trouver refuge auprès de communautés non-Batwa. Par conséquent, ces derniers incidents sont vécus par les Batwa comme la continuation du projet d'expulsions forcées qui a débuté dans les années 1970.

1 D'autres victimes non-Batwa ont été rapportées dans les médias, mais nous n'avons pas été en mesure de les confirmer.

Il semble que le PNKB et les FARDC justifient l'opération militaire susmentionnée en se fondant sur la présence et/ou la menace présumée de milices armées à l'intérieur du parc. Les ONG locales et les survivants déplacés Batwa ont strictement contesté ce récit, affirmant que les personnes ciblées par l'opération du 23 juillet étaient des civils non armés, y compris les deux membres de la communauté Batwa décédés. Néanmoins, même en supposant que la position de l'État soit avérée, le contingent PNKB/FARDC doit à minima respecter les règles établies du droit international humanitaire, notamment la nécessité de faire la distinction entre civils et combattants, de protéger les civils, et de déployer des armes et des tactiques avec discernement afin de limiter les souffrances inutiles. Les tirs à l'aveugle sur des civils Batwa qui ont été rapportés et l'incendie de leurs abris, sont bien en deçà de ces normes internationales de protection.

Autre fait inquiétant, nous venons de recevoir des informations selon lesquelles de nouvelles opérations sont imminentes dans les villages Batwa à l'intérieur du PNKB. Ayant reçu cette information, d'autres civils Batwa se sont sentis forcés de fuir leurs foyers et chercher refuge au plus profond de la forêt, craignant pour leur vie. Cela pose un risque immense pour les civils Batwa à l'intérieur du parc et entraînera probablement d'autres violations flagrantes des droits humains contre les membres de la communauté.

Il convient de rappeler que l'incident décrit ci-dessus s'inscrit dans un schéma de violences répétées et continues contre les Batwa depuis les années 1970 ; lorsqu'ils ont été expulsés de leurs terres ancestrales pour faire place à la création du PNKB, sans consultation, sans consentement et sans compensation à ce moment-là et depuis lors. Au fil des années, il a été répertorié de nombreux incidents de violations des droits humains contre les Batwa au sein et autour du PNKB. Tels que l'atteinte à la vie, la dépossession de leurs

terres ancestrales, et des déplacements forcés, ayant pour conséquence un appauvrissement sévère du peuple Batwa.

Nous exprimons nos vives et sérieuses préoccupations face à ces informations. Si elles sont confirmées, nous demandons à l'ICCN, au PNKB et aux autres autorités de l'État de cesser immédiatement les expulsions forcées illégales, et enfin de faire respecter les droits des Batwa sur leurs terres ancestrales, en vertu des obligations du droit national et international, et des engagements et diverses promesses faites au Batwa à l'issue du dialogue Whakatane et des initiatives subséquentes du règlement des conflits.

Dans l'attente de votre retour, je vous prie de croire, Messieurs, en nos considérations distinguées.

[REDACTED]

[REDACTED]

Cc : Mme. Eve Bazaib
Vice-Première Ministre, Ministre de l'Environnement et Développement Durable
M. Fabrice Puela, *Ministre des Droits Humains*

1 D'autres victimes non-Batwa ont été rapportées dans les médias, mais nous n'avons pas été en mesure de les confirmer.

From: De-Dieu Byaombe

Sent: 10 August 2021 18:28

To: Lara Dominguez

Subject: Re: Demande urgente concernant les violations des droits humains perpétrées contre les Batwa dans le parc national de Kahuzi-Biega

Attachments: Lettre PA.pdf

Chère Lara, Chers tous,

Il y a eu des opérations militaires aux environs du Parc national de Kahuzi Biega par le secteur opérationnel Sokola II nord-sud sur ordre de la troisième zone de défense. Nous avons été informés car les groupes armés qui opèrent autour du parc ont leur cachette dans la forêt et la seule forêt qui reste dans cette zone c'est l'aire protégée avec tous ceux qu'elle regorge. Dans les villages voisins du parc, les groupes surtout les Nyatura, groupe armé d'origine Rwandaise Hutu ; se cache dans les hauts plateaux de Kalehe vers Katasomwe et infiltrent à plusieurs reprises dans le Pnkb où ils font l'exploitation des minerais (Or et Cassitérites), font le sciage de bois et la carbonisation pour renforcer leur armement. Ces groupes utilisent les riverains Bantou et Batwa comme pisteurs, travailleurs et porteurs. Au retour, ils leur paient en nature donc sacs des braises ou planche après avoir transporté les butins aux marchés. Lors du passage des milices dans les villages, ils font tout acte connus des groupes armés et la population en est victime comme toujours, ils règnent en maître sur cette partie du territoire de Kalehe.

Il a été observé pendant un certain moment que ces Nyatura quittent les villages et viennent s'infiltrer dans le

Parc à Mugezi avec intention de creuser de l'Or, c'est dans la chefferie de Kabare où ils ont même tué deux de nos Éco gardes SEBUHINDJA HABYARIMANA et IMANI BARAKOMERWA en cantonnement sur le lieu et après l'opération, ils se replient dans les villages vers Katasomwe à Kalehe. C'est pour cette raison que nous avons aussi appuyé moralement cette opération pour stabiliser la zone sans aucune idée ni intention d'associer cette opération avec la mort des Batwa.

Nous avons suivi comme tout le monde comment les opérations se sont passées à la radio comme tout le monde car les attaques se sont passées en dehors du Parc.

En réalité, il n'y a aucun village dans le parc national de Kahuzi-Biega qui est une aire protégée de catégorie II et donc il est strictement interdit d'y habiter. C'est pourquoi les villages cités dans le message (Mabingu et Muyange) ne se retrouvent même pas dans cette aire protégée. D'ailleurs, vos informateurs n'ont pas été fidèles car dans Kalehe il n'y a pas des villages Muyange à ma connaissance. Le seul village répondant au nom de Muyange se trouve dans le territoire de Kabare, groupement de Miti à 2 kilomètres de Tshivanga le quartier général du Pnkb.

Et pour votre information, il n'y a eu aucun cas de mort dans ce village que je connais. Si cela était vrai, cet éco garde serait soumis à la pendaison même si notre loi ne l'autorise plus.

Le mandat du travail des éco gardes se limite dans l'espace protégée sauf dans le cas de la poursuite des infractions. Et pour le cas d'espèce nous parlons de la compétence territoriale qui va sur toute l'étendue de la

République Démocratique du Congo par rapport aux infractions sur la faune et la flore. Comment pensez-vous que les éco gardes sont allés tirer sur les paisibles citoyens dans leurs villages et de surcroît les Batwa? Pourquoi voulez-vous chercher le pou sur une tête avec calvitie ?

Il y a-t-il des villages incendiés ou des personnes en déplacement ? C'est possible comme nous le constatons dans toutes les zones de guerre, la population cherche à se mettre à l'abri et pour le cas présent, les opérations sont précédées par une sensibilisation des populations et un appel à ne pas se solidariser avec les groupes armés, il faut les dénoncer.

A ce jour, le Pnkb a une très franche relation et bonne collaboration avec les peuples Batwa car leurs leaders avaient pris le soins de passer dans tous les villages avant la cérémonie rituelle qui avait selon les recommandation des ancêtres servie de cadre de mon intronisation dans la coutume Batwa pour sensibiliser leur paire afin d'enterrer la hanche de la guerre entre eux et le Pnkb. La mise en place d'un cadre de dialogue qui nous unis tous (PNKB, ONG d'accompagnements, Batwa et autres parties prenantes) nous facilite l'exécution de l'accomplissement de la feuille de route du dialogue de Bukavu. Toutes les activités sont réalisées en synergie et à la satisfaction des tous, notamment :

1. La sécurisation des terres Batwa avec le financement de la Kfw,
 - 42 hectares sont presque finis avec une construction en dure dans chaque 10 hectare dont 27 hectares ici de l'UEFA et 10 hectares ici des Fardc à Kalonge dans le Kalehe, 5 hectares ici de PIDEP à Kashusha dans Kabare.
 - Plus de 96 hectares sont déjà identifiés dans le Kalehe littorale.
2. La scolarisation des enfants Batwa avec le financement de Kfw, le cap pour cette année 2020-2021 est de scolariser 1.500 enfants au niveau universitaire, secondaire et primaire (dans des écoles privées sans gratuité) avec la spécificité d'inclure les enfants de la basse attitude à Itebero dans le Walikale, Nord-Kivu. Actuellement, la délégation est à Itebero composée d'un représentant des Ong (REPALEF), Pnkb et Batwa avec un consultant recruté pour cette cause après avoir fini avec Kalehe et Kabare.
3. Après le dialogue de Bukavu, avec l'autorisation du Directeur Général de l'ICCN, nous avons donné emploi à 10 Batwa et ramené l'effectif à 60 Batwa travailleurs au Parc avec 2 cadres universitaires.
4. Juste après, tous les prisonniers Batwa ont été libérés sans exclure que les récalcitrants y retourneront.

Difficultés : Quel document juridique faut-il avoir pour une sécurisation définitive des terres car la loi congolaise n'octroie pas un certificat à une communauté ni à un groupe des gens mais plutôt à une personne physique ou morale. Que faire pour le cas présent ? Vos orientations s'il vous plaît.

Recommandations :

- Que les Ong participent aussi au bien être des Batwa en les sensibilisant sur leur bonheur et non les pousser dans le mal, dans les désordres sous prétexte qu'ils sont minoritaires et donc au-dessus de la loi. Quand ils coalisent avec les groupes armés, ils risquent d'être confondus à ces derniers comme l'avait déclaré le chargé de communication des Fardc dans son point de presse.
- Que les Ong et autres organisations de protection des droits humains nous fassent aussi confiance comme l'ont fait les batwa eux-mêmes car c'est de notre obligation de respecter les droits des autres et donc les droits humains. Nos Éco gardes après la dernière formation sur financement de l'Usaid à travers Wcs, ils ont même prêté serments de s'engager au respect strict de droit de l'Homme.
- Que les artisans des droits humains nous considèrent tous comme Humains sans ségrégation et ainsi nous serons tous fier d'être accompagné. Vos messages de compassion lorsqu'un éco garde est tué, nous encouragerait.
- Et afin, commencer à impliquer les Batwa et les consulter avant une quelconque déclaration car celle-ci a même étonné les concernés surtout quand on a parlé des éco gardes. Il y a par exemple ADELIPO, Umoja wa Wambutu, UCEPUED et autres avec des responsables Batwa.

Conclusion : Ni de près ni de loin, les éco gardes n'ont tué aucun membre de la communauté Batwa et ils n'ont fait aucune opération sur le haut plateau de Kalehe pendant presque une bonne période à cause des inciviques qui y sont installés et attendent la fin des opérations militaires.

Merci de prendre de votre temps pour nous écouter et nous comprendre. Tous pour la protection des minorités et peuples autochtones Batwa.

Nous nous excusons pour le retard dû aux différentes charges. En attache une lettre des représentants Batwa. Bien à vous

De Dieu BYA'OMBE
Directeur du PNKB

Le jeu. 29 juil. 2021 à 09:33,
Lara Domínguez a écrit :

Messieurs les Directeurs de l'ICCN et du PNKB,
Veuillez trouver ci-joint une correspondance urgente
concernant les récentes violations des droits humains
contre les Batwa dans le parc national de Kahuzi-Biega.

Cordialement,

Lara Domínguez
Acting Head of Litigation
Minority Rights Group International

Tel:
Mob:
Email:
Skype:
Twitter: @MinorityRights

From: @wcs.org>
Sent: 10 August 2021 20:11
To: De-Dieu Byaombe
Subject: Re: Demande urgente concernant les violations des
droits humains perpétrées contre les Batwa dans le parc
national de Kahuzi-Biega

Bonsoir DS.
Du courage dans ce dossier. Déjà à Bukavu?
Merci

On Tue, 10 Aug 2021, 19:28 De-Dieu Byaombe, < >
wrote:
EXTERNAL EMAIL - Please Use Caution

Chère Lara, Chers tous,

Il y a eu des opérations militaires aux environs du Parc
national de Kahuzi Biega par le secteur opérationnel
Sokola II nord-sud sur ordre de la troisième zone de
défense. Nous avons été informés car les groupes armés
qui opèrent autour du parc ont leur cachette dans la forêt
et la seule forêt qui reste dans cette zone c'est l'aire
protégée avec tous ceux qu'elle regorge. Dans les villages
voisin du parc, les groupes surtout les Nyatura, groupe
armé d'origine Rwandaise-Hutu ; se cache dans les hauts
plateaux de Kalehe vers Katasomwe et infiltrent à plusieurs
reprises dans le Pnkb où ils font l'exploitation des minerais
(Or et Cassitérites), font le sciage de bois et la
carbonisation pour renforcer leur armement. Ces groupes
utilisent les riverains Bantou et Batwa comme pisteurs,
travailleurs et porteurs. Au retour, ils leur paient en nature
donc sacs des braises ou planche après avoir transporté les

butins aux marchés. Lors du passage des milices dans les
villages, ils font tout acte connus des groupes armés et la
population en est victime comme toujours, ils règnent en
maître sur cette partie du territoire de Kalehe.

Il a été observé pendant un certain moment que ces
Nyatura quittent les villages et viennent s'infiltrer dans le
Parc à Mugezi avec intention de creuser de l'Or, c'est dans
la chefferie de Kabare où ils ont même tué deux de nos
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l'opération, ils se replient dans les villages vers Katasomwe
à Kalehe. C'est pour cette raison que nous avons aussi
appuyé moralement cette opération pour stabiliser la zone
sans aucune idée ni intention d'associer cette opération
avec la mort des Batwa.

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opérations se sont passées à la radio comme tout le monde
car les attaques se sont passées en dehors du Parc.

En réalité, il n'y a aucun village dans le parc national de
Kahuzi-Biega qui est une aire protégée de catégorie II et
donc il est strictement interdit d'y habiter. C'est pourquoi
les villages cités dans le message (Mabingu et Muyange) ne
se retrouvent même pas dans cette aire protégée. D'ailleurs,
vos informateurs n'ont pas été fidèles car dans Kalehe il n'y
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village répondant au nom de Muyange se trouve dans le
territoire de Kabare, groupement de Miti à 2 kilomètres de
Tshivanga le quartier général du Pnkb.

Et pour votre information, il n'y a eu aucun cas de
mort dans ce village que je connais. Si cela était vrai, cet
éco garde serait soumis à la pendaison même si notre loi
ne l'autorise plus.

From: Colin Luoma <colin.luoma@minorityrights.org>
To: De-Dieu Byaombe; Lara Dominguez
Subject: Re: Demande urgente concernant les violations des droits humains perpétrées contre les Batwa dans le parc national de Kahuzi-Biega
Date: Fri 9/3/2021 5:04 PM

Cher Directeur Bya'ombe,

Nous prenons note de votre email ainsi que de la lettre que vous avez jointe, signée par trois individus Batwa.

Nous tenons à réitérer brièvement les faits tels qu'ils nous ont été rapportés par un certain nombre de sources fiables, qui sont conformes à la lettre qui vous a été envoyée le 29 juillet 2021. Des centaines de Batwa habitent dans des villages civils situés à l'intérieur du Parc National de Kahuzi-Biega (« PNKB »), y compris dans les villages attaqués le 23 juillet 2021. Les preuves qui nous ont été fournies corroborent le fait qu'un contingent conjoint de soldats des Forces armées de la République Démocratique du Congo (« FARDC ») et d'écogardes du PNKB a attaqué ces villages avec des tirs de mitrailleuses lourdes et des bombes de mortier, entraînant la mort d'au moins deux hommes Batwa et d'autres violations graves des droits humains. Les soldats et les écogardes ont entièrement brûlé les maisons et les membres de la communauté ont été contraints de fuir vers différents villages à l'intérieur et à l'extérieur du PNKB.

Comme vous le savez, aucun leader ne peut représenter ni parler au nom de l'ensemble de la communauté Batwa dont les terres ancestrales se trouvent à l'intérieur du PNKB. Nous saisissons néanmoins cette occasion pour souligner que les informations concernant les attaques du 23 juillet dernier proviennent d'une grande variété de sources, notamment d'entretiens avec plusieurs membres de la communauté Batwa. Ces témoignages sont corroborés par d'autres informations fiables provenant de diverses autres sources, notamment des photographies, des

vidéos et des preuves matérielles. Ces preuves confirment pleinement la véracité des événements décrits dans cette correspondance et dans notre lettre initiale.

Nous rappelons que ces attaques s'inscrivent dans un schéma plus large de violences répétées et continues contre les Batwa depuis les années 1970 lorsqu'ils ont été expulsés de leurs terres ancestrales afin de créer le PNKB, sans consultation, sans consentement et sans compensation. Depuis lors, de nombreuses violations des droits humains contre les Batwa ont été répertoriées, dont les attaques contre les villages Batwa à l'intérieur du PNKB par le contingent conjoint des soldats FARDC et des écogardes du PNKB durant les mois de juillet et août 2019 qui suivent le même mode opératoire que les attaques faisant l'objet de la présente correspondance.

En vertu du droit international, l'État a l'obligation d'identifier et d'utiliser des mécanismes juridiques pour reconnaître et protéger les terres des peuples autochtones, tels que les Batwa. Néanmoins, le statut juridique des terres des Batwa en vertu du droit congolais ne peut servir de justification aux violations des droits humains commises par les écogardes du PNKB et les soldats des FARDC contre les membres de la communauté Batwa lors des attaques du 23 juillet. Nous réitérons donc notre demande au PNKB et à l'Institut Congolais pour la Conservation de la Nature (« ICCN ») de cesser immédiatement toute attaque contre les civils Batwa qui habitent dans le PNKB et les expulsions illégales, et appelons les parties prenantes concernées à respecter les droits des Batwa sur leurs terres ancestrales en vertu du droit national et international.

Nous vous prions de croire, Monsieur Bya'ombe, dans l'expression de nos considérations distinguées.

Best, Colin

Colin Luoma, Researcher

Minority Rights Group International

From: Colin Luoma
To:
Subject: Rapports d'attaques à l'intérieur du PNKB 12-13 novembre 2021
Date: 15 November 2021 15:32:30

Cher directeur Bya'ombe,

Je vous écris à nouveau au nom de Minority Rights Group International [REDACTED] pour exprimer notre profonde préoccupation et demander des éclaircissements concernant les informations que nous avons reçu faisant état d'expulsions et des violences récentes commises contre

les communautés Batwa à l'intérieur du PNKB entre le 12 et le 14 novembre. Nous avons reçu des informations initiales de nombreuses sources selon lesquelles des contingents conjoints de soldats des FARDC et de gardes du PNKB auraient procédé à des expulsions à grande échelle dans au moins trois villages Batwa à l'intérieur du PNKB, incendié toutes leurs maisons et structures, tiré et tué au moins un homme Mutwa, tiré et blessé au moins deux femmes Batwa et brûlé deux Batwa à mort à l'intérieur de leurs maisons. Les informations reçues suggèrent en outre que des attaques conjointes contre d'autres villages Batwa à l'intérieur du PNKB pourraient être imminentes. Fait particulièrement préoccupant, nous

avons également reçu des informations selon lesquelles les civils Batwa sont empêchés de fuir les villages où des attaques peuvent être imminentes.

En tant qu'organisations de défense des droits humains œuvrant pour la défense des droits des Batwa, nous condamnons une telle violence, si elle est confirmée, dans les termes les plus forts possibles. Nous les considérons comme faisant partie d'une situation plus globale d'escalade de la violence systémique perpétrée contre les

Batwa vivant sur leurs terres ancestrales. Nous appelons vivement l'ICCN à prendre toutes les mesures nécessaires pour s'assurer que ses activités n'enfreignent pas les droits humains des Batwa et de s'abstenir de nouvelles attaques de ce type contre les villages Batwa à l'intérieur du PNKB.

Nous attendons avec impatience votre réponse.

Best,

Colin

From: De-Dieu Byaombe

Sent: 17 November 2021 08:06

To:

Subject: Re: Rapports d'attaques à l'intérieur du PNKB - 12-13 novembre 2021

Cher Colin,

Chers partenaires défenseurs de nos intérêts et nos droits,

C'est avec grande attention que je viens de lire votre message et vous en remercie car nous avons commencé par watshapp et bien je vous remercie d'arriver à ce niveau pour mettre la lumière sur cette question de la protection des minorités Batwa que nous faisons tous notre cheval de bataille. Loin de moi l'idée de porter un jugement sur vos allégations, car vous connaissez comme moi le terrain pour y avoir passé votre stage et vous avez bien des informateurs dans la zone. Vos informateurs vous ont-ils donné les noms villages pygmées qui ont été attaqués dans le parc ?

Mais pourquoi les opérations militaires en province? En peut des mots, Vous avez tous appris de l'incursion des hommes armés dans la ville de Bukavu dans la nuit du 09 au 10 novembre et jusqu'aux environs de 09h. Lorsque l'armée se décide de les neutraliser, ils se retranchent dans le Pnkb leur lieu de cachette. Il faut retenir qu'avant ça ; le 06 novembre, notre poste de patrouille de Tshibati fut attaqué par les hommes en arme non autrement identifiés, pendant six heures d'échange de feu, nos Eco gardes sont arrivées à les repousser vers kabamba et en progression vers katana sur la route nationale, ils sont tombés dans coup de la force loyaliste du secteur. J'aurais souhaité que lors de la rédaction de vos notes ou lors de la récolte des informations auprès de vos agents, que vous puissiez commencer par circonscrire les faits, il y a eu attaque pourquoi, à quel niveau et pour quelle raison et qui en sont la cible.

Avant toute activité de protection (LAB), nos Eco gardes sont briffés sur les principes clés de proportionnalité des forces et des respects des droits humains qui sont devenus pour nous une chanson matinale lors de nos parades. Mettre l'homme au centre de la conservation, faire de l'homme l'acteur clé de la conservation et ainsi conserver par et pour l'homme c'est la vision du patron de l'ICCN, mon chef.

Comment acceptez-vous que nous puissions organiser toute une opération des militaires contre les peuples Batwa non armés ?

Comment acceptez-vous haut qu'il y a des villages Batwa dans le Parc ?

N'est-il pas une contradiction avec vos déclarations « *les peuples autochtones qui ont été chassé du parc national de kahuzi-biega n'avaient pas été indemnisé en 1970* » ?

S'il en est le cas, que faisaient ces Batwa dans le parc à côté des groupes armés et dans les zones d'exploitation minière ?

Mais Colin, vous connaissez bien qu'est-ce qu'un parc, les catégories et modes de gestions d'une aire protégée de catégorie II. Nulle part, dans tous les écrits du pnkb, on signale qu'il y a des villages dans le parc en HA sauf sur la piste Nkolo-Mumbili qui sont là avant même l'extension du parc en 1975 et à faible densité en BA.

La question de droit de l'homme est notre grande préoccupation au pnkb et nous pouvons vous rassurer ici que :

- Dans mon serment lors de mon intronisation par les Batwa, j'avais pris l'engagement de ne jamais travailler contre les intérêts des Batwa, contre leur coutume et leur droit. En cas de non respect du serment, c'est la mort. Et pour ça, les terres sont identifiées et sécurisées, la prise en charge des enfants pygmées est allée de 300 à 1500 Enfants, les alternatives sont en cours, l'engagement est effectif, les rites sont organisés dans le parc et l'accès sécurisé aux ressources est accordé pour les plantes médicinales et ramassage des bois morts. Jusqu'à mon départ un jour du Pnkb, je veuillerais sur ce serment pour mon honneur, pour l'honneur de l'institution et par peur de la sanction coutumière.
- Les mécanismes de gestion des plaintes est en cours, le pnkb a été le site pilote pour la conception de ce document d'importance capitale dans le cadre des indicateurs du respect de droit de l'homme.
- Nous avons engagé un partenariat presque permanent avec le bureau de droit de l'homme de la Monusco qui par l'organisation des formations, l'encadrement et le suivi sur terrain lors de nos missions de la Lab. Nous avons une réunion avec eux et pouvons vous rassurer

qu'ils seront sur terrain dans deux prochains jours pour le suivi de l'opération dont vous faites allusion.

Nous savons comme vous et tout le monde que le non-respect des principes humanitaires de droit de l'homme peut conduire au blocage des finances et par conséquent conduira aussi à la violation des droits des travailleurs qui sont aussi des hommes.

Je me réserve de penser ici que, quelques Ong internationales et nationales contribuent à la déstabilisation de l'Est du pays en conseillant les Batwa d'être des boucliers humains des groupes armés afin d'empêcher les opérations sur motif de violation des droits et autres montages.

Franche collaboration

*Le lun. 15 nov. 2021 à 17:32, Colin Luoma
Cher directeur Bya'ombe,
a écrit :*

Je vous écris à nouveau au nom de Minority Rights Group International [REDACTED] [REDACTED] pour exprimer notre profonde préoccupation et demander des éclaircissements concernant les informations que nous avons reçu faisant état d'expulsions et des violences récentes commises contre les communautés Batwa à l'intérieur du PNKB entre le 12 et le 14 novembre. Nous avons reçu des informations initiales de nombreuses sources selon lesquelles des contingents

conjointes de soldats des FARDC et de gardes du PNKB auraient procédé à des expulsions à grande échelle dans au moins trois villages Batwa à l'intérieur du PNKB, incendié toutes leurs maisons et structures, tiré et tué au moins un homme Mutwa, tiré et blessé au moins deux femmes Batwa et brûlé deux Batwa à mort à l'intérieur de leurs maisons. Les informations reçues suggèrent en outre que des attaques conjointes contre d'autres villages Batwa à l'intérieur du PNKB pourraient être imminentes. Fait particulièrement préoccupant, nous avons également reçu des informations selon lesquelles les civils Batwa sont empêchés de fuir les villages où des attaques peuvent être imminentes.

From: Colin Luoma
To: De-Dieu Byaombe; Olivier MUSHIETE; George Muzibaziba
Subject: Rapports d'attaques à l'intérieur du PNKB - 12-13 novembre 2021
Date: Tue 11/23/2021 3:50 PM

Cher directeur Bya'ombe,

Merci pour votre réponse à ma précédente correspondance. Je réponds pour réitérer notre préoccupation concernant les allégations de violations graves des droits humains commises contre les Batwa et plus généralement des civils entre le 12 et le 14 novembre et pour clarifier certaines des questions que vous avez soulevées dans votre réponse.

Nous sommes désolés de recevoir de nouvelles informations qui viennent corroborer les rapports initiaux faisant état des violences à grande échelle commises contre des civils notamment la mort de deux enfants et d'une femme enceinte, tous brûlés vifs dans leurs maisons, ainsi que d'autres victimes signalées. La gravité de ces crimes (s'ils sont confirmés) justifie une enquête rapide, approfondie et transparente par les autorités compétentes, le Parc et ses soutiens internationaux.

Ces violations font suite à plusieurs récits antérieurs de violences graves et d'atteintes aux droits humains commises contre les Batwa par des écogardes datant de plusieurs décennies, mais qui semblent s'être intensifiés ces dernières années. En effet, nous vous avons écrit plus

récemment en juillet 2021 pour condamner de tels actes de violence et exiger la cessation des opérations conjointes contre les civils et les villages Batwa à l'intérieur du PNKB. Malheureusement, il semble que notre appel n'ait pas été entendu.

Je prends note de vos assurances dans votre e-mail sur l'engagement du Parc en faveur des droits de l'homme, mais elles semblent en contradiction avec les violences systémiques et continues commises contre les Batwa et plus globalement les populations civiles par ces opérations conjointes. Il est vrai que des civils Batwa (hommes, femmes et enfants) vivent à l'intérieur du parc, et ce depuis que de nombreux membres de la communauté sont retournés sur leurs terres en octobre 2018. Son statut d'aire protégée de catégorie II ne change pas ce fait et ne justifie pas les expulsions violentes et forcées des Batwa de leurs terres ancestrales et les nombreuses violations des droits humains perpétrées contre eux par les autorités du Parc, en violation flagrante du droit international. À cet égard, il convient de noter qu'en tant qu'État partie à la Charte africaine des droits de l'homme et des peuples, la RDC et ses organes (y compris l'ICCN) ont l'obligation de faire respecter les droits des Batwa en tant que peuples autochtones, y compris leurs droits à leurs terres ancestrales et au consentement libre, préalable et éclairé. Deux précédents, dont l'affaire Endorois de la Commission africaine et l'affaire

Ogiek de la Cour africaine, établissent clairement que la conservation ne peut pas être utilisée pour justifier

l'expulsion des peuples autochtones de leurs terres ancestrales lorsque celles-ci se trouvent sur des aires protégées.

Enfin, nous démentons catégoriquement toute insinuation selon laquelle nous contribuons à la déstabilisation de la zone ou conseillons aux Batwa de servir de boucliers humains aux groupes armés. Ces allégations fallacieuses n'ont aucun fondement et sont conçues seulement pour discréditer les individus et les organisations qui mettent en lumière ces événements afin de contourner vos obligations de traiter les allégations crédibles de violations systémiques et continues des droits humains avec la gravité qu'elles méritent. En tant qu'organisations de défense des droits humains qui

défendent les droits des peuples autochtones, nous devons respecter un devoir de diligence des plus élevés envers les Batwa, une communauté constamment menacée de violence par les écogardes sous votre propre commandement.

Nous vous exhortons à nouveau à prendre toutes les mesures nécessaires pour enquêter sur cette affaire et de vous abstenir de commettre d'autres violations des droits humains contre les civils, y compris contre les Batwa.

Best, Colin

Colin Luoma, Researcher

Minority Rights Group International

Annex II.

Stakeholder Responses

From: *Minority Right Group International*
BY EMAIL
Date: 22 January 2022

Dear Sir / Madam,

Minority Rights Group International (MRG) has commissioned a report (*To Purge the Forest by Force*) by an independent research team that documented large-scale acts of organized violence during a three-year period from 2019 until 2021 by the Parc National de Kahuzi-Biega (PNKB) targeting the indigenous Batwa community living on their ancestral lands inside the park.

In advance of its publication, we are sharing an excerpted copy of the report with PNKB stakeholders who are implicated by its findings to provide them with an opportunity to review and respond. Please note that this is not a final draft as we anticipate further revisions will be made.

Given the volume of the report, an effort has been made to share excerpts that are most relevant to the PNKB's international supporters, their role in the park, as well as findings that expressly implicate them. For the purposes of this review, we have included in full the key findings, the executive summary, the introduction, the conclusion and the recommendations. The remaining sections are either provided in full, excerpted, or excluded where the contents of a given section is not considered directly relevant to the park's stakeholders.

For ease of reference, we have provided a table of contents setting out the sections contained in the draft report, indicating whether the section was shared in full, in part or excluded from stakeholder review. The relevant findings from any sections excluded from the copy of the

report being transmitted to stakeholders are summarized in the Key Findings and Executive Summary (Sections I and II), both of which are being provided to you.

We would ask that your organization provide its response on or before 11 February 2022. Assuming we receive your response on or before the above-referenced deadline, MRG will publish it in full as an annex to the final report.

We are providing a link to access and review the draft report. Link:

The link will expire at close of business on 11 February 2022. If you have difficulties accessing the document, please let us know.

Due to the sensitive nature of the information contained in this report and the very real risk of reprisals the findings pose to victims, survivors, witnesses and informants, we are sharing this advance copy on a confidential basis on the understanding that it will not be shared beyond the recipient list of the transmittal email enclosing the report or outside of your organization.

In the coming weeks you will also receive a draft, excerpted copy of a second report, entitled *Fortress Conservation and International Accountability for Human Rights Violations in the Kahuzi-Biéga National Park*, which analyzes the PNKB in the wider context of fortress conservation and includes a more detailed assessment of the role of the park's international supporters.

Yours sincerely,

Colin Luoma, *Researcher*

Lara Domínguez, *Strategic Litigation Officer*

Minority Rights Group International 54 Commercial Street, London E1 6LT United Kingdom

Hamburg, 11 February, 2022

Submission by email only

*GFA Consulting Group GmbH response to the PNKB
Stakeholder Review- advance copy of the report 'To Purge the
Forest by Force' received by email on 1st February 2022*

Dear Mr. Luoma, dear Ms Dominguez,

Thank you for your e-mail dated 25 January 2022, and the important concerns raised therein. Please rest assured that we highly appreciate the relevant work of Minority Rights Group International (MRG) and other NGOs working in this field.

In your e-mail, you shared with us the excerpted draft report 'To Purge the Forest by Force' (the "MRG Report"), in which you raised certain allegations against our company in relation to the Parc National de Kahuzi-Biega (PNKB). You asked that we provide any response or comment by 11 February 2022. In the MRG Report we noted that you had referred to certain individuals working for GFA, mentioning their full name. By e-mail dated 4 February 2022, MRG assured that these will be removed from the final report. We are hereby submitting our preliminary assessment of the allegations contained in the MRG Report. As a foreword, we would like to clarify the scope and context of this response (I), and subsequently outline GFA's Human Rights commitment (II). We shall then address the concerns raised in the MRG Report (III).

I. Scope and context of our response

Based on the short deadline to comment and the fact that we have only been granted access to certain parts of the MRG Report, we are not in a position to fully assess and address the allegations contained in it. Indeed, pursuant to its table of contents, the draft report was excerpted, leaving out some of the sections in full, and limiting others to those unilaterally identified by MRG as "relevant" as follows:

"I. Key findings [included in full]

*II. Executive summary [included in full] III. Come July
[included in full]*

*IV. The Prelude: PNKB, The Batwa, the Expulsion, and the
Return, 1935-2018 [excluded]*

*V. 2019, 'Maraya pill: The Second Expulsion [relevant
excerpt included]*

*VI. September 2019-June 2021: Ongoing Abuses,
Intimidation and Manipulation [excluded]*

*VII. Blood, Bodies, and Ashes: The Brutal Operations of
July, November and December 2021*

[relevant excerpts included]

*VIII. Denialism by PNKB and its Supporters
[included in full]*

IX. The UN Arms Embargo [included in full]

X. International Law [excluded]

XI. Conclusion [included in full]

XII. Recommendations [included in full]

Annex A: Methodology [excluded]"

Given the fact that we have only had access to limited excerpts of the entire draft MRG Report, and that those parts necessary to fully understand and assess the allegations made against GFA (such as, e.g., MRG's investigation methodology or key factual information regarding the allegations raised) were not provided to us, we are at present unable to give an overall assessment or comment on the facts presented in the MRG Report. We must therefore, at this stage, limit this response to those passages of the report referring directly to GFA that were provided to us for review. In this respect, we would like to share with you important information on our Human Rights commitment, our international legal obligations, and more generally on our work and role in the PNKB.

Furthermore, the version of the MRG Report sent to us on 25 January 2022 is only a draft report; hence we understand the final MRG Report is likely to be subject to significant modifications.

Subsequent versions have not been communicated to us to date and thus cannot be commented on at this stage.

Therefore, we hereby solicit being provided with the full report in its final version, including any amendments that would be added following 25 January 2022, so that we can then share with MRG our further considerations thereon.

II. GFA's Human Rights Commitment

We would like to take this opportunity to remind you of the considerable work undertaken by GFA in the field of Human Rights preservation. The responsible and sustainable management of Protected Areas (PAs) requires taking into account complex and varied considerations. These do not only relate to overseeing the PAs and ensuring their protection, but also relate to the rights and duties incumbent upon all stakeholders with respect to the Human Rights preservation. It is therefore intolerable that the preservation of the natural heritage in the Democratic Republic of Congo (DRC) would come at the price of neglecting or violating Human Rights.

GFA is committed to placing people at the heart of its activities, whether when monitoring or protecting

biodiversity, and preserving local communities' habitat and natural resources more generally. The securing of PAs should therefore be achieved through the interventions of park eco guards and the integration of communities in a harmonious manner.

In addition, GFA has always considered the work of Human Rights NGOs and agencies as essential - as a general matter and even more so in fragile and conflict-stricken areas. As a token of our commitment to easing the work of NGOs like yours, we have always proactively engaged in constructive dialogue relating to Human Rights issues. Needless to say, we strongly condemn

any and all Human Rights violations and are certainly intolerant towards any such exactions when carrying out our projects around the globe.

In all our work worldwide, our own code of conduct and integrity (**annex 1**), as well as our Human Rights Policy (**annex 2**) apply. These policies, which meet internationally accepted ethical standards of corporate governance such as the FIDIC Code of Ethics or the UN Global Compact Principles, have always guided our activities worldwide. In addition, we are bound by the relevant policies and regulations of the government institutions we are contracted by. In the context of our work in the PNKB, the very strict standards for biodiversity projects in fragile contexts imposed by the financing institution KfW govern our work (**online publicly available at** [https://www.kfwentwicklungsbank.de/PDF/Download-Center/PDF-DokumenteRichtlinien/Nachhaltigkeitsrichtlinie EN.pdf](https://www.kfwentwicklungsbank.de/PDF/Download-Center/PDF-DokumenteRichtlinien/Nachhaltigkeitsrichtlinie%20EN.pdf)). Consequently, we regularly train our staff to these high integrity standards in order to ensure that they are never compromised in anything we do. In the context of nature conservation and biodiversity programmes, all our staff have received extensive and regular trainings on the World Bank Environmental, Social and Health Standards (ESHS), which include specific chapters on Human Rights. In addition, GFA has focal points on ESHS in all relevant departments, including the Natural Resources Management and Environment department. The focal points' role is to keep up to date with ESHS rules and regulations and to advise colleagues within their department on ESHS issues arising in their daily work in procurement for and implementation of conservation projects.

The PNKB has received German support in the form of Official Development Assistance for over 20 years and, as such, has received government aid that promotes and specifically targets the economic development and welfare of its local communities.

GFA has been involved under the "Programme Biodiversité et Forêt" (PBF) since 2010. In the framework of the PBF, GFA provides technical, financial and administrative advice to the Institut Congolais pour la

Conservation de la Nature (ICCN). The programme aims to support six protected areas in the DRC, in four of which GFA provides technical advice to ICCN (including the PNKB). The overall objective of the project is to contribute to the protection of biodiversity and sustainable management of tropical forests by reducing poverty in the areas concerned.

GFA provides technical assistance to the park, which includes, inter alia, the co-management of KfW funds, capacity building of ICCN staff, support to the implementation of the national strategy on biodiversity and its various programmes including biomonitoring and community conservation. GFA collaborates with the Wildlife Conservation Society (WCS) on topics like biomonitoring.

III. Our preliminary responses to your main points of concern

In the following sections, we aim to respond to the specific points raised by MRG with regard to GFA. Again, as stated above, this preliminary response can only address those sections of the draft MRG Report that were provided for our review and which refer to GFA.

In our understanding, MRG's allegations against GFA are twofold:

1. An alleged violation of the UN Security Council's arms embargo on the DRC by *"supporting training of PNKB guards in at least 2014, building a training camp for guards to facilitate their training in 'anti-poaching combat,' then supporting training for PNKB guards, including training in 'combat tactics' in 2016"* - without notifying the UN Security Council's Committee.
2. GFA allegedly failing to react in a meaningful way following a letter from 12 Congolese and international advocacy groups, dated 29 July 2021, which informed about serious Human Rights abuses committed by a joint group of FARDC soldiers and PNKB park guards on 23 July 2021. Generally, all international supporters of the PNKB are accused of denialism and an unwillingness to put pressure on the ICCN to improve their response to these alleged Human Rights violations.

1. Regarding GFA's alleged violation of the UN Security Council's arms embargo on the DRC

Please note that in the period of the alleged incidents (2019-2021), GFA did not provide any training to the PNKB eco-guards, but was only involved in training activities in 2015 and 2016. We are not linked in any way to the alleged specific training session immediately before the July/August 2019 Kalehe operation (cf. p. 28 of the draft MRG report).

Within the PBF, GFA mainly provides logistics support for the eco-guards. In 2014, GFA supported the

construction of a camp with 3 collective dormitories, a double dormitory for counsellors and cooks, a trainers' dormitory, a course hangar, a sanitary block, a shower block, a kitchen block with stock, a well, and an outdoor training area. Between September 2015 and February 2016, GFA assisted in the general conceptualization and planning of the selection and training activities and recruitment of these eco-guards. Between 29 February 2016 and 6 July 2016, two sessions for trainings for the eco-guards took place. They were coordinated by an international expert and comprised drafting of the selection and recruitment, training subjects, training modules, logistical aspects and utilization of defensive arms for the anti-poaching training. The trainings were designed to teach the guards to respect their counterparts, manage and de-escalate conflicts and know the relevant laws and regulations. Moreover, GFA supported in the infrastructure, organisation and scheduling of these trainings. No further training of this kind has been provided by GFA since then for PNKB. These training modules were not implemented by Maisha.

GFA provided support to the ICCN with respect to the construction of a training camp and anti poaching training. Arms and military equipment were not provided by GFA but by the ICCN and/or the DRC Ministry of Defense, as per applicable orders and governing statutes.

An arms embargo has been in place in the Democratic Republic of Congo since 2003 when the UN Security Council adopted resolution 1493(2003) (the "2003 Resolution"). Initially, the arms embargo applied to all foreign and Congolese armed groups and militias operating in North and South Kivu and Ituri regions and to groups that were not party to the Global and All-inclusive agreement in the DRC. The 2003 Resolution was regularly extended, up until its latest renewal that lengthened the arms embargo until 1 July 2022 (Resolution 2582(2021)). In December 2021, the UN Security Council further decided to extend the mandate for the UN Organization Stabilization Mission in Democratic Republic of Congo (MONUSCO).

Through these successive extensions, the scope of the arms embargo was significantly modified. Initially expanded in 2005 to cover "any recipient in the territory of the Democratic Republic of Congo" (Resolution 1596(2005), para.1), it was later on narrowed down to apply solely to non governmental persons and entities carrying out activities in DRC:

"the measures on arms(...) as renewed(...) shall no longer apply to the supply, sale or transfer of arms and related materiel, and the provision of any assistance, advice or training related to military activities to the Government of the Democratic Republic of the Congo". (Resolution 1807(2008), para. 1, 2).

Therefore, since 2008:

- The arms embargo applies to non-state actors only; and
- The arms embargo does not apply to the supply of arms and military assistance or training to DRC governmental entities.

The ICCN is a public entity placed under the joint authority of three Ministries: The Ministry of Environment, Nature Preservation, Water and Forests, the Ministry of Tourism and the Ministry of Defence. The eco-guards are employees of ICCN and hence qualify as state actors emanating from the government of the DRC.

- In conclusion, GFA did not "*supply(...) non-lethal military equipment(...) for(...) protective use*" or "*related technical assistance and training*" to non-state actors, which activity would have required prior notification to the UN Security Council Committee.
- To the contrary, GFA provided assistance, advice and training to the Government of the Democratic Republic of the Congo, an activity that **does not** fall under the UN arms embargo applicable to the DRC since 2008. In addition, such assistance or training **does not** require prior notification to the UN Security Council Committee.

Consequently, we do not agree with MRG's allegations that GFA violated the UN Security Council's arms embargo applicable in the DRC.

2. GFA responses to Human Rights violations in the territory of the PNKB

We believe the accusation that GFA has not responded appropriately to the letter of 29th July 2021 informing about various Human Rights violations is unfounded. Given the particularly tensed and complex context surrounding the development and protection of the PNKB, GFA has always carefully monitored the Human Rights situation and carried out multiple concrete actions to ensure that its work does not negatively impact Human Rights.

We would like to draw your attention to some of the major reactions, adjustments and activities that have been made by GFA in the past years aimed at safeguarding Human Rights and supporting the Batwa communities in and around the PNKB. Please note that this list shall only serve to give some examples, and is by no means exhaustive.

- Since end of 2018, accusations on alleged Human Rights violations and conflict with Batwa have been repeatedly reported by international media. GFA was therefore aware of the complex situation in the PNKB and carefully monitored it. Therefore, in September

2019, a multi-stakeholder conference including several international donors (including KfW) and organisations and the local actors was organized and led to the “Declaration of Bukavu” and the adoption of the “Roadmap of Bukavu” (see also the “Declaration de Bukavu sur le dialogue de haut niveau sur le processus de la protection durable du Parc National de Kahuzi-Biega et la cohabitation pacifique entre le Pare, les peuples autochtones et les autres communautés riveraines” of 20/09/2019 in **annex 3**). In this roadmap, all international, national and local stakeholders agreed on a range of activities to improve the relationship between the PNKB and the local populations with a specific aim to improve the rights of the indigenous Batwa community. The GFA closely accompanied the PNKB in this process and in the implementation of its decisions.

- In January 2020, the German Ministry for Development Cooperation (BMZ) froze all funds for the ‘Programme Biodiversité et Forêt’ (PBF) following various allegations of Human Rights violations against park personnel in the Salonga National Park. In the months following the freeze, the German government urged the ICCN to reach a peaceful solution to the crisis through a mediation and revival of the 2014 Whakatane process. This resulted in the **Bukavu Dialogue** which was supported by the German Development Cooperation. The Bukavu dialogue resulted in the adoption of a **roadmap** signed by the participating members of local communities and ICCN of September 2019. The implementation of the ‘Roadmap of Bukavu’ is ongoing.
- GFA’s mandate has been specifically adjusted during this process and now includes the risk analysis of all activities linked to the conservation activities. The focus of the analysis is the impact of ICCN’s activities on the population, including the impact on Human Rights. The findings of the analysis have been presented to ICCN on 3 February 2022.
- GFA’s mandate also includes the support (both in terms of equipment and capacity building) of the newly established “Cellule des Droits de l’Homme” of ICCN.
- GFA is also supporting the implementation of the “Roadmap of Bukavu” through ensuring the continuous dialogue process between the Batwa community (and other local communities) and ICCN/ PNKB; documenting progress in implementing the roadmap; and through advising the park director on how to de-escalate conflict situations and the implementation of the roadmap.
- Some of the successes of the above activities, to which GFA actively contributed, include:

- 35 ha of land secured for the Batwa community. Currently, the process of securing the land titles is ongoing. To the best of our knowledge, this approach towards securing people’s land rights is entirely new and innovative;
- 8000 families received a hoe, 2 kg of bean seeds and 250 g of soybean seeds;
- Financial support to the schooling of 730 Batwa children in 2020-2021 and 900 Batwa children in 2021-2022;
- Provision of school kits for all these children (uniforms, notebooks, pens, backpacks...);
- 26 students have benefited from a 650 USD scholarship.

Following various emails from MRG about alleged Human Rights violations at the PNKB in the summer of 2021, the ICCN, through its Cellule des Droits de l’Homme, proposed in October 2021 an independent investigation, supported by KfW. The investigation is to be carried out with all partners as soon as possible, with the costs to be covered by KfW’s PNKB investment funds. A first draft of the Terms of Reference (ToR) was prepared in early December 2021 and on 24th December 2021, the Head of the Cellule des Droits de l’Homme invited MRG to participate in the investigation. In addition, an internationally renowned independent consultant with vast experience with the Central African Community of States and Human Rights is under contract with GFA to assist with the planning and implementation of the independent investigation.

At the time of writing this statement, ICCN has already approved the ToR for the independent investigation, and GFA is confident that a full and transparent investigation will commence promptly.

The MRG report will certainly benefit from the results of this independent investigation, which could be included in the MRG Report. In order for MRG to present a fair and impartial overview of the entire situation, we therefore suggest to await the results of this investigation before finalizing the MRG report.

Finally, as mentioned above, we kindly ask MRG to provide us with the complete final report before publication, and allow us adequate time to comment and react on it. In the meantime, please do not hesitate to contact us for any questions or queries that may arise from our preliminary answer.

Yours sincerely

GFA Consulting Group GmbH

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Managing Director



Statement by KfW on “PNKB Stakeholder Review – Advance Copy”

On 25 January 2022 KfW was provided with excerpts of a draft report commissioned by Minority Rights Group (MRG) on alleged human rights violations in the Kahuzi-Biega National Park (PNKB) in the Democratic Republic of the Congo (DRC). The allegations brought forward by MRG and their local partners working in and around the park are deeply distressing and KfW is still in the process of analysing the information. While KfW was not made available the entire report for review and comment, the excerpts viewed by KfW at the time of writing of this statement in February 2022 describe acts of human rights violations that are by their nature and extent deeply disturbing. KfW unreservedly condemns any and all unlawful and inhumane acts and follows a zero-tolerance policy for such acts directly or indirectly connected to its financed projects.

KfW is cognisant of the extraordinarily difficult and complex context in which its long-standing support to PNKB takes place. Conflict lines that have existed since the park's creation have been exacerbated by decades of civil unrest, internal displacement, marginalisation of indigenous communities and an ongoing strive for increasingly sparse resources, including forest products and tenable land. Due to its location the park serves as a strategic refuge for a multitude of armed groups and has increasingly been at the centre of violent clashes between militias, rebel groups and government security forces. Tragically, this evolving conflict has also resulted in the loss of life of both members of local and indigenous communities and park personnel. KfW rejects all forms of violence as absolutely unacceptable and expresses its compassion to all victims and their relatives. We as KfW share the firm conviction of the German government that nature conservation must follow a human rights-based approach that promotes both the conservation of biodiversity and the right of indigenous people and local communities to economic, social and cultural development, participation and access to justice. Implementing internationally accepted human rights principles and ensuring compliance with international environmental and social safeguards standards are essential cornerstones of our work in the field of conservation globally and in the Congo Basin in particular. The binding standards for the assessment of environmental,

social and human rights aspects are defined in KfW Development Bank's Sustainability Guideline. [See: *Sustainability Guideline_KfW_Development Bank_FEB2021* ([kfw-entwicklungsbank.de](https://www.kfw-entwicklungsbank.de))] These stipulate that the standards of the World Bank Group, the Human Rights Guidelines of the German Federal Ministry for Economic Cooperation and Development (BMZ) and the UN Basic Principles and Guidelines on Development-based Evictions and Displacement must be observed in

Financial Cooperation projects implemented by KfW on behalf of the German Federal Government, including in the conservation sector. KfW is deeply committed to acting decisively on any instances of abuse brought to our attention. We have demonstrated this commitment in the past when confronted with allegations of abuse by calling for a full investigation and supporting the implementation of measures, in close consultation with the BMZ, to address the underlying causes that may have contributed to an environment conducive to unlawful behaviour of agents of our partner organisations (see also KfW's “Dossier on biodiversity projects in a fragile context”). [See: *Dossier on biodiversity projects in a fragile context | KfW Development Bank* ([kfw-entwicklungsbank.de](https://www.kfw-entwicklungsbank.de)).]

In fact, funding for PNKB and other protected areas in the DRC was suspended by the BMZ in January 2020 in response to allegations against, inter alia, park personnel in Salonga National Park. In the case of Kahuzi-Biega, partial payments have since resumed to mitigate social hardships and in support of efforts to facilitate a peaceful co-existence of the park and Batwa communities. When informed about violent incidents in the vicinity of PNKB resulting in death and injury of members of local communities and PNKB guards in the spring and summer of 2019, KfW urged the *Institut Congolais pour la Conservation de la Nature* (ICCN) to seek a peaceful solution to the crisis through a mediation and revival of the 2014 Whakatane process. [See: *Democratic Republic of Congo | Whakatane Mechanism* (whakatane-mechanism.org)] This culminated in the Bukavu Dialogue supported by the German Development Cooperation and the subsequent Bukavu roadmap signed by the participating members of local and indigenous communities and ICCN in September 2019.

KfW continues its assistance to the Bukavu roadmap. To date, this effort has resulted in securing 35 ha land for the Batwa community, the distribution of agricultural equipment and seeds to 8.000 families as well as the financial support to the schooling and provision of school kits for approx. 730 Batwa children. In addition, 26 students have benefited from individual scholarships.

When MRG first contacted and made KfW aware of grave accusations levelled against the Congolese military as

well as park personnel of PNKB in late July 2021, KfW called on ICCN to immediately provide all relevant information on any operations, incidents or other occurrences in the vicinity of PNKB that had allegedly led to severe human rights violations against indigenous communities. Further, beginning in September 2021, KfW has engaged in bilateral discussions with MRG on ways that sensitive evidence may be shared to corroborate the allegations as raised in the draft report and which upon initial confrontation were denied by ICCN at the time, without jeopardizing the safety and anonymity of the research team, victims and witnesses. Regarding the specific allegations raised in the excerpted draft report, KfW has not received any further corroborating information on the allegations beyond those contained in the advance stakeholder copy of the report provided on 25 January 2022 by MRG.

Upon becoming aware of and in consideration of the gravity of these recent allegations, KfW called on ICCN to set up an independent investigation and to invite MRG and its local partners to be part of this effort. ICCN subsequently announced the preparation of this investigation to the involved parties in December 2021. At the time of writing of this statement, first coordinating discussions have been held with relevant stakeholders on the scope and organization of such an undertaking and KfW is confident that in due time a full and transparent investigation will commence in order to shed light onto these horrific allegations. Based on the investigation results and further information collected in connection therewith, KfW, in close coordination with BMZ, will reflect on potential implications for its continuing support of PNKB and decide on measures to be taken.

Our continuing engagement in the DRC is strictly conditioned on agreements by all of our partners to

operationalize protection of human rights. This includes a demonstrated commitment to systemic changes to ensure that human rights receive the highest priority. Over the last two years KfW has worked closely with its partners, including ICCN, to address shortcomings at both an institutional level as well as at the level of individual protected areas benefiting from our funding. As a result, ICCN, supported by German Cooperation amongst others, has made advances towards institutionalizing a human- rights centred approach to conservation through the creation of a dedicated human rights directorate in 2021. Further, over the past six months, ICCN's human rights directorate with the support of an independent expert, has undertaken security and human rights risk assessments in each of the parks in receipt of direct funding by KfW. Addressing identified shortcomings at park level, which includes the establishment of independent management functions to investigate allegations; the strengthening of oversight and disciplinary procedures; and stronger support for comprehensive ranger training based on recognised international best practice approaches, forms and will continue to form, a cornerstone of our cooperation with ICCN in each of the protected areas. In PNKB as elsewhere, the implementation of accessible grievance mechanisms is regarded as a key priority to complement ongoing improvement of management practices in the field of law enforcement and human rights protection and to increase accountability of park personnel. Crucially, implementation of necessary changes will be supported and supervised by an increasing number of international conservation organisations working with ICCN to co- manage the parks in receipt of KfW funding, including PNKB.

Sincerely KfW



Statement on first excerpts of draft of the NGO “Minority Rights Group” on the “PNKB Stakeholder Review” of January 2022

Dear Sir or Madam,

GIZ has received first excerpts of the draft report “To purge the Forest by Force.” We take the allegations regarding human rights violation against the Batwa community very seriously. Compliance with human rights

and internationally recognised environmental and social standards is the highest principle for projects funded by German Federal Ministry of Economic Cooperation and Development and implemented by GIZ. We welcome and strongly support an official investigation; human rights violations are not and will never be acceptable. GIZ rejects all forms of violence as absolutely unacceptable.

GIZ is aware of the particularly difficult and complex context in which the project takes place. GIZ rejects all forms of violence as absolutely unacceptable. GIZ is convinced that sustainable protection of biodiversity can only succeed if the local population is involved and while their human rights are respected. GIZ is implementing a project in South Kivu Province. The project is not directly active in Kahuzi-Biega National Park (PNKB) itself but

works in its peripheral areas. GIZ is convinced that sustainable protection of biodiversity can only succeed if the local population is involved and while their human rights are respected. Activities are related to improvements of the relations between ICCN and the local population, especially the indigenous population, in the peripheral areas of PNKB.

The work within the long-lasting conflict in and around PNKB remains a challenging task, especially in the fragile context of the DR Congo. Within the National Park, rebel groups such as Mai-Mai operate to evade the capture of the regular army.

Many protected areas are also affected by poaching by organised criminal groups that are well equipped and heavily armed. [See: *Fergus O'Leary Simpson & Sara Geenen (2021): Batwa return to their Eden? Intricacies of violence and resistance in eastern DR Congo's Kahuzi-Biega National Park, The Journal of Peasant Studies, DOI: 10.1080/03066150.2021.1970539.*] This is why GIZ applies several safeguards guidelines and a gender management system in the development and implementation of its projects which are quality standards of our work and a prerequisite for sustainable development. [Human rights (giz.de)] These stipulate that the standards of the World Bank Group, the Human Rights Guidelines of the BMZ and the UN Basic Principles and Guidelines on Development-based Evictions and Displacement must be observed in projects implemented by GIZ on behalf of the German Federal Government, including in the conservation sector. GIZ remains committed and active in the region – in such challenging contexts, our support becomes particularly complex, but also especially important. After a careful and thorough vetting process, GIZ believes in taking an open stance in the professional relations with all stakeholders in order to be able to advance the dialogue process. GIZ's core competency is capacity building. GIZ does not finance any military training, only training on human rights.

In view of the severity of the human rights violations purported in MRG's report and our existing cooperation with ICCN, we strongly support an independent investigation of the allegations, and we would appreciate MRG's collaboration in this investigation.

We would like to refer to the explicit mention of GIZ in the report which relates to the German ambassador's visit to Bukavu on 03 August 2021 that was co-organized by GIZ's project. The purpose of the visit was to acquaint the ambassador with the current work of the German Development Cooperation in Eastern Congo. GIZ always aims to give a comprehensive picture of the reality of its work as well as the context and related risks and maintains a close dialogue with the German Embassy and its commissioning parties. Therefore, directly following the park visit, the project organised a meeting between the

ambassador and representatives of the indigenous population as well as representatives of national NGOs

which advocate for the rights of the indigenous population, at its office in Bukavu. In a second session the ambassador also exchanged with representatives of the local population in the two intervention zones of the project - the *Chefferie* Kabare (Mwami Kabare) and *Chefferie* Ngweshe (Mwami Ngweshe). The exchange sessions had the objective to discuss GIZ's work on the Bukavu Dialogue and the local development plans for Ngweshe and Kabare but also served as a platform to shed light on the complex conflict situation between the park and the local population from different viewpoints. None of the organisations reported incidents related to the report. Allegations were also not communicated to GIZ by any of the numerous organisations working with us on the ground. When GIZ was informed of the violations through MRG's email on 29.07.2021, our staff tried to verify them immediately through our Civil Society partners and by contacting the Park Management, but they could not be validated.

Regarding the "recommendations" for international donors formulated in the draft report we are pleased to report that many of the recommendations are already being implemented within the project.

At institutional level, for example, GIZ and ICCN work toward the establishment of a **complaint mechanism** for complaints and concerns in and around PNKB to be completed by March 2023. The current development process of such a complaint mechanism entails active and constant involvement of local communities, including representatives of indigenous communities. The next steps include a baseline study to evaluate existing complaints received and the establishment of a steering committee.

As part of the Congolese Government's decentralisation process, GIZ is **supporting the establishment of local development committees defining measures for the local development plans in a participatory way**. GIZ pays special attention to the inclusion and active participation of indigenous representatives in committees. In cooperation with the local authorities of Kabare and Ngweshe *Chefferies*, GIZ has set up local development committees defining special measures for the indigenous population. GIZ is currently setting up a dialogue process among the different representatives and aims to strengthen their representation skills through special trainings.

Furthermore, GIZ is supporting ICCN in the development of a human rights module as well as a module on preventive psychosocial measures. Park rangers of all seven stations must successfully complete the training.

In 2019, KfW and GIZ, together with ICCN, local civil society and representatives of indigenous communities, have set up the so-called “**Bukavu Dialogue**”, to address the concerns of indigenous communities and offer a sustainable livelihood in the peripheral zones of the PNKB in seven thematic areas. The topics, including “access to land” and thus the safeguarding of land rights, were developed on a dialogue basis with indigenous representatives. ICCN, KfW and many other national and international NGOs/donors have pledged to support activities from the roadmap of the Bukavu Dialogue. In 2020, a steering committee was set up to coordinate the activities from the roadmap. GIZ supports this process in its role as facilitator and assisted in October 2021 in another meeting of this committee in which further activities and monitoring processes were formalised. GIZ is also working to improve the livelihood of the indigenous population by **supporting income-generating measures** (transformative value chains,

artisanal crafts, microcredits, promotion of retail trade). A participatory study to evaluate priority activities for the indigenous population was conducted in November 2021.

A **law to protect the rights of indigenous communities** was adopted in April 2021 thanks to strong lobbying by organisations for the rights of indigenous communities in sub-Saharan Africa, and in particular in the DRC, with the support of the project.

We remain committed to take urgent action on biodiversity conservation while ensuring local livelihoods, with particular attention paid to historically disadvantaged indigenous groups. Respect for fundamental human rights is a basis of our cooperation with partners.

In case you see cause for a specific complaint against GIZ, we refer to our complaint mechanism for human rights under our whistleblower portal.

Kind regards, GIZ

Re: Advanced Copy of Draft Report for Review - Kahuzi-Biega National Park/Batwa (NOT FOR DISSEMINATION)
Fri 2/11/2022 4:34 PM

Dear Colin,

Thank you for the opportunity to read the report excerpts in advance of its publication. USAID recognizes the important role Minority Rights Group (MRG) plays bringing alleged human rights abuses to international attention.

Sincerely,
Mission Director
USAID/Democratic Republic of Congo, USAID/Central Africa Regional
mobile: +243-817-011-453

On Tue, Jan 25, 2022 at 4:31 PM Colin Luoma

Dear all,

I hope this email finds everyone safe and well. Enclosed is a transmittal letter which includes a secure link to access a draft report commissioned by MRG which concerns the human rights situation in the PNKB. The draft report documents serious violations of human rights committed against Batwa community members in and

around the PNKB between 2019- 2021. For your convenience, I'm also including the link to the excerpted draft report below:

The enclosed transmittal letter sets forth the scope of the draft report that has been provided to USAID for its review. As we have previously agreed, please treat the draft report confidentially and do not disseminate outside of your organization. To the extent it seeks to comment or reply to the findings of the draft report, we also kindly ask that USAID provide its response **at or before close of business on 11 February 2022**. Assuming we receive your response on or before the deadline, we will publish it in full as an annex to the final report.

This is the first of two reports MRG has commissioned on this subject. An advanced excerpted draft of a second report, analyzing the PNKB in the wider context of fortress conservation and including a more detailed assessment of the role of the park's international partners, will be provided to USAID in due course.

If you have any difficulty accessing the draft report through the above link, please contact me. We look forward to your response.

Best, Colin
Colin Luoma Researcher
Minority Rights Group International

Fw: [EXTERNAL] Advanced Copy of Draft Report for Review - Kahuzi-Biega National Park/Batwa (NOT FOR DISSEMINATION)

Sat 2/12/2022 12:14 AM

To:

Cc:

Dear Mr. Luoma,

Thank you for providing the opportunity to review the excerpts of the first of two reports commissioned by Minority Rights Group International regarding Parc

National de Kahuzi-Biega. The U.S. Fish and Wildlife Service takes all allegations of human rights abuse seriously and recognizes the role that organizations like MRG play in bringing these allegations to the attention of the international community.

Sincerely,

Chief, Division of International Conservation

U.S. Fish and Wildlife Service 5275 Leesburg Pike, MS: IA Falls Church, VA 22041

From: Colin Luoma

Sent: Tuesday, January 25, 2022 10:24 AM

To:

Cc: Lara Dominguez

Subject: [EXTERNAL] Advanced Copy of Draft Report for Review - Kahuzi-Biega National Park/Batwa (NOT FOR DISSEMINATION)

Dear

I hope this email finds everyone safe and well. Enclosed is a transmittal letter which includes a secure link to access a draft report commissioned by MRG which concerns the human rights situation in the PNKB. The draft report documents serious violations of human rights committed against Batwa community members in and around the PNKB between 2019-2021. For your convenience, I'm also including the link to the excerpted draft report below:

The enclosed transmittal letter sets forth the scope of the draft report that has been provided to USFWS for its review.

Please treat the draft report confidentially and do not disseminate outside of your organization. To the extent it seeks to comment or reply to the findings of the draft report, we also kindly ask that USFWS provide its response **on or before close of business on 11 February 2022**. Assuming we receive your response on or before the deadline, we will publish it in full as an annex to the final report.

This is the first of two reports MRG has commissioned on this subject. An advanced excerpted draft of a second report, analyzing the PNKB in the wider context of fortress conservation and including a more detailed assessment of the role of the park's international partners, will be provided to USFWS in due course.

If you have any difficulty accessing the draft report through the above link, please contact me. We look forward to your response.

Best, Colin

Colin Luoma Researcher

Minority Rights Group International



WCS Comments to Excerpts of Minority Rights Group International (MRG)

Draft Report Concerning Kahuzi-Biega National Park (KBNP) Dated 25 January 2022

The Wildlife Conservation Society (WCS) appreciates the opportunity to provide comments on the portions of the draft MRG report that were shared with us.

As an initial matter, we want to make it abundantly clear that WCS condemns any instances of the types of violence alleged in the draft report to have occurred against Indigenous People. If the allegations are true, these were

illegal and horrific military attacks on DRC's own citizens. WCS has never played a role in supporting such heinous acts. We call on competent authorities to conduct an independent, effective and transparent investigation to confirm the facts and ensure that appropriate action is taken.

In DRC and around the world, respectful engagement with Indigenous Peoples and local communities (IPLCs) is a core feature of WCS's approach to conservation, because we have shared interests in the protection of the places they call home. In and around KBNP, our work has included support for development of community livelihood and microenterprise initiatives, community land tenure and good governance, community forest management and restoration. Without thriving and safe local communities, our work and mission to save wildlife and wild places would not be possible.

In this spirit, we firmly reject the many false accusations and insinuations against WCS spread

throughout MRG's draft report. For example, the allegation that WCS promotes "a militarized approach to conservation which necessitates the forcible exclusion of communities from protected areas" is patently false. Similarly, contrary to assertions in the report, WCS had no involvement or influence in any training, support, planning or direction of military forces. Perpetuating such misinformation will not help the dire situation in eastern DRC or the plight of the Batwa. Characterizing our decades of work to protect the important wildlife and habitat of KBNP, promote governance, and improve the lives of local people as "fortress conservation" is a misinformed attempt to lay blame for a decades-long, complex situation in eastern DRC at the feet of organizations who are on the ground working in good faith on solutions to improve the situation. The report's fixation on this false narrative detracts from the horrific abuses alleged to have been committed by military personnel, which should be the focus of the report.

WCS is one of a very limited number of NGOs operating on the ground in eastern DRC bringing resources, national and international support and resolve to make a positive difference for conservation and communities. Inflammatory and inaccurate reports like MRG's draft will only serve to destabilize the area and ultimately make the situation worse for the region's inhabitants. WCS intends to remain in KBNP to use conservation as a means to improve the safety and security of communities, ensure access to forest resources and ancestral lands of IPLCs, including the Batwa, and to preserve the natural heritage of the Congolese people.

Acknowledging the Challenges the Batwa Face

In the KBNP, WCS recognizes the rights of the Batwa for access to their ancestral lands, of which large swaths have been deforested over the past five decades to the point where today the only remaining forests are those protected by the Park. This in turn creates conflict between the Batwa's rights to access forests inside the Park and the laws governing the protected area. We recognize that at its core this conflict can only be resolved peacefully, through meaningful dialogue and reconciliation, and through targeted investment in tenure, rights, economic and livelihood opportunities for Batwa tailored to their specific needs and desires.

Developing ways for the Batwa to re-establish a connection with their ancestral forests will require innovative approaches in protected area management.

WCS recognizes that third-party trusted dialogue mechanisms between KBNP and other government personnel and the Batwa have faltered over recent years. We also acknowledge that development programs focusing on targeted and tailored livelihood interventions for

Batwa, while helpful, have been lacking in scale and appropriateness to date. We also acknowledge that the Batwa have suffered from decades of colonial oppression, state marginalization and social injustice in the DRC.

The area in and around KBNP in South Kivu is highly insecure, with multiple armed groups (including the FDLR), a heavy presence of FARDC military personnel, high concentrations of globally valuable natural resources and minerals, and some of the highest human populations in the Great Lakes Region. Hundreds of park rangers have been killed in recent years while protecting DRC's national parks, including four KBNP park rangers who lost their lives in confrontations with armed groups over the last five years.

With this breakdown in rule of law, and particularly in the last four to five years, the legitimate claims of the Batwa have been repeatedly co-opted by other regional actors motivated by political and economic interests in the mineral and timber wealth found in KBNP, which has resulted in significant environmental damage to the Park's highland sector, and has put the safety and security of Batwa people at risk.

WCS Legitimate and Constructive Support for KBNP, Indigenous Peoples & Local Communities

WCS had no direct or indirect involvement in the planning or execution of the alleged operations in July 2019, July 2021 and Nov-Dec 2021 described in MRG's report, and only learned details about these operations after the fact. It is irresponsible and wrong for the report to suggest that these alleged atrocities were "unlikely to have taken place without" support from WCS and its donors. We vehemently deny that WCS was complicit in any of the alleged abuses described in the report, and we are confident that all our activities in and around KBNP have been helpful, constructive and in full respect of the rule of law and human rights.

Here we focus primarily on our support to ICCN because that is the sole focus of MRG's draft report. WCS has been active in and around KBNP for more than 20 years, where we have openly and transparently supported a variety of activities including ecological monitoring and research, protected area management and law enforcement best practices support, tourism development, wildlife monitoring training, and capacity building of Congolese conservationists and men and women in the communities surrounding KBNP.

As an example of some of our other recent activity, WCS has been engaged in new programming for significant investment into local livelihood activities and addressing societal marginalization around KBNP. Specifically, we have been in a lengthy procurement process with partners to develop significant programming

around access to justice, social services, well-being programs, and natural resource/cultural heritage initiatives based upon consultations with the Batwa.

WCS's support to ICCN in KBNP has included enhancing transparent and effective management of DRC's natural resources, combatting illegal exploitation and trafficking of those resources, de-escalating conflict, promoting rule of law and training on respect for human rights.

"Underlining that the transparent and effective management of its natural resources and ending illegal smuggling and trafficking of such resources are critical for the DRC's sustainable peace and security, expressing concern at the illegal exploitation and trafficking of natural resources by armed groups, and the negative impact of armed conflict on protected natural areas, commending the efforts of the DRC park rangers and others who seek to protect such areas, encouraging the Government of the DRC to continue efforts to safeguard these areas, and stressing its full respect for the sovereignty of the Government of the DRC over its natural resources and its responsibility to effectively manage these resources in this regard."

— UN Security Council Resolution 2293 (2016)

Over the past several years, WCS's support and training for ICCN ecoguards has included helping them recognize and de-escalate complex situations, and avoid further conflict. This was undertaken by developing and training on Standard Operating Procedures including de-escalation training, treating people with dignity and respect for their human rights, engaging the general population in a peaceful and respectful manner, and using force for self-defense and only as a last resort. Additional trainings were provided on leadership, Congolese law, and non-lethal safety guidance on storage of weapons and handling them safely on foot and in moving vehicles to avoid causing injury.

MRG's draft report purposefully uses terms such as "park rangers," "soldiers," "PNKB," "PNKB paramilitary apparatus," "PNKB Rapid Intervention Unit," "Congolese Army," "FARDC" interchangeably or in combination, to falsely suggest that WCS had control over deployment of military or ICCN personnel, or was involved in training them on offensive military tactics. WCS had no involvement or influence in any training, support, planning or direction of military forces. WCS lacked the authority even to direct or manage the day-to-day work and assignments of ICCN staff, much less to lead them to participate in military-style operations. WCS also did not provide any lethal equipment or supplies such as guns or ammunition. Again, WCS was legally prohibited from

undertaking any such activities, and it is false to suggest otherwise. The report also falsely suggests—without any information or basis—that WCS may have hired "white mercenaries" to conduct trainings on use of mortars and automatic weapons between May and June 2019, in advance of the alleged July 2019 attacks. WCS categorically denies that it has any knowledge about such training or services or was involved in any way in this activity. These and other patently false accusations raise serious questions about the methodology, rigor, fact-checking and intentions of MRG's report.

In 2019 to 2021, given our limited resources at the time, WCS focused our ecoguard training on a subset of 40 ecoguards stationed in Tshivanga (the Park HQ) called the Rapid Intervention Unit (RIU) to help them build the necessary non-lethal skills to become productive stewards of the Park. These efforts were focused on helping them better plan information-driven patrolling, ensure good briefing/de-briefing protocols, and establish communication and check-in procedures for units out on active patrol. We focused on reconnaissance and how to identify illegal mining and poaching. We ensured the ecoguards videotaped major operations and community engagements for transparency. Some of these ecoguards supported the arrest of several key individuals from armed groups in KBNP, including 'Chance,' who was convicted of crimes against humanity, war crimes and environmental crimes and subsequently jailed for life. In his testimony, Chance admitted co-opting the plight of the Batwa for his own objective of illegal mining inside the Park.

It should be noted that every individual present at WCS's trainings, whether or not they actually received any training from WCS or its partners, was vetted in advance by the U.S. State Department in compliance with U.S. laws intended to ensure support is not provided to individuals or units of foreign governments where there is credible information implicating them in the commission of gross violations of human rights.

WCS Took Appropriate Action in Response to Reports of Incidents in KBNP

We strongly deny the report's claim that WCS did nothing to heed warnings or to alter our support to Park management in response to the escalating violence and deteriorating situation in and around KBNP over the course of 2019-2021. On the contrary, we took measures to actively manage our interventions and condition our support in order to prevent human rights abuses or any violations of our Do No Harm approach.

In May 2019, following a deterioration in dialogue between Park authorities and local human rights and advocacy groups acting on behalf of the Batwa, and in the face of increasingly decentralized decision making by the

ICCN Park Director, WCS launched an internal assessment, following which WCS decided in July 2019 to condition any further support of KBNP ecoguards on the presence of an experienced and qualified full-time Law Enforcement Advisor (LEA) on site to oversee and mentor our support and ensure adherence to minimum standards and Standard Operating Procedures. We recruited a full-time LEA, and he was deployed on site in Tshivanga by October 2019.

In September 2019, WCS also formally wrote to ICCN in Kinshasa, expressing our concern with the escalating violence in KBNP and clearly stating our interest in negotiating a new management mandate for the Park, under a Public Private Partnership (PPP) to enhance WCS's mandate in management decision making and to enable new resources and expertise to be brought to bear in addressing the situation. Follow up letters from WCS were subsequently sent to ICCN HQ on this subject in October 2020 and in March 2021.

The LEA was on site between October 2019 and June 2021, with a three-month break in 2020 during the COVID lockdown where he provided remote advice from Kigali. It should be noted that none of the three operations alleged in MRG's report occurred while the LEA was on site.

In June 2021, the conflicts between Park management, illegal miners, armed groups and certain local advocacy groups had further deteriorated. Whilst we had been able to bring about short-term improvements in ranger discipline and code of conduct to the RIU, this progress was undermined by WCS lacking any long-term mandate in overall Park management authority and decision-making.

At this juncture, WCS communicated to ICCN in Kinshasa that unless the process for a new management contract was forthcoming WCS would be unable to ensure minimum standards for its provision of technical support, unable to secure further funding, and unable to continue supporting the KBNP ecoguards beyond September 2021. In August 2021, the DG of ICCN was suspended and a new interim DG put in place, and in September 2021 we received a formal invitation for negotiations on a PPP.

After emails sent from human rights groups in 2021, on which WCS was copied, raising allegations of human rights abuses against the Batwa, WCS immediately conducted its own internal inquiries. Those inquiries revealed significant conflicts in accounts of what had occurred, with advocacy organizations alleging human rights abuses committed against Batwa by FARDC and Park rangers, and Park personnel describing FARDC-led joint operations against armed groups, initiated in response to attacks on ranger positions by armed groups operating in and around illegal mining operations that had

proliferated in the highland sector of KBNP. The November 2021 operation reportedly resulted in the arrest of an armed group leader, who is currently being detained and awaiting prosecution in a military court.

Based on the above, WCS fully supports an independent, effective and transparent investigation, led by a competent judicial authority, to confirm the facts and to ensure appropriate accountability of the individuals involved. WCS stands ready to support and cooperate fully in this investigation.

WCS Activities Are Not Prohibited by the UN Arms Embargo

MRG's draft report also falsely accuses WCS of violating the United Nations (UN) arms embargo in the DRC. The UN arms embargo in the DRC aims to prevent continued violence in the region, particularly among armed groups, and to combat the illegal exploitation of natural resources, including wildlife poaching and trafficking. The arms embargo does not prohibit the provision of materials, assistance, advice, or training to the Government of the DRC, of which ICCN park rangers are a part. Moreover, any notification requirement under the embargo applies to States, not non-governmental organizations. Thus, even if WCS's activities had triggered this notification provision—which it did not—WCS would have had no obligation to notify.

First, we note that the UN arms embargo no longer applies to DRC government entities. In UNSCR 1807, the Security Council decided that the arms embargo “shall no longer apply to the ... provision of any assistance, advice or training related to military activities to the Government of the Democratic Republic of the Congo.” The ICCN, which oversees the DRC's protected areas, is a public enterprise under the auspices of three DRC government ministries. Any training or materials provided to ICCN therefore would not be prohibited under the embargo because they were provided to an agency or instrumentality of the Government of the DRC.

Second, the notification obligation only applies to UN Member States, not non-governmental organizations like WCS. In relevant part, UNSCR 1807 states: “all States shall notify in advance to the Committee any ... provision of assistance, advice or training related to military activities in the Democratic Republic of Congo...” (emphasis added). Multiple Security Council annual reports confirm that the notification obligation is imposed on States. See, e.g., 2013 report (“In paragraph 5 of [UNSCR 1807], the Council reiterated the obligation of supplier States to notify the Committee of all shipments of arms and related materiel, as well as the provision of technical training and assistance, to the Democratic Republic of the Congo”).

In fact, the DRC Arms Embargo Committee Guidelines provide no mechanism for a nongovernmental organization like WCS to make such a notification. They only provide for “notifications by exporting States to the Sanctions Committee regarding provision of military equipment to the DRC.” The website of the Resolution 1533 Sanctions Committee also states this point clearly. As these directions for notification make clear, WCS was under no obligation to—and indeed could not have—submitted an exemption notification to the Security Council committee.

WCS has upheld all applicable domestic and international legal requirements in the implementation of its work in KBNP. This work has supported the objectives of the UN Security Council to advance the “transparent and effective management of [the DRC’s] natural resources and [end] illegal smuggling and

trafficking of such resources;” support “the efforts of the DRC park rangers and others who seek to protect such areas;” and our work has only served to improve a difficult, unstable and violent situation in eastern DRC. Through conservation, respect for human rights and rule of law, and training assistance to the ICCN park rangers in KBNP, WCS supports their critical and dangerous efforts against wildlife traffickers and poachers, and illegal miners and timber traffickers, who are prevalent throughout the region.

WCS Vision for KBNP as a Model for Effective Rights-Based Conservation

WCS fundamentally disagrees with the central premise of the MRG report draft that well-managed protected areas on one hand, and upholding the highest standards for respect of human rights and the ability of Indigenous Peoples and local communities (IPLCs) to exercise those rights on the other hand, are incompatible or mutually exclusive.

Rather, WCS’s vision for Kahuzi-Biega National Park (KBNP) is to align these two essential components through two key objectives. First, to establish a publicly transparent and accountable model for nature conservation which ensures the rights of IPLCs are both respected and protected. Second, to demonstrate that this rights-based approach is the best pathway to secure the survival of the unique and endangered flora and fauna of KBNP over the long term.

WCS believes it is untenable to realize this vision under the current management structure of KBNP, and that fundamental change is now needed to break the existing impasse and set a new path. Accordingly, WCS has been working closely with ICCN since 2019 to transition to a new governance structure for KBNP. Specifically, WCS will now enter into a new management contract for the Park

between WCS and ICCN under a Public Private Partnership (PPP) that will delegate day-to-day management authority to WCS, who in turn will be held accountable by a Board of members selected from WCS, ICCN, independent experts, local stakeholders, and observers.

The new management agreement will immediately enable WCS and the ICCN to take meaningful steps and concrete actions to ensure that the rights of the Batwa are respected and protected from this day forward. It will enable us to mobilize the necessary resources and expertise from international sources. Through active and respectful engagement of Batwa in the management of the Park, WCS endeavors to develop a new framework for the Park and to re-establish dialogue mechanisms that have previously faltered. Together with the Batwa, government, and other actors we can also prevent further forest degradation and loss of biodiversity in their traditional lands at the hands of militias, traffickers and illicit groups. Through collective responsibility, we also seek to make the KBNP environs a safer place for communities around the Park who have faced abuse and insecurity from various groups, both armed and unarmed.

We acknowledge this is a tall order in a region plagued with decades of violence, armed conflict, and competing interests in natural resources, but we see no other way because IPLCs in and around the park face existential threats. WCS will set up transparent processes, including a grievance redress mechanism with independent oversight, which is intended to deepen the dialogue and invite new and neutral parties to mediate conflicts and tensions. We will improve the economy through sustainable tourism development and private sector partnerships. Through our human rights-based approach to inclusive governance, we will co- design with Indigenous and local rights-holder communities a benefit sharing scheme that supports different community stakeholders. Finally, WCS will provide oversight to ensure that the highest human rights, environmental, and social safeguards are adhered to.

That said, the joint efforts of WCS and ICCN within the National Park will only go so far. To truly redress past abuses and reverse ongoing marginalization, others must also take a leadership role in supporting the Government of the DR Congo to effectively implement its pending new law on Indigenous Peoples. Human rights and development organizations can secure and channel funding to Batwa-led institutions and work with local authorities. They can substantially improve Batwa access to not only justice, but culturally appropriate education, food sovereignty, income security, access to social services, resilience to climate, health and economic shocks, and most importantly, the Batwa peoples’ right to self-determination.

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To Purge the Forest by Force: Organized violence against Batwa in Kahuzi-Biega National Park

The Kahuzi-Biega National Park in the Democratic Republic of the Congo, a protected area and UNESCO World Heritage site that has received funding and material support from the German and US governments among other international supporters, has long been celebrated as one of the most biodiverse places on the planet. However, park authorities there have engaged in a three-year program of violent forced expulsions targeting the original human inhabitants of the park—the indigenous Batwa of Kahuzi-Biega, who are among the most marginalized groups in the country.

This report, *To Purge the Forest by Force*, documents the highly organized, grievous and widespread human rights abuses jointly carried out by park guards and Congolese Army soldiers against Batwa between 2019 and 2021. In October 2018, after four decades of broken promises of resettlement, reparations and justice from the Congolese government and other stakeholders, segments of Batwa communities returned to the park, rebuilding villages on their ancestral lands. Their return was met with swift and devastating violence by park authorities. The report presents evidence of park guards and soldiers conducting three large-scale operations between 2019–2021, targeting at least seven highly populated Batwa-inhabited villages inside the park, along with numerous smaller-scale evictions and acts of repression. Among other abuses, dozens of Batwa have

been killed, injured, arbitrarily detained or subjected to violent group rape, in what amounts to a systematic campaign of violence designed to terrorize Batwa and drive them out of the park.

These large-scale operations are illustrative flashpoints in the decades-long process of marginalization and brutalization visited upon Batwa in the name of conservation. Ongoing violence is rooted in the original expulsion from their ancestral homeland to pave the way for the creation of the park in the 1970s, forcing an already marginalized indigenous community into decades of grinding impoverishment, landlessness and displacement.

The story of the Batwa of Kahuzi-Biega is not an isolated incident. Instead, it is emblematic of the widespread, systemic violence inherent in the rigidly colonial conservation model widely used in East and Central Africa, funded and facilitated by a network of international entities, with deadly consequences for indigenous peoples and local communities living in the vicinity of protected areas. The tragic events detailed in this report have been made possible by a culture of impunity that devalues indigenous life in service of a highly militarized approach inherent in the ‘fortress conservation’ model, excluding the land’s original inhabitants in violation of international law.



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