



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

Democratic Republic of the Congo – Researched and compiled by the Refugee Documentation Centre of Ireland on 19 January 2012

Information on whether Rwandans living in the DRC suffer widespread discrimination by the government or society

A *Freedom House* report published in 2010 refers to ethnic discrimination in the Democratic Republic of the Congo (DRC) as follows:

“Societal discrimination based on ethnicity is practiced widely among the country's 200 ethnic groups, particularly against indigenous Pygmy tribes and the Congolese Banyamulenge Tutsis. The ongoing fighting in the eastern Kivu region is driven in part by ethnic rivalries.” (Freedom House (3 May 2010) *Freedom in the World 2010 - Congo, Democratic Republic of (Kinshasa)*)

In a section titled “Abuses by State Security Forces” the 2011 *US Department of State* country report for the DRC states:

“Throughout the year stories of unknown persons, either refugees from camps in Rwanda, economic migrants from Rwanda, or IDPs from other areas in the DRC, trickled back to reoccupy contested land in the Kivus, exacerbating ethnic and land-based tensions among local communities.” (US Department of State (8 April 2011) *2010 Human Rights Report: Democratic Republic of the Congo*)

A *Forced Migration Review* article states:

“The populations present in North Kivu prior to the 1885 Berlin Conference at which the borders of the Congo State were determined refer to themselves as autochtones (indigenous) and consider those who arrived later as allochtones (‘foreign’ or lacking a legitimate connection to the land), applied in particular to those who speak Kinyarwanda. According to popular Congolese perception, the recurrent wars in North Kivu from 1962 to the present all have their origins in cross-border identity allegiances, specifically of the ‘foreign’ Banyarwanda and the Congolese Tutsis who are often described as ‘Rwandans’. The two invasions by the Rwandan army in 1996 and 1998 further strengthened this sentiment.” (Forced Migration Review: Issue 36 (November 2010) *Refugee return and root causes of conflict*, p.48)

This article also states:

“Following the influx of Rwandan Hutu militia to North Kivu after the 1994 Rwandan genocide, the previously relatively localised ethnic tensions in North Kivu boiled over, leading to mass displacement of Banyarwanda (Hutu and Tutsi alike). Congolese Tutsi fled mostly to Rwanda whereas the majority of the Congolese Hutu fled to Uganda. It is the return of the Congolese refugees from Rwanda that causes the most polemic and raises the greatest fears among some segments of the population in North Kivu.” (ibid, p.48)

In a section headed “Popular perceptions of return” this article states:

“Since around 2000, when security in some of the areas where the refugees come from started to improve, ‘spontaneous returns’ of Congolese refugees to North Kivu have taken place. Some refugees come to visit and go back to Rwanda whereas others stay. Periodically, and linked to the overall political situation, ‘autochtone’ groups and politicians express fears about plots by the ‘Rwandans’ (often code for ‘Tutsis’) to ‘re-occupy’ parts of North Kivu, aided by the international community. There are also legitimate fears voiced by Congolese who live in areas where the refugees will return, largely focused on land conflicts that may arise when refugees who sold or lost their land come back to reclaim it. The problem is that these legitimate concerns are amplified and manipulated by leaders who use the issue to consolidate their political power and protect their economic interests.” (ibid, p.48)

In this section the article also states:

“A survey by the Mouvement Intellectuel pour le Changement (MIC) shows that opinions are divided amongst communities in areas of refugee return as to the refugees’ national identity and the circumstances surrounding their departure. Many people confirm that Tutsi used to live with them but some claim that they are Rwandans who used to live there and who returned to Rwanda following the fall of the Habyarimana regime there in 1994. The focus on this group of people is used to delegitimise the Congolese nationality claims of all Congolese Tutsi – including those who have lived in North Kivu since well before 1959.” (ibid, p.48)

An *Immigration and Refugee Board of Canada* response to a request for information on the treatment of the Banyamulenge in the DRC, in a section headed “Situation of the Banyamulenge in Kinshasa”, states:

“Several sources consulted by the Research Directorate indicated that the Banyamulenge, or Congolese Tutsis, do not have any particular problems in Kinshasa.

During a 18 February 2010 telephone interview with the Research Directorate, a representative of Voice of the Voiceless for the Defence of Human Rights (La Voix des sans voix pour les droits de l'homme, VSV), a human rights non-governmental organization (NGO) dedicated to defending human rights in the Democratic Republic of the Congo (DRC) (VSV n.d.), stated that his organization has never been aware of [translation] ‘a case in which a person was mistreated by the authorities or the Kinshasa population in general’ solely because that person was of Banyamulenge ethnic origin. Moreover, in correspondence sent to the Research Directorate on 22 February 2010, the manager of the Kinshasa newspaper Le Phare wrote the following:

[translation]

There are no problems where the Banyamulenge-or Tutsis-in Kinshasa are concerned. Admittedly, there were hostile demonstrations in 1996-1997 during the Rwandan attack on the DRC under the cover of Laurent Kabila’s AFDL [Alliance of Democratic Forces for the Liberation of Congo]. The same reaction occurred in response to the second attack on 2 August 1998 and particularly to the Rwandan troops’ month-long occupation of the Inga dam, which deprived Kinshasa residents of water and electricity. But since the inter-Congolese dialogue and the DRC’s taking office, the situation has stabilized. Tutsis make up the largest number of generals in the army. They sit in Parliament and manage government enterprises.” (Immigration and Refugee Board of Canada (31 March 2010) *COD103417.FE – Democratic*

Republic of the Congo: The treatment of the Banyamulenge, or Congolese Tutsis, living in Kinshasa and in the provinces of North Kivu and South Kivu)

A *Refugee Review Tribunal* of Australia country advice document, in a section headed “Tribal and Historical Background of the Banyamulenge”, states:

“Research Response COD35383, dated 7 September 2009, provides information on Banyamulenge group. Sources included in the response, report that Banyamulenge is a term used to denote ethnic Tutsis, originally from Rwanda, who settled in the South Kivu province of the Democratic Republic of Congo (DRC) prior to the colonial period. However, the name Banyamulenge in modern times is also used as a generic term to refer to all ethnic Tutsis in South Kivu province.” (Refugee Review Tribunal (29 March 2010) *Please provide details of the Banyamulenge tribe. Please include any tribal background and history, any involvement of the Banyamulenge tribe in conflicts (particularly post 1994), any physical and linguistic attributes of members of the tribe, and any discrimination in the Democratic Republic of the Congo against members of the Banyamulenge tribe*)

In a section headed “Discrimination of Banyamulenge” this document states:

“Reports indicate that Banyamulenge and ethnic Tutsis are subject to discrimination in the DRC. The Banyamulenge suffer more generally due to their residence in the Eastern DRC, an area of ongoing violent conflict and civilian casualties.” (ibid)

A document published by the *Still Human Still Here* project in response to the UK Home Office Operational Guidance Note for the DRC, in a section headed “Non-Banyamulenge Tutsis and Banyamulenge Tutsis” (paragraph 69), states:

“In brief, the Banyarwanda group as a whole, Hutus and Tutsis, face severe problems in establishing their nationality since they are popularly understood not to fulfil the criteria established by the current constitution and nationality code giving nationality to ‘every person belonging to the ethnic groups and nationalities of which the individuals and territory formed what became Congo at independence.’ The understanding by the authorities and on the street is that the Banyarwanda did not ‘form what became Congo at independence’ but arrived since then – and many still believe that the date is more properly 1885, which was the law for many years. The fundamental understanding of nationality is based on a concept of ethnicity rather than fulfilment of legal criteria. Although the recent nationality reforms have eased restrictions in the law, in practice, the Banyarwanda still face major difficulties in establishing their claim to be Congolese. Within the Banyarwanda group, there are various distinctions that are relevant in theory for the nationality question (based on date of arrival in the country) and on the ground in the conflict, since armed groups are operating on both the Tutsi (CNDP – formerly headed by Nkunda) and Hutu (FDLR) sides, in conflict with each other and also with the FARDC state forces (consistently for the CNDP; in the case of the FDLR the army has fought with them in some cases). Efforts to integrate former rebel combatants into the army have been highly problematic. The CNDP has had major backing from the Rwandan government—which is Tutsi dominated, and has on its agenda the eradication of former genocidaires and other possible Hutu armed threats to the Rwandan government operating out of eastern DRC. The Banyamulenge are a group of Tutsi in South Kivu who can claim that they were present in Congo from before 1885 or indeed earlier, thus they should have an unequivocal claim to nationality, but this is still denied by many. In practice, Banyamulenge is often used as a synonym for

Congolese Tutsi in general.” (Still Human Still Here (August 2010) *Comments on the Operational Guidance Note on Democratic Republic of Congo*, pp.22-23)

An article from *The Observer* describes an incident in which Banyamulenge were killed as follows:

“The Mai Mai that attacked the Land Cruiser had, apparently, only one aim, however. They wanted to kill any Banyamulenge on board, members of the Tutsi-related ethnic group whom the ‘indigenous’ Congolese Mai Mai consider incomers (though Banyamulenge have inhabited the plateau for centuries). Stopping the car, they ordered ‘the Rwandans’ to get out of the vehicle. Two men and two women of different ethnicity who were travelling with Rwatangabo and his team were told to leave. The account of what happened next comes from Muvunyi, who spoke to Munyiginya, who survived the attack. The driver of the vehicle, Musore Raturutsa, who had worked with Eben-Ezer for three years, was shot in the back. The others were taken a little way into the jungle. They were being led by Munyiginya in songs and prayers. Each one, systematically – Rwatangabo; Kandoti Tite, his deputy education manager; Gifota Edmond, a newly recruited teacher trainer; Nabisage Rganza, 24, the sister of another colleague; and two others – was murdered in turn.” (The Observer (16 October 2011) *How the teachers of hope I met in the Congo were brutally killed*)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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