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**DEMOCRATIC REPUBLIC OF
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**Rwandese-controlled east:
Devastating human toll**

19 June 2001

SUMMARY

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Since August 1998, Rwandese government forces have occupied an area of the Democratic Republic of Congo (DRC, formerly Zaire) equivalent to 16 times the size of Rwanda itself. It is estimated by the International Rescue Committee humanitarian agency that two-and-a-half million people in Ugandan and Rwandese controlled eastern DRC have died from war-related causes. Despite the gravity of the situation in the eastern region of the DRC, the world has been slow and hesitant to take decisive action to bring the human rights and humanitarian crisis to an end.

The Rwandese Government claims that the presence of its forces in the DRC is justified by the national security necessity of fighting Rwandese Hutu opponents who use their bases in the DRC to threaten Rwanda. Therefore the Congolese population is trapped in the middle of this destructive fighting between the Rwandese government armed forces, and the forces of their Congolese allies, the Goma-based Congolese Rally for Democracy (RCD-Goma), on one side, the Rwandese and Burundian Hutu-dominated armed opposition groups and Congolese *mayi-mayi* militias, on the other side. The killing of thousands of Congolese civilians and indiscriminate attacks against the Congolese population cannot be justified by the Rwandese Government and RCD-Goma authorities on the basis of security threats to Rwanda's borders. The abuses cannot be justified either by the DRC Government, Rwandese and Burundian Hutu-dominated armed opposition groups and *mayi-mayi* militias, as efforts to throw out the Rwandese forces and their RCD allies.

Since Rwanda's second intervention in the DRC in 1998, tens of thousands of unarmed Congolese civilians have been unlawfully killed, subjected to torture, including rape and other forms of cruel, inhuman and degrading treatment. Many of the killings have occurred in areas rich in minerals, where economic exploitation continues. Children have been recruited in large numbers by combatants who claim to be fighting either for the sovereignty of the region, or the security of the Congolese or Rwandese population. Others have "disappeared" in custody or have been unlawfully detained for being suspected or known supporters of opposing forces.

The media are controlled by the authorities, and human rights defenders have been tortured, arbitrarily arrested and are frequently harassed.

Amnesty International in this report is seeking to highlight the appalling extent to which unarmed civilians of the Kivus have continued to be relentlessly deprived of the most basic human rights, especially the right to life, and that no authorities exist from whom they can expect protection or redress. It also demonstrates the extent to which these human rights abuses remain unreported and unpunished, giving rise to the population's enormous feeling of injustice in being forgotten by the international community. The hostility and resentment towards the RCD authorities and their allies are deepening due to human rights abuses, economic exploitation, lack of leadership and administrative failure. The feelings of resentment against the Rwandese Government, and by association against the Tutsi community as a whole, have sparked an explosion of ethnic violence in the east of the DRC. Amnesty International is calling on all political groups and civil society activists in the Kivus to refrain from inciting violence or other human rights abuses. Amnesty International is extremely concerned by lack of protection and security for, and the threat of violence against, the Congolese Tutsi community.

In its resolution 1341 (2001) of 22 February 2001, the UN Security Council demanded that Rwanda, Uganda and Burundi implement plans for disengagement of forces, and in February and March 2001 troops of the RPA and RCD began withdrawing from their positions along the confrontation lines, at the extremity of the territory occupied by Rwanda. According to several reports from local observers, it appears that many of the RPA soldiers had been redeployed to the provinces of North and South-Kivu. Amnesty International fears that the increased RPA presence in the Kivus provinces, and the continued support by the Kinshasa government to some of Rwandese and Burundian Hutu dominated combatants, will prolong the climate of violence in the Kivu region.

Amnesty International is appealing to the Rwandese Government, RCD-Goma authorities, Rwandese and Burundian Hutu armed opposition groups, and the *mayi-mayi* militias to take immediate measures to prevent further killings of unarmed civilian and other grave human rights abuses. Foreign governments, especially those with close relations to Rwanda, should also assume their responsibility to publicly condemn grave human rights abuses committed both by the Rwandese government and RCD-Goma authorities' forces and by those of the armed opposition groups and to ensure the implementation of measures which will restore respect for human rights.

KEYWORDS: ARMED CONFLICT / MASS KILLING / TORTURE / ILL-TREATMENT / IMPUNITY / RWANDA / ETHNIC GROUPS / INDISCRIMINATE KILLINGS / CHILD SOLDIERS / SEXUAL ASSAULT / HUMAN RIGHTS DEFENDERS / HARASSMENT / DESTRUCTION OF VILLAGES / DISPLACED PEOPLE / REFUGEES / MEC / POLITICAL BACKGROUND / PHOTOGRAPHS / UNLAWFUL DETENTION / PENAL INSTITUTIONS / PRISON CONDITIONS

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DEMOCRATIC REPUBLIC OF CONGO Rwandese-controlled east: Devastating human toll



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Cover photograph: A Congolese civilian casualty of the conflict in eastern DRC ©Private

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TABLE OF CONTENTS

1.	INTRODUCTION	
2.	BACKGROUND OF THE CONFLICT IN EASTERN DRC	
2.1.	Spill-over of Rwanda's political and human rights crises.....	
2.2.	The peace process	
3.	RWANDA'S CONTINUING INVOLVEMENT IN EASTERN DRC	
3.1.	The links between Rwanda and the RCD-Goma.....	
3.2.	The Rwandese Hutu opposition groups' threat to Rwanda's security.....	
3.3.	Protecting the Congolese Tutsi.....	
3.4.	Economic interests and human rights violations.....	
3.5.	A devastating armed conflict.....	
4.	VIOLATION OF THE RIGHT TO LIFE AND PHYSICAL INTEGRITY BY RCD-GOMA AND RPA ALLIED FORCES	
4.1.	Unlawful killings by RCD-Goma and RPA troops	
4.2.	Sexual violence against women and girls.....	
4.3.	Children recruited into army, police and Local Defence Forces.....	
5.	VIOLATION OF THE RIGHT TO LIFE AND PHYSICAL INTEGRITY BY ARMED GROUPS OPPOSED TO THE RCD-GOMA AND RPA ALLIED FORCES	
5.1.	Unlawful killings by armed opposition groups.....	
5.2.	Sexual violence against women and girls.....	
5.3.	Children recruited as combatants.....	
6.	ABUSES FACILITATED BY A CLIMATE OF IMPUNITY	
7.	OTHER HUMAN RIGHTS ABUSES COMMITTED IN THE RCD-GOMA AND RPA CONTROLLED AREA	
7.1.	Patterns of arrests and "disappearances"	
7.2.	Torture, ill-treatment and conditions of detention	
7.3.	Violations against members of civil society and human rights defenders.....	
8.	CONCLUSION	
9.	RECOMMENDATIONS	
9.1.	To the Rwandese and RCD-Goma authorities.....	
9.2.	To the Rwandese and Burundian Hutu and <i>mayi-mayi</i> forces.....	
9.3.	To political leaders and civil society activists.....	
9.4.	To foreign governments, Organization of African Unity, Southern Africa Development Community and European Union.....	
9.5.	To the United Nations Security Council.....	

DEMOCRATIC REPUBLIC OF CONGO

Rwandese-controlled east: Devastating human toll

I. INTRODUCTION

Since August 1998, Rwandese government forces have occupied an area of the Democratic Republic of Congo (DRC, formerly Zaire) equivalent to 16 times the size of Rwanda itself. It is estimated by the International Rescue Committee humanitarian agency that two-and-a-half million people in Ugandan and Rwandese controlled eastern DRC have died from war-related causes. Despite the gravity of the situation in the eastern region of the DRC, the world has been slow and hesitant to take decisive action to bring the human rights and humanitarian crisis to an end.

The Rwandese Government claims that the presence of its forces in the DRC is justified by the national security necessity of fighting Rwandese Hutu opponents who use their bases in the DRC to threaten Rwanda.¹ Therefore the Congolese population is trapped in the middle of this destructive fighting between the Rwandese government forces, the Rwandese Patriotic Army (RPA), and the forces of their Congolese allies, the Goma-based *Rassemblement Congolais pour la Démocratie* (RCD-Goma) Congolese Rally for Democracy, on one side, and the Rwandese and Burundian Hutu-dominated armed opposition groups and Congolese militias, the *mayi-mayi*, on the other side. The killing of thousands of Congolese civilians and indiscriminate attacks against the Congolese population by combatants from different forces cannot be justified by the Rwandese Government and RCD-Goma authorities on the basis of security threats to Rwanda's borders. The abuses cannot be justified either by the DRC Government, Rwandese and Burundian Hutu-dominated armed opposition groups and *mayi-mayi* militias, as efforts to throw out the Rwandese forces and their RCD allies.

Since Rwanda's second intervention in the DRC in 1998, Amnesty International has received consistent reports about atrocities committed against unarmed civilians from the Kivu region of eastern DRC. Tens of thousands of unarmed Congolese civilians have been unlawfully killed, subjected to torture, including rape, and other forms of cruel, inhuman or degrading treatment. Children have also been recruited in large numbers by the various forces who claim

¹ More than one million Hutu, some of them members of the *interahamwe* militia and former government forces (ex-FAR) who coordinated and participated in the April-July 1994 genocide of Tutsi in Rwanda, fled to the Kivus in former Zaire when the Hutu-dominated Rwandese government was overthrown by the Tutsi-dominated RPF in July 1994. Once in Zaire, armed Hutu participated in attacks on Tutsi and other groups there, and launched armed attacks from Zaire against Rwanda. It was in October 1996 that the justification for Rwandese invasion was first mooted, when Rwandese and other forces intervened to pursue the *interahamwe* militia and ex-FAR, and attacked camps of Rwandese refugees in the Kivus, killing tens of thousands of unarmed Hutu refugees and other civilians. See Amnesty International report entitled "DRC: Deadly alliances in Congolese forests" AFR 62/33/1997, December 1997.

to be fighting either for the sovereignty of the region, or the security of the Congolese or Rwandese population. Others have "disappeared" in custody or have been unlawfully detained for being suspected or known supporters of opposing forces. Human rights defenders have been constantly harassed.

As part of Amnesty International's response to the deterioration of the human rights situation in the Kivus, its delegates visited the region in late 2000 to gather information from survivors, witnesses and other individuals or organizations with an interest in human rights. The information collected by Amnesty International's delegates confirmed that systematic and widespread human rights abuses by the many different armed forces were continuing. What stood out in the mass of information gathered by the delegates was the appalling extent to which unarmed civilians have continued to be deprived of many of their basic human rights, especially the right to life and physical integrity. The numerous forces fighting in the two provinces of North and South-Kivu have killed, tortured, raped, and forcibly recruited civilians, including a large numbers of children. More than a million people have been forced to flee from the Kivu region alone. In addition, the region's economy has been devastated and essential infrastructures, such as health and nutrition, have completely collapsed or been destroyed.

A Congolese church minister interviewed by Amnesty International expressed his despair about the situation:

"The genocide that took place in Rwanda in 1994 is something horrible, but why should every Hutu feel guilty and why take revenge on us, the Congolese? Rwanda has succeeded in making the West guilty, so they send money and guns. Now, Rwanda can chase the militia, exploit the richness of our country, and us ? We will just be sacrificed, it will be too late for us...."

Many of the killings are occurring in areas rich in minerals, where economic exploitation of minerals and other natural resources continues. While this economic exploitation has directly enriched and motivated some individual RPA commanders, it is also financing the Rwandese war effort and sustaining the Rwandese military presence in the region. Such exploitation is allowing the Rwandese to continue a war in which human rights are dramatically violated.

It has also become increasingly difficult and dangerous for human rights defenders to investigate reports of human rights abuses and to publish the result of their investigations. The media are controlled by the authorities, the human rights defenders lack the means to send their message abroad and the problem of disinformation is large. Amnesty International has been impressed by the courage, dedication and tenacity of the human rights defenders who are working in the region. Because of the lack of infrastructure and the complete insecurity of the environment, the defenders are working in extremely difficult and dangerous conditions. They have been tortured, arbitrarily arrested and are frequently harassed and prevented from doing

their work. Amnesty International has documented the harassment of members of the civil society, human rights defenders, local and international non-governmental organizations and is extremely concerned about their security.

Amnesty International in this report is seeking to highlight the appalling extent to which unarmed civilians of the Kivus have continued to be relentlessly deprived of the most basic human rights, especially the right to life, and that no authorities exist from whom they can expect protection or redress. It also demonstrates the extent to which these human rights abuses remain unreported and unpunished, giving rise to the population's enormous feeling of injustice in being forgotten by the international community.

The hostility and resentment towards the RCD authorities and their allies, particularly those from Rwanda, are deepening due to human rights abuses, economic exploitation, lack of leadership and administrative failure. Such resentments have increased the ethnic tension between sections of the population, and placed the Tutsi minority (Congolese and foreign Tutsi) in a more vulnerable situation. The feelings of resentment against the Rwandese Government, and by association against the Tutsi community as a whole, have sparked an explosion of ethnic violence in the east of the DRC. Amnesty International is calling on all political groups and civil society activists in the Kivu region to refrain from inciting violence or other human rights abuses. Amnesty International is extremely concerned by lack of protection and security for, and the threat of violence against, the Congolese Tutsi community.

In its resolution 1341 (2001) of 22 February 2001, the UN Security Council demanded that Rwanda, Uganda and Burundi implement plans for disengagement of forces, and in February and March 2001 troops of the RPA and RCD began withdrawing from their positions along the confrontation lines, at the extremity of the territory occupied by Rwanda. According to several reports from local observers, it appears, however, that many of the RPA soldiers were not withdrawn from the DRC but had been redeployed to the provinces of North and South-Kivu. While the reported number of incidents and attacks by armed groups fell over the months of February and March 2001, Amnesty International fears that the increased RPA presence in the Kivu provinces, and the continued support by the Kinshasa government to some of the Rwandese and Burundian-Hutu dominated combatants, will prolong the climate of tension and violence in the Kivu region.

The continuing presence of the RPA in the DRC is much criticized by much of the Congolese population and increasingly by sections of the international community. Amnesty International is appealing to the Rwandese governments, RCD-Goma authorities, Rwandese and Burundian Hutu armed opposition groups, as well as the *mayi-mayi* militias, to take immediate measures to prevent further killings and other grave human rights abuses unarmed civilian. Foreign governments, especially those with close relations to Rwanda, should also assume their responsibility to publicly condemn grave human rights abuses committed both by the Rwandese government and RCD-Goma authorities' forces and by those of the armed opposition groups

and to ensure the implementation of measures which will restore respect for human rights. A set of recommendations is contained in chapter 8 of this report. Without such action, thousands more men, women, and children are likely to lose their lives in the violence which is ravaging most of the eastern DRC.

This report is the outcome of Amnesty International's visit to eastern DRC in late 2000 and other more recent research into the situation in eastern DRC. The report focuses on the human rights violations committed by the Rwandese Government, Congolese allied forces and by the Hutu combatants fighting the Rwandese and Burundian governments, and *mayi-mayi* militias specifically in the provinces of North and South-Kivu immediately bordering Rwanda. The violations documented in this report are not an exhaustive list of abuses committed against the population, but rather an overview of the situation, illustrated by individual cases.

Human rights violations committed in eastern DRC in the context of fighting between the Rwandese and allied forces and DRC Kinshasa government troops and allied forces in the western part of the DRC are not covered in this report, which focuses on the effects of the overspill of the Rwandese internal conflict into DRC. Amnesty International has also recently published reports on human rights violations in government and Ugandan-controlled areas of northern DRC and will shortly be publishing a document on torture in various parts of the country.²

2. BACKGROUND OF THE CONFLICT IN EASTERN DRC

The human rights abuses of concern to Amnesty International and referred to in the introduction above are being committed in the context of the on going armed conflict in eastern DRC. The next two sections of this report explain this complicated context.

Today the DRC Government controls parts of western, central and southern DRC, including the capital, Kinshasa. Rwandese government and allied RCD-Goma forces control parts of North and South-Kivu, Maniema, Orientale, and Katanga provinces, and most major towns in parts of eastern, central and southeastern DRC. Ugandan forces and allied Congolese armed opposition groups known as the *Rassemblement congolais pour la démocratie – Mouvement de libération* (RCD-ML) Congolese Rally for Democracy – Liberation Movement, and the *Mouvement pour la libération du Congo* (MLC) Movement for the Liberation of

² See Amnesty International report on the DRC, *Torture: a weapon of war against unarmed civilians*, June 2001. Also, see Amnesty International reports, *DRC: Deadly conspiracies?*, March 2001, and *Democratic Republic of Congo: Killing human decency*, May 2000.

Congo,³ control much of north-eastern, northern and north-western DRC. Because of the disagreements on strategy and territorial control of areas with significant mineral and other natural resources, armed clashes between previously allied Rwandese and Ugandan forces in north-eastern DRC have taken place and in June 2000, the deepening rifts between them led to fierce fighting for control of the Congolese city of Kisangani. Burundi controls a narrow strip in eastern DRC, along its border, and doesn't appear to be involved with the local politics of the RCD.

Local armed groups, the *mayi-mayi*, and those from Rwanda and Burundi opposed to the RCD-Goma and the Rwandese government, appear to operate quite freely and control parts of the countryside in areas nominally controlled by forces opposed to the DRC Government. Rwandese Hutu combatants in eastern DRC include members of the former Rwanda Armed Forces (ex-FAR) participated in the 1994 Rwandese genocide and the Rwandan Bahutu *interahamwe* militia forces who participated and coordinated the genocide. They are composed mainly of Rwandese Hutu combatants, some of whom were involved in the 1994 genocide in Rwanda. Others were recruited from the refugee camps set up in Zaire after the genocide or during and after the 1997-1998 insurgency in the northwest of Rwanda. Since then, Congolese Hutu are also believed to have been recruited. Their armed group is known as the *Armée pour la libération du Rwanda* (ALiR), Army for the Liberation of Rwanda.⁴ In the Kivus the Rwandese Hutu combatants fighting the Rwandese government sometimes collaborate with the *mayi-mayi*, Congolese militias whose basic principle is to protect the country and fight the RCD-Goma as well as what they refer to as the Rwandese foreign occupiers, and other foreign forces. In South-Kivu, the *mayi-mayi* have also formed an alliance with the Burundian Hutu-dominated armed opposition group, *Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie* (CNDD - FDD) National Council for the Defence of Democracy- Forces for the Defence of Democracy, which seeks to overthrow the Tutsi-dominated government of Burundi.⁵ Since 1997, the DRC Government is believed to have provided substantial financial, material and political support to some of the DRC-based Rwandese and Burundian armed groups.

³ In April 2001 the RCD-ML and MLC formed a coalition called the *Forces de libération du Congo* (FLC), Forces for the Liberation of Congo, led by MLC leader Jean-Pierre Bemba, and are supported by the Ugandan authorities.

⁴ The International Crisis Group report "*Scramble for the Congo: Anatomy of an Ugly War*", published in December 2000, estimates that 17,000-25,000 RPA troops are deployed in the DRC, while the RCD-Goma deploys 17,000-20,000 troops. The Rwandese Hutu armed groups number 30,000-40,000.

⁵ Two other Burundian armed opposition groups, the FLN and FDD also have bases in eastern DRC.

2.1. Spill-over of Rwanda's political and human rights crises

The situation in the DRC, particularly in the North and South-Kivu, cannot be fully understood without reference to the internal conflicts which have ravaged Rwanda. In Rwanda, divisions between the Hutu and Tutsi ethnic groups, date back to the colonial period when Belgian colonizers used Tutsi agents to institutionalize oppression of Hutu. In 1959, reacting to this oppression, Hutu overthrew the Tutsi monarchy. Thousands of Tutsi civilians were massacred in the early 1960s and tens of thousands of others sought sanctuary in neighbouring countries, particularly in the eastern part of the then Belgian Congo (later known as Zaire and now DRC), Burundi, Tanzania and Uganda. Many of the countries that hosted these refugees already had their own long-established Tutsi and Hutu populations.⁶

In 1990 an armed opposition group, the Rwandese Patriotic Front (RPF), composed primarily of Uganda-based Rwandese Tutsi exiles, invaded Rwanda to overthrow the government. Massacres of thousands of Tutsi civilians, organized by the Hutu authorities, began within days of the invasion and continued through the early 1990s. Throughout this period, the government stepped up its campaign of racist propaganda against Tutsi and began a program of arming and training Hutu civilians to create "self-defence" forces, and armed among them the *interahamwe* militia. For its part, the RPF, which formed a base in northern Rwanda, was also responsible for the killings of unarmed Hutu civilians. In areas occupied by the RPF, several hundred thousand Hutu were either driven or fled from their homes and land, which were subsequently occupied by Tutsi combatants and civilians returning mainly from Uganda. Many Hutu died from hunger and disease in overcrowded camps for the displaced, thus escalating and exacerbating hatred against Tutsi.

This ethnic division, encouraged and manipulated by the ruling elite, led in 1994 to the genocide in which, between April and July, Hutu government forces, militias and ordinary Hutu civilians killed as many as one million unarmed civilians, most of them Tutsi but also many Hutu. As the international community prevaricated in its response to this tragedy, the RPF advanced across the country, killing thousands of Hutu civilians, and took power on 17 July 1994. Over two million people fled to Zaire, Tanzania, and Burundi. Among this refugee population were many members of the *interahamwe* militia and *ex-FAR* who had organized or taken a leading role in the genocide. These regrouped in the refugee camps in Zaire and used the Kivu region in particular as a base for a campaign to destabilize Rwanda and to terrorize the

⁶ In Zaire, after thousands of Tutsi were forced to flee Rwanda after 1959, the Zairean government failed to take measures to prevent the persecution of Hutu and Tutsi (commonly known as Banyarwanda because they were ethnically related to Rwandese Hutu and Tutsi, and generally spoke Kinyarwanda, the main language of Rwanda), or to distinguish refugees from nationals. Members of other ethnic groups in Zaire competing for political positions branded all Tutsi and Hutu, as foreigners. This culminated in early 1993 in armed clashes in North-Kivu between Hutu and Tutsi on one side and members of several other ethnic groups on the other. Six thousand civilians were killed and several hundred thousand others were displaced.

local Congolese population, particularly Congolese Tutsi. During 1995-1996 Rwandese Hutu armed groups were responsible for many attacks on Tutsi civilians in Zaire and established themselves again in northwest Rwanda. Thousands of unarmed civilians were killed both by the insurgents and by the Rwandese security forces as the Rwandese government moved to quell the insurgency.⁷ Some members of the Zairean Government threatened to expel Tutsi, including Congolese Tutsi.

In this context, the Rwandese authorities helped to form and gave their support to the Zairean rebel group, *le Parti de la Révolution Populaire* (PRP) the People's Revolutionary Party, led by Laurent-Désiré Kabila. RPA-led forces, together with a coalition known as the *Alliance des forces démocratiques pour la libération du Congo* (AFDL) the Alliance of Democratic Forces for the Liberation of Congo, massacred tens of thousands of unarmed refugees and Congolese citizens in their attempt to dismantle refugee camps and eliminate the threat posed by armed Hutu opponents of the Rwandese government. The camps were inhabited by members of the Hutu ethnic group, most of them from Rwanda and others from Burundi. In May 1997 after an eight-month military campaign, Laurent-Désiré Kabila took power in Zaire and changed the country's name to the *République Démocratique du Congo*. The RPA had played a key role in Kabila's rise to power and the massacres of Rwandese Hutu refugees and Congolese civilians. The RPA initially dominated President Kabila's Congolese government and military high command, but in July 1998 Kabila drastically curtailed their influence and ordered foreign forces out of the country. His forces cooperated with some of the *Ex-FAR* and *interahamwe* based in North and South-Kivu.

In response, on 2 August 1998, Rwanda and its ally Uganda invaded the DRC, in the east, with the aim of ousting President Kabila. The RPA, who were joined by Congolese Tutsi soldiers and other armed factions opposed to Kabila, attempted to capture the capital of Kinshasa, before being forced back by the intervention of foreign troops from Zimbabwe, Angola, Namibia. Chad and Sudan also supported Kinshasa temporarily in late August 1998. However, the RPA and Ugandan army remained in eastern DRC, and the Rwandese Government established its client Congolese armed opposition group, the RCD-Goma, as the ruling authority in the region.

2.2 The Peace process

Following several diplomatic efforts, a cease-fire agreement in the DRC was signed in the Zambian capital, Lusaka, in July and August 1999. Soon after the cease-fire agreement was signed the UN Security Council authorized a deployment of some 5,337 UN cease-fire monitors to constitute what is known as the *Mission de l'organisation des Nations Unies au Congo*

⁷ See Amnesty International's report, *Rwanda: The hidden violence - "disappearances" and killings continue* (AI Index: AFR 47/23/98), published in June 1998.

(MONUC), UN Organisation Mission in Congo. Hundreds of MONUC monitors have already been deployed in parts of the DRC.

The agreement remains central to the search for peace in the region, but since its signing almost none of the points of the agreement -- a cease-fire, disarmament of the Rwandese Hutu armed groups and a democratic transition in DRC, withdrawal of foreign forces -- have been fully implemented. President Laurent-Désiré Kabila had stated that all "un-invited" foreign troops withdraw from the country, but Rwanda and Uganda refused to do so before the main rebel movements that posed a threat to their security were disarmed. This stalemate remained until the assassination of President Laurent-Désiré Kabila on 16 January 2001. The DRC government had, until the assassination, rejected the inter-Congolese dialogue facilitator, former Botswana President Sir Ketumile Masire, appointed by the Organization of African Unity to help Congolese leaders to chart the political future of the DRC.

After Major-General Joseph Kabila succeeded his father, Laurent-Désiré Kabila, in January 2001, hopes for peace were renewed. However, the UN Security Council decided in early May 2001 to reduce the number of MONUC monitors to just over 3,000. Worryingly, the UN appears to be scaling down its human rights protection role, with virtually no mention of the MONUC monitors playing a role in the resumption of the inquiry into grave human rights abuses that have occurred during the armed conflict.

In its Resolution 1341 (2001) of 22 February 2001, the Security Council demanded that the parties to the Lusaka Cease fire Agreement implement fully the plans for disengagement and redeployment of forces without reservations. Warring parties were given two weeks, starting 15 March, to withdraw by 15 miles (25 km) from their front line positions. During the same period, 1,562 UN cease-fire monitors were to be deployed in four cities in the DRC. Uganda and Rwanda have since withdrawn hundreds of their soldiers. In February and March 2001, troops of the RPA and RCD began withdrawing from their positions around Poweto in Katanga province to positions 15 miles (25 km) to the east, monitored by a team of MONUC military observers.

In March 2001, the Rwandese authorities informed to the UN Secretary General that the RPA would withdraw far beyond what the other parties to the conflict had agreed. However, while troops have been withdrawn from the extremity of the territory occupied by Rwanda, Amnesty International has received several reports from local observers that the soldiers had been actually redeployed into the provinces of North and South-Kivu, particularly into areas where they are extracting mineral and other natural resources. Since March and April 2001 Amnesty international has been informed that thousands of soldiers from Rwanda had been redeployed in the Masisi region of the province of North-Kivu, and in the territory of Kalehe in the province of South-Kivu. There is increased RPA presence in the Kivu provinces, while the support by the Kinshasa government to Rwandese and Burundian Hutu insurgents continues.

A significant problem remains the various armed groups that are not signatories to the Lusaka agreement, which describes them as "negative forces" and calls for them to be disarmed. As long as these groups remain armed, Rwanda is likely to continue claiming that it has to keep its troops in much of the regions it currently occupies.⁸ However, the deployment of the UN "observatory mandate" mission of 3,000 soldiers which started in March 2001, will most likely neither grant the MONUC the capacity to disarm the armed opposition militias, giving Rwanda a reason to remain in the DRC, nor protect civilians from further abuses. In addition to the disarmament of the armed groups, the Rwandese and Ugandan Government forces' exploitation of the natural resources of eastern DRC⁹ also greatly undermines the possibility of peace.

3. RWANDA'S CONTINUING INVOLVEMENT IN EASTERN DRC

Since the 1998 invasion, Rwandese President Paul Kagame has repeatedly told the international community that his army had a duty to prevent a repeat of the 1994 genocide in Rwanda and that Rwandese "will never shy away from crossing our borders to prevent a repeat of what happened in 1994".¹⁰ During the first year of the war, many influential governments, including the UK, the US, and Belgium, supported the Rwandese Government's stance. However, fighting between Rwanda and Uganda in Kisangani¹¹ exposed to the international community that the illegal exploitation of DRC resources was a significant objective of the war. Since then, Rwanda's motives for the continuing occupation of part of DRC are increasingly being questioned. The victimization of so many Congolese civilians from the Hutu, Tutsi and other ethnic groups in the area has weakened Rwanda's claim that it is merely exercising its right to

⁸ The Government of Rwanda requested that other foreign troops - principally the Zimbabwean and Angolan forces backing the DRC government - withdraw at the same time as its own. The Rwandese Government is also demanding that all Congolese parties are brought into political talks, a condition the DRC Government has accepted.

⁹ This is largely for personal enrichment by the political, military and business elite of, or associated with the foreign governments taking part in the war.

¹⁰ Interview of President Paul Kagame at the UN Summit, Reuters, 6 September 2000.

¹¹ In May and early June 2000 Rwandese and Ugandan forces fought particularly violent battles for the control of the northeastern town of Kisangani. The fighting was reportedly over access to and control of the area's diamond extraction industry. As many as 1,000 people were reportedly killed, and an estimated 1,700 people wounded. The fighting displaced some 80,000 people and more than 4,000 houses were partially damaged, destroyed or made uninhabitable. Sixty-nine schools were shelled; medical facilities and the city's cathedral were damaged during the shelling. Some people were deliberately and arbitrarily killed; many others were killed in indiscriminate shelling. See Amnesty International press release, *Amnesty International urges the Presidents of Uganda and Rwanda to stop killings*, (AI Index: AFR 47/23/98), published in June 2000.

self-defence.¹² On 16 June 2000 the UN Security Council adopted Resolution 1304, demanding that Rwanda and Uganda withdraw all their forces from DRC.

3.1. The links between Rwanda and the RCD-Goma

The areas of eastern DRC controlled by the RCD-Goma and Rwanda, are administrated like a state, with civil servants, tax collection, mineral concessions, and military recruitment. The RCD-Goma has its own civilian services and military wing. However, the RCD-Goma has never been able to garner popular support and legitimacy in the areas it governs, and has failed to look after the basic needs of the population, such as ensuring protection, salaries and health, while imposing high taxation.

The resentment toward the RCD-Goma is due to the authorities' incapacity to provide security to the population, and to the massive human rights abuses against the population for which RCD-Goma are responsible.¹³

As the occupying authority in control in this zone, Rwanda is also responsible for protecting civilian life and ensuring respect for international humanitarian law and human rights standards, and is accountable for violations carried out by the Rwandese forces engaged in the DRC. Article 4 of the international humanitarian law standards codified in the 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War states that "*Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the*

¹² In August 2000, David Scheffer, the former US Ambassador-at-large for War Crimes Issues, publicly expressed his concerns about "increasing violence and destruction against the civilian population of the Kivus, and... acts perpetrated by all forces in the region." On 10 November 2000, US Ambassador to Rwanda George Staples said, "the USA would appreciate a full disengagement by Rwanda from DRC. A drop in the military budget can relieve resources for other needs". That opinion was echoed by Jeremy Lester, EU representative to Rwanda, who said: "It is clear that Rwanda is spending far more than it can afford on security". The UK Government, too, has recently urged the Rwanda to reduce its defence budget in favour of poverty alleviation programs. During the winter of 2000, Jeremy Greenstock, UK Ambassador to the UN, pressed the Rwandese Government to halt the Rwandese army's plunder of eastern DRC. The new US Secretary of State, Colin Powell, said that security concerns on Rwanda's borders justify neither the invasion of more than half of the DRC territory, nor the grave human rights violations taking place in the east of the country.

¹³ The population is continuously rejecting the RCD-Goma authorities, whom they consider as opportunist leaders and Rwanda's puppets, for many reasons, including the ethnic Tutsi composition of the movement. The denunciation of RCD-Goma has not come only from civilians, but also from soldiers within the movement.

conflict or Occupying Power of which they are not nationals."¹⁴

The Rwandese involvement in the political and military affairs of the RCD-Goma has been evident since 1998, when Dr Emile Ilunga was chosen by the Rwandese Government to replace Professor Ernest Wamba dia Wamba as the leader of the RCD-Goma movement. The Rwandese government finally removed Dr Ilunga as president at the end of October 2000, replacing him with RCD-Goma "Foreign Affairs Minister" Adolphe Onusumba. While denunciations of RCD-Goma have come not only from civilians, but also from soldiers within the movement, one of Onusumba's first public statements aiming to gain wider public support for the movement, announced in November 2000 that RCD-Goma would focus more on social issues.

In regard to military affairs, Rwanda has also ordered the establishment of civilian paramilitary Local Defence Forces (LDF). The LDF initiative in the Kivus is modelled closely on LDF formed and active in Rwanda,¹⁵ whose members also include many children under the age of 18. These forces are reportedly mainly composed of children of 12 to 17 years old, who have been forced to join the force under the pressure or the direct orders of local authorities. Local authorities often are required by the RCD-Goma or RPA to provide a certain number of recruits.¹⁶

In the Rwandese-controlled east, children continue to be massively recruited, and official messages are broadcast on the radio, calling the "*watoto*" (children in Swahili) to join the army, the police and the Local Defence Forces. Children are reportedly sent to camps where they are trained by RPA soldiers. For example, specific orders given by the Rwandese authorities in Kigali in November 2000 instructed the local authorities of the province of North and South-Kivu to provide 3,000 youth: 1,500 for the police force, and 1,500 for the army. The local administration officials (*chefs de quartiers*, *chefs de groupement* and *chefs de chefferies*)

¹⁴ The International Crisis Group report "*Scramble for the Congo: Anatomy of an Ugly War*", estimates that Rwanda had 17,000-25,000 troops deployed in the DRC, the RCD-Goma forces 17,000-20,00 and the *Interahamwe* and Ex-FAR 30,000-40,000.

¹⁵ The RPA has sought to recruit Congolese Hutu and organise them in Local Defence Forces (LDF) with the argument that there exists a common interest in peace for all the Banyarwanda. Early on during the RPA occupation, individuals were transported to Rwanda for several months of politico-military indoctrination. Once the training is completed, these recruits return to their home area where their task is to spread anti-*interahamwe* propaganda. Similar three-month politico-military courses are now conducted in the DRC for LDFs. LDF units in Rwanda, like their counterparts in eastern DRC, have been accused of numerous human rights abuses against civilians. See, for example, the case of Josepha Uwera and Gorette Nyirabavakure in Amnesty International's report, *Rwanda: The troubled course of justice* (AI Index AFR 47/10/00), published in April 2000.

¹⁶ See section: 4.3. Children recruited into army, police and Local Defence Forces.

from the Kivus had been called to meetings in Kigali and training in Rwanda where they were ordered to recruit certain quotas.

In a similar case of Rwandese intervention in Congolese affairs was the reported transfer to Rwanda in February 2000 of more than 400 traditional chiefs or local leaders, called *Mwami* and other local administrators from North and South-Kivu, Maniema, and Orientale provinces for politico-military training. The administrative leaders reportedly stayed for three months at Kyami, a Rwandese military camp some 35 km outside Kigali. The camp's purpose is reportedly to provide political education to the Congolese leaders and to spur loyalty to the RPA currently occupying their regions. This method of control was established early on during the RPA occupation of the Kivus, when prominent individuals and students were, reportedly, transferred to Rwanda for several months of politico-military indoctrination. Once the training was complete, the recruits returned home, where their task was to campaign against support for the *Interahamwe*. An officer of the RPA reportedly declared that one of the leaders had died during the training and four more were unable to finish the training because of poor health. Human rights defenders have reported that several civilians died during their training in Rwanda.

3.2. The Rwandese Hutu opposition groups' threat to Rwanda's security

Since 1998, most of the fighting between the RPA and Rwandese Hutu insurgents has taken place inside the DRC, and Rwanda has been largely successful in reducing incursions into northwestern Rwanda. However, on several occasions, the Hutu armed opposition have entered Rwanda and killed unarmed civilians. For example, in December 1999, members of the Hutu armed groups crossed into and attacked parts of the northwestern prefecture of Ruhengeri. On 28 December, Rwandese Hutu insurgents armed with machetes and rifles attacked a village in Tamira commune, Rwanda, killing 29 people and wounding eight others.¹⁷ In May 2000, the insurgents attacked Rwere and Nkumaba in northwest Rwanda, killing 12 people, and entered the Cyanguu, Kibuye and Gisenyi communes in August 2000. In May 2001, Rwandese Hutu insurgents reportedly attacked Ruhengeri Province and Cyanzara District of Gisenyi Province in northwest Rwanda. The Rwandese authorities announced that they were able to defeat the attackers and capture some of the combatants.

¹⁷ Alphonse Gapira, the secretary of Mutura commune, was a witness on 23 December 1999 when armed Hutu combatants attacked Tamira, coming from the Virunga (*Parc des Volcans*). He told Amnesty International delegates that "in 40 minutes they killed 23 people in Tamira. They were shooting indiscriminately at people. Only after the shooting did the military react and force the interahamwe back into the Congolese forest. They came to kill. They arrived at 10pm, killed two LDF and 21 civilians, especially women and children, because the men were mostly able to flee."

Since late 1999 no deadly Hutu insurgent incursions have been reported in Rwanda. However, in eastern DRC civilians are regularly killed during RPA operations against Rwandese Hutu insurgents.¹⁸

While the Rwandese Hutu armed groups undoubtedly represent a real threat to Rwanda's security, and are ideologically intent on carrying their fight to within Rwanda's frontiers, Rwanda's claim that security alone is the reason for its continued presence is meeting with increasing international scepticism. More and more observers point to economic interests underpinning Rwanda's continued presence, and to the growing evidence of "warlordism" among Rwandese military commanders in control of particular areas, especially those containing valuable mineral deposits.

The fact that RCD-Goma and RPA forces appear to be failing to protect the Congolese citizens from attack by Rwandese Hutu armed opposition groups serves to reinforce this belief. Amnesty International received testimonies from unarmed civilians in North and South-Kivu who were attacked by the Rwandese Hutu insurgents and received no help from the RPA or RCD-Goma troops, despite the troops being located close to the site of the attack or having been asked for protection by the civilians. For example, on 9 July 2000, Rwandese Hutu insurgents fighters attacked a camp for Internally Displaced Peoples in Sake¹⁹, killing 42 civilians, including women, children and the elderly. Although the attack on Sake IDP camp was committed by the Rwandese Hutu



The IDP camp at Sake before the July 2000 massacre...

© Private

¹⁸ The continuing existence and activities of Hutu-dominated Rwandese armed opposition groups and Congolese *mayi-mayi* in bases close to Rwanda's borders, despite a heavy deployment of the RPA and RCD-Goma forces, have led many Congolese, including Tutsi, to believe that the RPA tolerates the presence of these armed groups in eastern DRC so as to justify their continued deployment of military force there.

¹⁹ See section: 5.1. Unlawful killings by armed opposition groups.

insurgents, a number of witnesses informed Amnesty International delegates that RCD-Goma soldiers, who maintained positions very close to the camp, failed to protect the camp. Not understanding how the RCD-Goma soldiers could maintain military positions around the camp and yet fail to intervene to protect the civilians in the camp against the armed groups, some



...and after. Calcified human remains in Sake IDP camp. © Private

survivors reported to Amnesty International that they suspected RCD-Goma soldiers to have been involved in the attack. Another witness who was in the camp during the attack told Amnesty International delegates that he believed the RCD-Goma soldiers colluded in the massacre: "An hour after the attack started, the RCD-Goma 'intervened' – shooting in the air – but it was to mask the fact that the real culprits were RCD-Goma."

Congolese and international observers have also told Amnesty International that RPA and RCD-Goma troops sometimes fail to arrive on time to fight Hutu militias, and speculated that the reason was that some of these supposed militias have actually been recruited by or are collaborating with the RPA. Amnesty International's delegates have also been told by a range of sources that "false *interahamwe*" groups, were made up of Hutu detainees transferred from Rwandese prisons and disguised as the Rwandese Hutu insurgents, so that attacks and panic are attributed to the Hutu armed opposition groups.²⁰

3.3. Protecting the Congolese Tutsi

Rwanda's claim to be protecting the Tutsi Congolese is also disputed, not least by sections of the Tutsi community itself, and there is a growing fear that Rwandese presence is perpetuating ethnic tension in the region.

²⁰ It has not been possible to substantiate these allegations. However serious questions remain over the RPA and RCD-Goma's willingness to intervene promptly to save civilian lives from where militias attacks have taken place close to military camps, such as at Sake.

The Tutsi community of the Banyamulenge, (Batutsi of Rwandan origin, not recognized as having Congolese nationality) a small minority of around 150,000, is located mainly in South-Kivu, in the *Haut Plateau* and in smaller communities in Uvira, Bukavu and around Goma in North-Kivu.²¹ That the Banyamulenge community is threatened is not in doubt. In the *Haut Plateau*, they are effectively surrounded by Rwandese Hutu, *mayi-mayi* and CNDD-FDD armed opposition groups. Attacks on the community by the Hutu combatants fighting the Rwandese and Burundian governments are frequent, and killings of Banyamulenge civilians take place on a regular basis, and many villages have been pillaged or burned down. The roads in the area are very insecure, depriving the Banyamulenge in the *Haut Plateau* of access to the market in Uvira on which they are economically dependent. Many Banyamulenge are too afraid to travel, and can no longer cultivate their fields, or attend to their cattle without risking to be attacked. Because of the growing insecurity, since June 2000 Congolese Tutsi have increasingly been fleeing to Burundi.

The continuing attacks by Hutu and *mayi-mayi* armed groups on the Banyamulenge and Rwandese inaction demonstrate that the Rwandese occupation is failing to protect them. In the Uvira region, in July 2000, for example, massive attacks on the community located in the *Haut Plateau* and around the Kihuha, Kajembwe, and Rubibi villages in the Uvira mountains led to the reported killings of dozens of civilians. Around 1,000 people fled the area.

In addition, while tensions linked to land issues or citizenship rights for the Congolese Tutsis have long existed between the different ethnic groups in the Kivus, the deployment of RPA troops and the RCD-Goma administration since 1998 has drastically increased the ethnic tensions between the Banyamulenge and the rest of the Congolese population. A local human rights defender told Amnesty International delegates that anti-Tutsi feelings were increasing, and that in his view "the Banyamulenge community was in danger of extermination". The Banyamulenge are often held responsible by other Congolese ethnic groups for RCD-Goma attacks on them and are blamed for Rwanda's invasion of the DRC. Banyamulenge representatives reported to Amnesty International that the increasing tension between the Banyamulenge community and other Congolese is also exacerbated by the massacres perpetrated by the RCD-Goma, backed by Rwanda, and the way RCD-Goma and RPA soldiers appear to favour the Banyamulenge. For example, while the RPA or the RCD-Goma authorities usually forbid demonstrations, they have not prevented demonstrations by Banyamulenge in Uvira and in Bukavu.

²¹ In 1996, Banyamulenge Tutsi were killed and forced to flee to Rwanda during a wave of anti-Tutsi violence, and Zairian President Mobutu Sese Seko's government threatened to expel them to Rwanda. In 1996-1997, the Banyamulenge supported the Rwandese in their drive to replace Mobutu by Laurent-Désiré Kabila. In 1998, Rwanda argued that another reason for its invasion of the DRC was the need to prevent genocide against the Tutsi known as Banyamulenge in South-Kivu and accusing President Kabila of whipping up anti-Tutsi sentiment.

A member of the Banyamulenge community told Amnesty International delegates that the role played by Rwanda in the region is dangerous for them, and that the Banyamulenge have clashed with RCD-Goma and RPA in an attempt to dissociate themselves from the Rwandese Tutsi authorities. In February 2000, an influential group of the Banyamulenge community wrote a memorandum declaring that Rwanda was not in the Kivus for their protection. Representatives of this group told Amnesty International that "We also would like the Rwandese to withdraw, but for that we also want guarantees that Banyamulenge will not be attacked by Kabila's troops." Some Banyamulenge have formed a new group known as the "*Forces républicaines fédéralistes* (FRF), Federalist Republican Forces", which on 14 February 2000 called for a withdrawal of Rwandese forces from the DRC. It also accused Rwandese forces of systematic looting and arming members of other ethnic groups in South-Kivu. Moreover during 2000, human rights groups accused the Rwandese and their RCD-Goma allies of themselves committing human rights abuses against the Banyamulenge population.²² In Bukavu, Amnesty International delegates received reports of dialogue and discussion between some Banyamulenge and members of other ethnic groups. However, the perception of links between RPA presence in DRC and the Banyamulenge persists, leaving the Banyamulenge community in an extremely vulnerable position.

Another group of Congolese Tutsi at risk of human rights abuses are those who fled to Rwanda during the 1996 war in North-Kivu's Masisi region and are currently settled in refugee camps in Byumba²³ and other parts of Rwanda. Amnesty International is concerned about those among the ethnic Tutsi refugee in Rwanda who are returning to the Masisi region of eastern DRC, a clearly unsafe region. Thousands of Tutsi have left the refugee camps in the middle of the night, and have been transported across the border by buses and private transportation, often organized by an organization very close to the RCD-Goma authorities, known as "*Tous pour la Paix et le Développement* (TDP), All for Peace and Development". Since 1999 around 10,000 Congolese Tutsi refugees have been returning to the town of Mashiki in Masisi and in Kirolirwe, on the edge of the Virunga National Park, where the returned refugees are reportedly at great risk of attacks and killings.

Amnesty International continues to receive reports of large-scale human rights abuses in regions such as the Masisi or Kirolirwe and believe that the repatriation of these refugees is not appropriate. For several years the UN High Commissioner for Refugees (UNHCR), which has international responsibility for overseeing voluntary repatriation of refugees only when conditions are safe for their return, has been worried about the safety of the returning refugees and said it often told refugees that the security situation in the Masisi area often prevent aid workers in Goma delivering aid there, because of a spate of deadly raids on villages and camps

²² See section: 5.1. Unlawful killings by armed opposition groups

²³ The UNHCR estimates that they are 15,606 refugees.

in the region.²⁴

Though this repatriation is said to be taking place clandestinely and the Rwandese authorities are claiming not to support such repatriation, it is unlikely that such large numbers of people can be moved across the Rwandese border and through the occupied eastern DRC without the knowledge and complicity of the Rwandese authorities. Many observers argue that Rwanda is pursuing a strategy of repatriating Tutsi refugees to the area in order to create a buffer of armed pro-Rwanda Tutsi civilians between Rwanda and Rwandese Hutu insurgents and to add to their justification for occupying the region in order to protect the increased Tutsi population. In addition, independent observers suggested that the refugees are being encouraged to return so that they can be recruited into the Local Defence Forces. It is reported that as many as 9,000 returnees have been settled next to a Rwandese military camp. Amnesty International has received reports that many of them had been recruited in Local Defence Forces groups. Amnesty International met with some of the refugees in the Byumba refugee camp and believes that most of the returnees are often encouraged by individuals visiting the camps and



Byumba refugee camp, Rwanda, October 2000

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²⁴ UNHCR, DR Congo, Rwanda, Reuters, 8 August 2000.

organising the transport, who are not providing the refugees with reliable and impartial information about the prevailing situation in eastern DRC.

According to the principle of *non-refoulement*, as set out in instruments such as the 1951 UN Convention relating to the Status of Refugees (the UN Refugee Convention) and the 1969 OAU Convention on the Specific Aspects of Refugee Problems in Africa (the OAU Refugees Convention), no one should be forcibly returned or compelled to return in any manner whatsoever to a territory where they are at risk of serious human rights violations.²⁵ Standards for voluntary repatriation provide that repatriation must always be voluntary, take place in conditions of safety and dignity, and allow the refugees to make a free and informed choice on whether to repatriate or not.²⁶ The decision on whether to repatriate or not should be based on an assessment of the human rights situation in the country of origin.

3.4. Economic interests and human rights violations

The eastern part of the DRC is very rich in minerals, including coltan,²⁷ gold and diamonds. The exploitation of the coltan itself, has directly served to enrich and motivate the RPA soldiers and is therefore financing the Rwandese war effort. In August 2000 the UN Security Council authorized an inquiry into the looting of natural resources in the DRC. The inquiry was carried out by a Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo. In its report published in April 2001, the Panel found that there had been illegal and systematic exploitation on a large scale of the DRC's mineral and other wealth by top Rwandese and Ugandan military and political officials. The panel concluded that such exploitation had led to the "massive availability of financial resources for the RPA, and the emergence of illegal networks headed either by top military officers or businessmen... Rwanda's military appears to be benefiting directly from the conflict."²⁸

Most of the coltan is transported to Kigali and the exploitation of the coltan in eastern DRC has reportedly been encouraged, organised and coordinated by top Rwandese army

²⁵ See the Refugee Convention Article 33 and the 1969 OAU Convention Article II(3).

²⁶ See for instance the UNHCR Handbook on Voluntary Repatriation (1996), Article V of the 1969 OAU Convention and Conclusions 18 and 40 of the UNHCR's Executive Committee (EXCOM).

²⁷ Coltan, is a composite of columbium and tantalite, which can withstand very high temperatures and is used in nuclear reactors and electronic components, such as mobile phone and surgical equipment.

²⁸ The Panel, in paragraph 200 of the report, commented, "All these elements combined suggest the President's degree of knowledge of the situation, his implicit approval of the continuation of the illegal exploitation of the resources in DRC and somehow his complicity as well as his political and moral responsibility."

commanders, and the Government of Rwanda is reportedly aware of this exploitation.²⁹ Amnesty International has reports that the Rwandese trade in minerals and coltan from the DRC is believed to assist Rwandese officials and Rwanda-based traders supply the Rwandese army in the DRC.³⁰

Amnesty International is also concerned at reports of human rights abuses such as killings, torture, use of forced labour, including by children and prisoners, and displacement of population that have taken place in the context of the exploitation of the resources. For example, Amnesty International has received reports of unarmed civilians being killed during fighting between the RCD-Goma troops and Hutu armed groups over mining areas; of villages being burned down; or people attacked and forced to flee the area. An independent observer told Amnesty International delegates that "when a new RCD-Goma or RPA commander is nominated in the mining area of Walikale, Masisi, or Shabunda, the insecurity in the region decreases. However, once a commander is in a region for a while, he understands that insecurity has an advantage. His troops start shooting, killing and provoking massive displacement of the population, in order to make access to the extraction of the mineral wealth easier because the population is dead or has fled."

Other sources have reported that prisoners and street children have been transported by the RPA from Rwanda to eastern DRC and used to work in the mines. In January and February 2001, Rwandese prisoners have reportedly been transported by the RPA to eastern DRC for the extraction of coltan, and more than 1,500 have reportedly been used in the Kalehe territory of South-Kivu province, and another 2,000 prisoners in Osokara and Mufumbi areas, working in the coltan mines under the supervision of RPA soldiers. In addition to extracting resources, the Rwandese troops are reportedly also forcing locally-owned businesses to close down in favour of Rwandese businessmen, and a heavy tax system imposed by the RCD authorities is also providing substantial revenues to RPA soldiers and RCD-Goma authorities.

3.5. A devastating armed conflict

The continuing conflict is causing devastation in eastern DRC. Many villages have been burned down and farmers have been driven from their land. Thousands of people, especially women and children, have fled the fighting and many have been forced to hide in the forests. They

²⁹ Independent observers told Amnesty International that the RPA is directly implicated in the extraction of coltan, and that of the 16 buying centres of coltan and cassiterite identified in Bukavu in November 2000, 12 belong to RPA officers and Rwandese traders from Kigali, and the others belong to RCD-Goma leaders.

³⁰ Amnesty International has also received a testimony from a pilot that some arms delivered to the DRC via Goma have been flown by a cargo aircraft owned by Plant Air and that aircraft was based in the United Arab Emirates but managed from the UK. It also delivered arms to the Unita Angolan armed opposition group with the knowledge of Rwandese military officials.

suffer from malnutrition, are particularly vulnerable to disease and have no access to humanitarian or medical assistance. According to estimates by the UN Office for the Coordination of Humanitarian Affairs (OCHA) in eastern DRC, in December 2000, there were approaching 1.1 million internally displaced persons (IDPs) in the Kivus: 640,000 people in North-Kivu, 450,000 in South-Kivu. The number of IDPs had increased more than four times over the preceding 12 months with less than half of the displaced receiving humanitarian assistance.

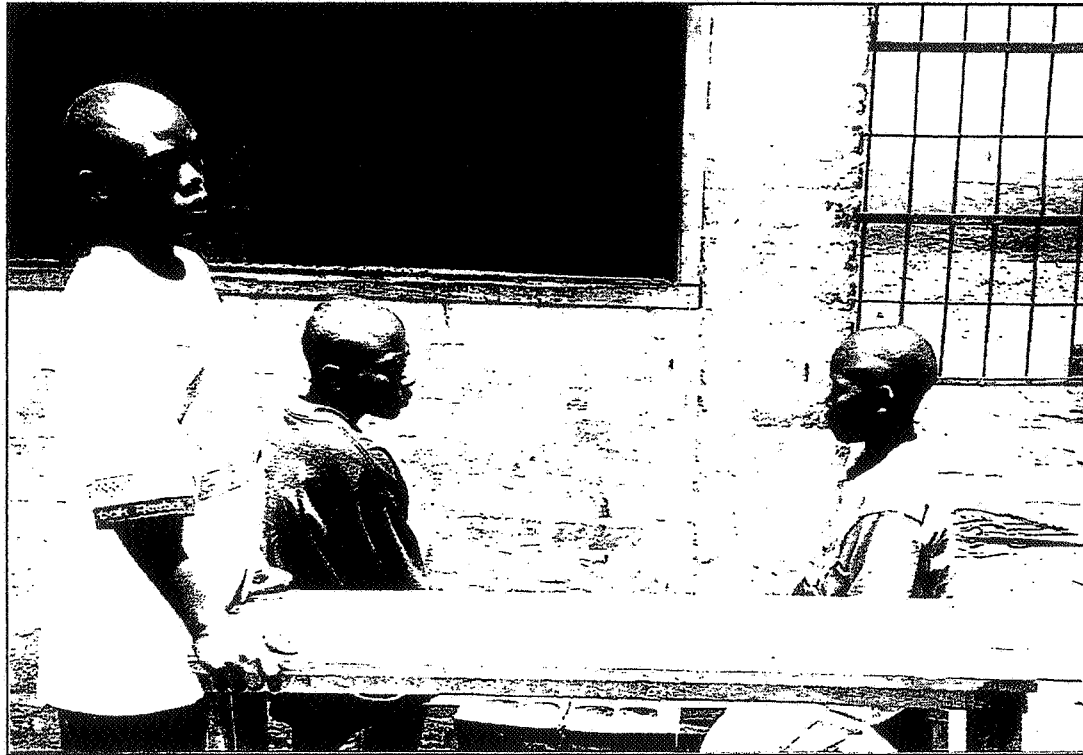
Large-scale population displacement is particularly prevalent in areas rich in mineral wealth. In the Masisi territory of North-Kivu, on 29 June 2000, the RCD-Goma and RPA reportedly fired continuously into the air for an hour-and-a-half, terrorizing the local population and forcing thousands of people to flee, leaving the area empty and easily accessible to the troops. In another case, 34,000 were displaced during the months of July and August 2000, and a further 27,000 in September and October 2000, due to fighting around the town of Shabunda, a rich coltan mining area. A witness told Amnesty International delegates that "during the summer of 2000, only the centre of the city and airport were under RCD-Goma control. The city was surrounded by *mayi-mayi* and *interahamwe* forces, and because of the RCD-Goma presence, the population in the city was considered as collaborating with the RCD-Goma, and people would be killed, raped or abducted if they attempted to go to their fields." Most of these Internally Displaced Peoples are receiving no humanitarian assistance.

Several years of war have halted the already weak economic activity in the Kivus, rupturing the traditional supply sources, and prompting a staggering increase in prices. Health centres have closed following looting of medicines and other supplies or direct attacks on patients by combatants. Because of the absence of working hospitals, life-threatening illnesses are often left untreated. In many areas, ill-health is aggravated by a shortage of food. In the Kivus most markets are closed, and people cannot work their fields or transport food to market for fear of attack by armed forces. A representative of a local NGO commented, "basic products such as salt, soap, sugar ...are sometimes very difficult to find and people have to walk long and dangerous roads to find them. The roads are so insecure that it is often impossible to drive or walk without risk of attack." Because of insecurity on the roads, humanitarian agencies are often unable to reach the civilian population in need.

Although it has recently promised to restore salaries for public employees, the RCD-Goma movement has failed to pay them and has rarely paid its soldiers since it came to power. The population also has to pay the RCD-Goma authorities extremely heavy taxes in order to support a war they want to end. A widow in Goma told Amnesty International that there is no production or agriculture in the country, but each village has to pay and feed the RCD-Goma military, "we have to give everything we have to the Rwandese and their allies the RCD-Goma. They will continue their war, but we will be already dead, because of the killings or because of poverty".

Perhaps even more than the adults, children are suffering from the economic and social breakdown in the Kivus. The war has deprived children of basic rights such as education and primary healthcare. Most of the schools are either closed or have been destroyed. Where schools remain functioning, teachers are forced to seek payment through donations from parents, many of whom are unable to afford even the most modest of voluntary contributions.³¹

War and poverty have also led to the displacement of many children. Some are orphaned or unaccompanied and forced to live on the streets. Such children are at particular risk of recruitment into the armed forces. An independent observer told Amnesty International that all over the Kivus "children have become cannon fodder and slaves: they are recruited to become soldiers. Girls and sometimes boys are forced to become domestic servants or wives of combatants, and sometimes they are also used for child labour and exploited without payment to work in the mines. All parties in the conflict are recruiting children and sending them to the



Former child soldiers at a Save the Children Fund rehabilitation centre, Bukavu, DRC, October 2000 © AI

³¹ According to the children's NGO Bureau pour le Volontariat au Service de l'enfance et de la santé (BVS), Bureau for Voluntary Works at the Service of Childhood and Health, in South-Kivu 70% of the primary and secondary schools are not functioning anymore, rising to 90% in Shabunda and the Masisi.

front.”³²

A church representative in Goma told Amnesty International delegates that:

“...in the rural areas the military have used the wood from the benches and doors of the schools as firewood. All the schools have been looted and everything of value taken to Rwanda. People, because of the lack of education and the insecurity, are joining the LDF. Young people are trained from two weeks to one month and are then sent to the front to fight the militias. The absurdity of the situation is that they are sent to fight their brothers with whom they have grown up, the *mayi-mayi*. Moreover, since they are unpaid and have guns, banditry has increased.”

4. VIOLATION OF THE RIGHT TO LIFE AND PHYSICAL INTEGRITY BY RCD-GOMA AND RPA ALLIED FORCES

In areas variously controlled by the RCD-Goma and the Rwandese forces, RCD-Goma troops often operate, and commit human rights abuses, jointly with RPA forces. Given that the government of Rwanda has overall control of its forces as well as of its RCD-Goma ally in much of North and South-Kivu, Amnesty International believes that it is ultimately responsible for violations of international humanitarian law and human rights law that occur there. However, this does not in any way mitigate the responsibility of the RCD-Goma leaders who also must take responsibility for the serious violations taking place in the region, in violation of international humanitarian law.

RCD-Goma and RPA troops have systematically attacked unarmed civilians in their villages, and undertaken killings, abduction and child recruitment. In addition to the attacks to punish civilians accused of complicity with their enemies, the RCD-Goma and its Rwandese allies have killed, beaten and raped civilians. Women, children and the elderly, who were unable to flee or who thought they would not be targeted, have often been the victims of such attacks. When challenged by Amnesty International delegates with reports that many unarmed civilians have been unlawfully killed, the RCD-Goma authorities claimed that in many combat situations it is not possible to distinguish civilians from members of armed groups.

Some of the killings attributed to RCD-Goma and RPA troops are reported to have occurred during or soon after armed clashes between these forces on one side and *mayi-mayi* and Rwandese Hutu insurgents on the other. The RPA has on occasion mounted large-scale military operations in areas where armed opposition groups are believed to be active. During

³² It has been estimated that 2,300 have been recruited recently into the RCD-Goma forces and 3,730 into the *mayi-mayi*.

these operations little or no attempt appears to have been made to protect civilian life or to distinguish unarmed civilians from combatants, and thousands of unarmed civilians have been killed since August 1998. In some cases, civilians present when the troops arrived were deliberately targeted and killed. RCD-Goma and their Rwandese allies have also failed to provide Congolese civilians with security against attacks and ambushes by the armed groups.

4.1. Unlawful killings by RCD-Goma and RPA troops

According to information available to Amnesty International, thousands of unarmed civilians have been the victims of deliberate and arbitrary killings by the RCD-Goma and RPA forces in clear breaches of Common Article 3 of the 1949 Geneva Conventions and its Additional Protocols which specifically prohibit the killings of persons taking no active part in hostilities. The killings also violate international human rights treaties such as the African Charter on Human and Peoples' Rights, to which Rwanda is party.

During a visit to North and South-Kivu in October 2000, Amnesty International delegates received testimonies from survivors of, and witnesses to a number of massacres, as well as reports from local human rights defenders about large-scale and widespread unlawful killings perpetrated by RCD-Goma and RPA troops against unarmed civilians. These killings often appear to have been carried out to avenge attacks by *mayi-mayi* and Rwandese Hutu insurgents.

Between 14 and 15 May 2000 RCD-Goma soldiers killed at least 44 unarmed civilians in the village of Katogota, in Bufuliro county, in Uvira territory. Katogota is located on a major road between Bukavu and Uvira, and is close to two military positions at Bwepera and Lubarika. The massacre apparently took place in reprisal for the killing of a senior RCD-Goma commander during clashes between the RCD-Goma and CNDD-FDD. According to local sources, the corpses of 44 victims were thrown into latrines while there were indications that other bodies may have been thrown into the nearby Ruzizi river. RCD-Goma authorities have denied their responsibility for the massacre, although they acknowledged that they had sent a military unit to the area to investigate the killing of an RCD-Goma officer and to pursue *mayi-mayi* and Rwandese Hutu combatants who ambushed an RCD-Goma military convoy on 14 May 2000.

At around 8 pm on 20 June 2000 in Sange, a district of the town of Musenyi, RCD-Goma soldiers reportedly killed 15 civilians and pillaged homes. The victims who were killed during the attack and identified, included **Ruhombo Nashale, André Nayitwa, Kibondo, Marogo Shebukulu** and a woman named **Namibale**. The RCD-Goma unit responsible was apparently returning from combat against other armed groups in the area.

In August 2000, following fighting between *mayi-mayi* and RCD-Goma/RPA soldiers

in the mining area of Lulingu,³³ the RPA began what amounted to a punitive operation in Shabunda district, razing several villages in the area to the ground. Between 18 and 24 August, every village of Lulingu and Nzovu was reported to have been destroyed. Amnesty International received reports from local human rights organizations of more than 100 local unarmed civilians killed by the RPA soldiers during this expedition, and thousands of houses burned, wounded and many cattle stolen.

Amnesty International has also received reports that RPA troops killed 41 unarmed civilians, including many women, children and the elderly, in the village of Malembe, Walikale territory in North-Kivu, in early September 2000. The massacre appears to have been in reprisal for losses sustained by the RPA during fighting with a *mayi-mayi* group between 4 and 8 September.³⁴ A witness from the Walikale territory told Amnesty International delegates that "one night in September, some soldiers arrived in my village and searched from hut to hut with torches. My two brothers and I were asleep. My youngest brother was woken by a light shone in his face. As he stood up, the soldiers shot him dead." The witness and the surviving brother were made to lie down on the floor and robbed of money and their shirts and trousers. Some of the victims were reportedly killed as they tried to flee. RPA soldiers then reportedly razed the village to the ground and a further 40 villagers were killed that same night.

Early on the morning of 30 May 2000, RCD-Goma soldiers attacked the village of Lulinda, Fizi territory, in South-Kivu, killing 30 civilians, according to a list compiled by survivors. The massacre followed fighting in the area a day earlier between RCD-Goma troops and *mayi-mayi*. During the fighting the local civilian population took refuge in the forest. After the armed groups had been driven out by the RCD-Goma forces, the population returned to their homes. At that moment, the soldiers reportedly killed several among them, raping several women and burning homes.

A Congolese human rights investigator reported to Amnesty International that 60 unarmed civilians were killed and 15 women, including three young girls, raped in the Bukavu region in the first week of December 2000. RPA soldiers stationed in "local defence centres" (fortified military positions) in the Walungu district were allegedly responsible. The investigator told Amnesty International that "the local defence centres in the Kivu region are considered by the population as instruments of repression, designed to intimidate and terrorize local population, rather than to protect it."

On 22 April 2001, 13 unarmed civilians were killed during the fighting between the *mayi-mayi* and RCD troops on 22 April 2001 in the region between Musenge and Bunyakiri,

³³ See section: 5.1. Unlawful killings by armed opposition groups

³⁴ Some villagers along the road between Civanga and Miti on the Bukavu-Kisangani road confirmed seeing trucks carrying away the dead and wounded RPA soldiers.

in the Walikale territory of North-Kivu. Some of the witnesses have been discovered traumatized in the forest.

On 23 April 2001, RCD-Goma soldiers based in Kasika killed around 15 women, (among them were seven pregnant women) in the health center of the Ilangi commune, in the Mwenga territory of South-Kivu. The soldiers accused the population of collaborating with the *mayi-mayi* located close to the village, and killed the women whose bodies were reportedly thrown into the Ulindi river.

During demonstrations that took place throughout eastern DRC following the death of Archbishop Emmanuel Kataliko on 4 October 2000, one of the protesters, **Cikumi Muhigwa**, a 15 year-old boy, was killed, reportedly shot by a Rwandese soldier who fired into the crowd. The death of the Archbishop, an outspoken critic of the RCD-Goma authorities, fuelled further resentment toward the RCD-Goma, RPA, and the Banyamulenge. Archbishop Emmanuel Kataliko was banished from his diocese in Bukavu following his 1999 Christmas message, in which he wrote that foreign powers, with the collaboration of some Congolese, were using the resources of the Congo to fight a war, when those resources should be used for the education of children, and to ensure health care for the population. He added that the Congolese people and the Congo nation were being exploited. Priests who voiced support for the Archbishop were themselves threatened with arrest or violence. Under intense international pressure, the Archbishop was permitted to return on 24 September 2000, and died of a heart attack in Rome on 4 October. After he had been barred from the diocese for about seven months by the RCD-Goma, his death triggered tensions and demonstrations took place throughout eastern DRC.³⁵ This event demonstrates the tense relationship between the Banyamulenge and the Congolese, when the citizen in Goma and Bukavu took to the streets to express their grief. In Bukavu, protesters threw stones at the houses of Banyamulenge.

On 30 April 2001, soldiers of the RCD-Goma Local Defence Unit killed a civilian in a village in the Katenga region, of the Walikale territory of North-Kivu. **Gode Irumbu** died after having being beaten up by the local defence soldiers.

4.2. Sexual violence against women and girls

RCD-Goma and RPA troops have also engaged in sexual violence against women of all ages, including very young girls and very old women. Beyond the brutality and trauma of rape itself, sexual assault can result in serious physical injury, forced pregnancy, HIV/AIDS and other diseases, often leading to death. All victims of rape and other forms of sexual violence suffer psychological trauma and almost all require medical treatment for physical injuries inflicted

³⁵ Many Congolese were sceptical that the Archbishop had died from natural causes and believed the Rwandese security services had caused his death.

during their ordeal. Many girls and women raped by rebel forces of RCD-Goma and RPA soldiers have died because of the lack of health services available.

It is now generally accepted that, under customary international law, rape committed by government officials or armed opposition groups during armed conflict, whether international or national, constitutes an act of torture.³⁶ When “*rape, sexual slavery, enforced pregnancy, enforced sterilization, or any other form of sexual violence are committed on a large scale or a systematic basis or when are committed as part of a widespread or systematic attack directed against any civilian population, it constitutes a grave breach of the Geneva Convention*” and these are considered as war crimes by the Article 8 (b) (xxii) of the Rome Statute.

In the following cases, the names of women, although known to Amnesty International, are withheld to protect the victims’ identities and dignity.

In October 2000, Amnesty International delegates met with a 28-year-old woman originally from Nyabiando village but now residing in the Masisi territory. She told Amnesty International delegates how, at around 9pm on 1 September 2000, RPA soldiers raped her and her 14-year-old daughter:

“I was in my house with my daughter. Somebody knocked on the door and I told them to go away. The attackers threatened to shoot if I didn’t open, so I opened the door. After they entered, the soldiers demanded money and stole clothes. When I said that I had no money, they threatened to rape my daughter. I told them my daughter is too young so they should rape me. But the soldiers started raping me and my daughter too. My daughter was bleeding and we went to a dispensary, but my daughter is still sick. We fled to Goma afterwards.”

This victim’s husband rejected her after the rape and left her.

Some reports have been received by Amnesty International of very young girls raped by RCD-Goma soldiers.

On 18 July 2000, in Kitschanga, a town on the border of Masisi and Rutshuru territories, a 13-year-old girl was allegedly raped by an RPA soldier from the Mubughu hill military position. In early January 2001, in Chiherano village, Walungu territory, RCD-Goma soldiers reportedly raped a 12-year-old girl, in front of her class-mates.

³⁶ Rape during armed conflict has also been specified as a form of torture in international criminal trials such as the *Akayesu* Judgment in the Rwanda Tribunal of 2 September 1998, paragraph 597, and in the *Celebici* Judgment in the Yugoslavia Tribunal, 16 November 1998, paragraph 475-497.

In a few cases, soldiers under RCD-Goma command have reportedly shot into women's genitals after committing rape. In June 2000, a 25-year-old mother of three from Kabondozi village, Fizi territory, was repeatedly raped by an RCD-Goma soldier, who then fired three times into her genitals. She fled to Bukavu where she received treatment and had to be operated on several times. In Mboko, Fizi territory, a woman relative of the territory's administrator attempted to resist RCD-Goma soldiers who wanted to rape her: the soldiers shot her in her genitals in reprisal. In July 2000, a woman from Fizi was reportedly raped by an RCD-Goma soldier after she has been forced to transport him on her back for 10km. After raping her, he shot in her genitals.

A 24-year-old woman from Goma was attacked while she was returning from the Roman Catholic cathedral one night at 10pm. The victim told Amnesty International delegates that RCD-Goma soldiers undressed her, raped her and beat her. After the rape she could barely walk and she went to a dispensary for medical treatment.

Since the end of December 2000 and beginning January 2001, women and girls in the Masisi and Walungu territories have suffered an increased amount of widespread rape and sexual violence. The villagers reportedly spend the nights in the forest in order to avoid sexual violence and other abuses committed during night raids by soldiers in the region.

Amnesty International repeatedly requested information and called on the authorities to investigate these incidents, and has received no replies. The organisation is not aware of any investigation taking place. In this climate of fear, women and girls raped have no recourse to remedy or have their cases investigated. Amnesty International knows of no soldiers brought to justice for such crimes.

4.3 Children recruited into army, police and Local Defence Forces

It is hard to determine how many children are participating in hostilities on all sides of the armed conflict, but in March 1999, a country analysis of child recruitment and participation in armed conflict published by the international coalition of NGOs, the Coalition to Stop the Use of Child Soldiers, estimated that over 20,000 children were taking part in hostilities in the Rwandese-controlled area of eastern DRC. Since then, children have increasingly been recruited, and the recruitment of children into armed forces remains a serious concern. Reports continue to indicate that up to 30 per cent of newly recruited combatants are children under 18 years of age, with a substantial number less than 12 years old.

The involvement of children in armed conflict has devastating effects on their physical and mental integrity. There have been higher casualty rates among children because of their inexperience, recklessness and lack of training. Frequently ill-treated or even killed by the commanders, they have no protectors. Those children who have been released or have escaped or been demobilized have given horrifying accounts of how the conflict has affected them.

The use of children as soldiers invariably violates rights enshrined in the Convention of the Rights of the Child, ratified by Rwanda and the DRC. The Convention states that children should not be separated from their parents (Article 9), should be protected from physical or mental harm (Article 19), should enjoy the highest attainable standards of health (Article 24), and education (article 28), the right to rest and leisure (Article 31), and should be protected from economic exploitation and hazardous work (Article 32).

Amnesty International believes the voluntary or compulsory recruitment and participation in hostilities of anyone below the age of 15 ultimately jeopardizes their mental and physical integrity. For this reason, Amnesty International and five other non-governmental organizations have been calling for the age of military recruitment in government or opposition armed groups, be it voluntary or compulsory, as well as deployment in hostilities, to be raised to 18.³⁷ The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict raises the age for participation in hostilities, for both the armed forces and armed groups, from 15 to 18. It was adopted by the UN General Assembly on 25 May 2000 and is now open for signature and ratification.

Rwanda is bound by the obligation of the ILO Convention (182) on the Worst Forms of Child Labour. This convention which Rwanda ratified on 23 May 2000 forbids forced recruitment of children for use in armed conflict, and sex work, and any work which "*by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children*" (Article 3 d).

The African Charter on the Rights and Welfare of the Child, which entered into force on 29 November 1999, is a regional instrument which specifically prohibits the recruitment and use as combatants of children under 18 in both international and internal conflicts. Article 22 (2) requires States Parties to "take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child." Rwanda has signed but not yet ratified the African Charter on the Rights and Welfare of the Child. Even though Rwanda has not ratified it, it has signalled its intention to abide by its provisions by signing it, and should therefore not to breach the treaty.

In December 1999, the RCD-Goma signed an agreement with the UN to stop recruitment of children and to establish an Inter-departmental Committee for Disarmament, Demobilization, and Reintegration of Children. However, despite this commitment, while military recruitment in the cities appears to have decreased, recruitment of children is continuing

³⁷ Amnesty International, Human Rights Watch, International Federation *Terre des hommes*, the International Save the Children Alliance, the Jesuit Refugee Service and the Quaker UN office (Geneva) launched the Coalition to Stop the Use of Child Soldiers in June 1998. For further information, see *Stop Using Child Soldiers*. Coalition to Stop the Use of Child Soldiers, (second edition) published by R dd  Barnen on behalf of the International Save the Children Alliance in November 1998.

in rural areas of the Kivus, including Kalehe, Idjwi Island, Musongati and Rugano.

Amnesty International delegates visiting the region in October 2000 saw several young boys in uniform and received testimonies from parents that RCD-Goma and RPA soldiers are forcibly recruiting children and youths at night. When Amnesty International met the RCD-Goma authorities in October 2000, they denied allegations that the RCD-Goma was recruiting child soldiers, and claimed that young people are joining the movement voluntarily or were already members of the former FAC who were absorbed into RCD-Goma's ANC.³⁸

In late 2000 and early 2001, the RCD-Goma authorities appeared to intensify their efforts to recruit combatants, including child soldiers, from among the local Congolese population. Through radio broadcasting, recruitment appeals are explicitly asking for children to join the army, police or Local Defence Forces. The RCD-Goma, over public radio, is calling for the "*watoto*" (children in Swahili) to join the troops, without specifying the age groups required. When the RCD-Goma authorities were informed that NGOs and UN agencies were unhappy with the recruitment exercise and had taken exception to their radio messages asking men and boys of all ages to come forward, the authorities claimed that the word "children" in the broadcast had been intended to be understood as "Children of Congo", in the sense of all citizens. Even if this was the case, which is doubtful, no measures were taken to ensure that only adults were recruited.

In November and December 2000, between 425 and 475 Congolese local administration officials (*chefs de quartiers*, *chefs de groupement* and *chefs de chefferies*) from the Kivus were called to meetings in Kigali and training in Rwanda where they were ordered to recruit quotas. During these meetings, the Congolese local authorities reportedly received orders from the authorities in Kigali to recruit 3,000 youths; 1,500 for the police forces, and 1,500 for the army.

Amnesty International received reports that during the week of 4 December 2000, Jean-de-Dieu Razirera, Janvier Ntohondire, Sirasi Murihanio, Toranshire Asangira, all 15 years old, were forcibly recruited in Rutshuru. Since they resisted recruitment, they were taken to the Bureau 2 military intelligence detention centre in Goma. The same week, Amnesty International received reports that parents had been told that their children recruited in Monigi on 3 December would be returned and not sent to the front.

All those forcibly recruited as a result of this drive were reportedly transported to camps in Masisi for military training. The Mushaki camp, a training camp situated 30 km from Goma, is believed to have received over 3,000 new recruits, nearly 2,000 of whom are understood to be under 18 years old.

³⁸ In the 1996 war, massive recruitment of children took place in the Kivu provinces, and those children are among the FAC soldiers who walked and fought their way from the east of the DRC towards Kinshasa.

Children of between 12 and 18 are also regularly recruited into the Local Defence Forces (LDF), an armed civilian paramilitary force used to defend villages and local communities against attacks by Rwandese Hutu armed groups, *mayi-mayi* or other armed groups. Many of these children are later enlisted into the army proper and sent to the front lines.

LDF members in the Kivus receive a basic military and political training of from three weeks (according to local human rights sources) to three months (according to RCD-Goma officials). In early 2001, there were six training camps in operation simultaneously in North-Kivu alone and the RCD-Goma claims to have 10,000 LDF members. The LDF members are provided with firearms but are unpaid and unfed, and in some cases have carried out killings, beatings and armed robbery -- against the communities they supposedly protect to extort money and property to sell.

In spite of the fact that LDF members, including children, are supposedly recruited to defend the local populations, Amnesty International is also concerned that the youths are sent to fight armed opposition groups and militias such as the Rwandese Hutu rebels. In such combat situations raw and inadequately trained LDF recruits, some of whom are reportedly as young as 12 years old or even younger, are pitted against experienced fighters. A local human rights source told Amnesty International that "since the Rwandese invasion of the Kivus and the formation of the RCD-Goma, the population don't want to join the RCD-Goma to fight this war. So the RCD-Goma authorities mislead the youth, telling them they will be LDF and will protect the population, but in fact they will be sent to the front lines to fight the war". The same source added that children are recruited by force "and if they refuse, they are accused of being enemies of the peace and, like anyone accused of collaborating with the enemy, they risk being killed."³⁹

The break-down of the political, social and economic infrastructures (schools, communities, household, health facilities), as well as displacement, weaken or destroy children's immediate source of care and protection, making them an easy target for recruitment. Unable to adequately provide for their children's needs, some parents in the region believe that recruitment into the armed forces will offer their children the food, education and security they need, and encourage them to enlist. In addition, children are more likely to join the armed forces when they are separated from their families, displaced or have limited access to education.

Even when children are demobilized, they remain targets for future re-recruitment. Amnesty International delegates received testimonies from former child soldiers who were afraid of being forced back into the army. An aid worker in Bukavu reported that a child soldier who had escaped the army and returned to primary school was later recognized in the school playground by an RCD-Goma soldier and abducted again. A source from a Congolese NGO

³⁹ Local sources have informed Amnesty International that some recruits, including children, have been recruited in Rwanda and deployed in the DRC. Sources in Rwanda have seen children, especially street children, being recruited by RPA, then trained and sent to fight in eastern DRC.

informed Amnesty International delegates that "because no one wanted to enrol in the army, soldiers organized a round-up [*rafle*] of youths between 12 and 25 years old. Younger children were also recruited, and some parents were forced to negotiate their return by paying a large sum of money."

Amnesty International delegates visited a Centre administered by a local NGO, which works with former child soldiers. Children victims of war and human rights abuses can find medical and psycho-medical assistance. In July 1999 the Centre had 490 children registered, of whom more than 70 were former child soldiers. The children were mainly Congolese children from South-Kivu, most of whom had fled massacres and arrived at the centre very malnourished and diseased, especially with malaria. One 10-year-old fleeing a massacre at Makobola had carried a seven-month-old baby on her back all the way to Bukavu. The director of the Centre told Amnesty International delegates, "now she looks 70". She had been told to run by her parents, but later retraced her steps and saw the bodies of her parents with the family's luggage still on their backs.

The children do not reside at the Centre but come in for treatment, one of the main forms of which is group psychotherapy. The Centre is able to provide them with food only sporadically when it has the money. If the children are too ill to come to the Centre, the director visits them. Many have witnessed killings of their parents and some are so traumatized that they refuse to come into the Centre, in which case the Centre tries to treat them *in situ*. The director sees a need to set up another Centre in the interior where there is the greatest need, but they are prevented by lack of funding.

The Centre workers have been intimidated for working with what authorities describe as "*des enfants des interahamwe*". The director of the Centre was prevented from travelling to an international conference on rehabilitation in Kinshasa in February 2000. She was told she was travelling "to an enemy state" and had her passport confiscated.

5. ABUSES OF THE RIGHTS TO LIFE AND PHYSICAL INTEGRITY BY ARMED GROUPS OPPOSED TO THE RCD-GOMA AND RPA

Armed groups opposed to the RCD-Goma and the RPA have committed grave and systematic human rights abuses in eastern DRC. Groups of Rwandese Hutu rebels, *mayi-mayi*, and CNDD-FDD fighters have been responsible for killing civilians, sexual violence and recruitment of child combatants. People suspected of cooperating with the RCD-Goma and its foreign ally, Rwanda, have been especially targeted.

The population in areas where the armed groups operate has also been subjected to other violations of international humanitarian law, including the pillage or destruction of their crops or livestock and the torching of houses. The armed groups raid local populations for

supplies of ammunition, food, radios, batteries and medicines, looting village pharmacies and mounting ambushes along roads on market days. They carry out attacks in small groups, but have means of communication and are able to mobilize themselves very easily, taking advantage of the terrain, such as forests, which is difficult to control.

The DRC government has reportedly provided funds, weapons and other material support to these armed groups and has appointed several *mayi-mayi* leaders to positions of authority in the army (FAC).

All parties to the conflict in eastern DRC, including armed opposition groups, are bound by the provisions of Article 3 of the Geneva Conventions of 1949 which extends to "*armed conflict not of an international character*" (internal armed conflict) fundamental rules for the protection of those taking no active part in hostilities which each party to the conflict is "*bound to apply, as a minimum*." Under the terms of Common Article 3, people who take no active part or who have ceased to take an active part in hostilities must be treated humanely in all circumstances.

5.1. Unlawful killings by armed opposition groups

Amnesty International has received consistent reports that Rwandese Hutu insurgents and *mayi-mayi* have perpetrated unlawful killings of civilians, acts of torture, including rape, and other human rights abuses, because the victims were accused of collaboration with the RCD-Goma or RPA or because the armed groups were seeking food or other supplies. Many attacks against the Banyamulenge community by these groups have also been reported. In other cases, civilians have been killed when armed groups and the RCD-Goma and RPA forces were fighting for the control of territory and failed to take reasonable steps to distinguish civilian from military targets.

Between June and September 2000 *mayi-mayi* and CNDD-FDD forces repeatedly carried out attacks in Minembwe territory (a new administrative unit created by RCD-Goma in November 1999), in South-Kivu, in which 80% of the population is Banyamulenge.⁴⁰ On 25 July *mayi-mayi*, CNDD-FDD and *interahamwe* fighters killed 37 unarmed civilians and wounded two in Kajembwe, while nine others were killed and six wounded in Gatanga. More than 300 houses in these two areas were set ablaze by the armed groups.

⁴⁰ Minembwe was previously part of the territory of Fizi. Segments of Fizi and Shabunda territories were joined to create this new territory. The creation of Minembwe territory has fuelled fresh ethnic tension in the region. While previously Minembwe was mainly considered as an area of the Bafulero ethnic group, the creation of the new territory has effectively designated it as a Banyamulenge area and consequently attacks by the *mayi-mayi* and other armed groups have increased.

At around dawn on 2 September 2000, a group of civilian employees of the *Institut Congolais de la Conservation de la Nature*, (ICCN), Congolese Institute for Nature Conservation who were conducting a land survey in the Biega-Kahuzi National Park, 70 km northwest of Bukavu, accompanied by a number of local government and land registry officials and a military escort of around 40 RCD-Goma soldiers, were attacked by what is believed to have been a combined force of *mayi-mayi* and Rwandese Hutu insurgents. Nine civilians and a military commander were killed. The attack apparently followed fighting the previous day between the soldiers and some Rwandese Hutu insurgents. As the attack started, the military escort reportedly fled, abandoning the civilians. Civilians who tried to flee were cut down by gunfire or machetes. **Herman Nyamamana Sebyenda**, a surveyor, **Jean de Dieu Bulonza**, a Kalonge local chief, **Vincent Namegabe**, a member of a local development NGO in Nindja, **Cibaye Banywesize**, a Bushumba official, and **Ghislain Balola Ludunge**, a farmer, were killed. Those who survived were held captive for a day before being released. Some of the survivors were used to transport the equipment stolen during the attack. On 7 November, further south in the Uvira territory of South-Kivu, three Banyamulenge villages near Baraka came under attack by the *mayi-mayi* and CNDD-FDD. At least nine unarmed civilians were killed and property was destroyed.

In some cases, the RCD-Goma and RPA soldiers failed to intervene to protect civilians who had come under attack from armed groups, even though they were apparently in a position to do so. An attack on a camp for internally displaced people (IDPs) near Sake, a town approximately 30 km from Goma⁴¹, for example, raised some controversy due to the fact that the camp was reportedly surrounded by RCD-Goma soldiers who did not react in time to repulse the attack.⁴²

On 9 July 2000, between 7 and 9pm, Rwandese Hutu fighters overran the IDP camp in Sake. At the time of the attack, the camp housed 370 IDP families who had fled conflict in other rural areas. 42 civilians, including women, children and the elderly, were killed and 48 others were wounded in the attack, which lasted up to five hours. Hundreds of families were forced to flee, and scores of people remain unaccounted for. Most victims died of bullet wounds while several children and elderly people suffocated or were burned to death in their huts, which were set on fire by the assailants.

A widow interviewed by Amnesty International delegates was in the camp with her children. During the attack, her hut was burned and she witnessed her neighbours burning to death inside their huts. After the attack, she spent three days looking for her two missing children, eventually finding them in a nearby village.

⁴¹ The Rwandese Hutu armed groups appear to have come from the north and on their way had reportedly already attacked and pillaged three villages near Goma, Kimoka, Butokora, and Majagi

⁴² See section 3.2. The Rwandese Hutu opposition groups' threat to Rwanda's security.



Women and children wounded during the attack on Sake IDP camp receiving treatment in Goma hospital, July 2000

© Private

Delphin Mineene Byanino, aged 45, from Nyabiondo village, in the Masisi territory, had been living with his family in the Sake IDP camp since April 2000 and was a witness to the July attack. He said that the soldiers⁴³ "entered the camp and ... burned our huts and shot at people." His younger sister, **Christine Mihio**, aged 37, a mother of six, was shot when she tried to flee. After the massacre, Delphin Mineene Byanino fled to Goma with his family.

During the night of 3 to 4 May 2000, Rwandese Hutu rebels and *mayi-mayi* reportedly killed 42 unarmed civilians, including many children, in Kibirizi territory of North-Kivu. The villagers were shot or chopped with machetes, and their houses burned. Two days later, after the survivors had returned to the village and were mourning the dead, they were attacked again at around 9pm by an armed group and a further eight unarmed civilians were killed. RPA soldiers were reportedly based close to Kibirizi, but after these attacks the population felt they

⁴³ Although the attack on Sake IDP camp was committed by Rwandese Hutu rebels, a number of witnesses mentioned to Amnesty International delegates that RCD-Goma soldiers, who maintained positions very close to the camp, could have been the true perpetrators or that the RCD-Goma troops themselves committed atrocities in the camp after the Rwandese Hutu rebels had left.

could not count on the RCD-Goma or RPA for protection and fled to Goma, five days' walk away.

In the Shabunda territory, South-Kivu, during July and August 2000, severe fighting took place between armed groups and RPA and RCD-Goma troops over the control of the coltan mines in the region. Unarmed civilians were caught in the fighting. For example, in late August, while the *mayi-mayi* were fighting the RPA/RCD-Goma for the control of the mining city of Lulingu, the *mayi-mayi* reportedly killed dozens of fleeing civilians. More than a third of the population of Lulingu was forced by the *mayi-mayi* attack to flee into the forest, while other civilians were reportedly held as hostages by the group during the fighting.

On 13 December 2000, 14 people were killed in two attacks on civilians of the town of Uvira territory, South-Kivu, near the border with Burundi. Six of these were killed by the *mayi-mayi* militias in an ambush on a group of around 100 villagers coming home from Minembwe market, 30 km from Uvira.

On 20 February 2001, 15 unarmed civilians were killed in Nyamirera, in the Bunyakiri territory, in the South-Kivu province. While 30 unarmed civilians were in a bus going to the Bulambika market, *mayi-mayi* combatants attacked the vehicle, and shot at the bus,

Rwandese Hutu rebels, *mayi-mayi* and CNDD-FDD armed groups have also been responsible for ambushes and killing of civilians travelling on the roads between the different cities of the Kivus, further increasing the insecurity experienced by the local population.

For example, on 3 July 2000, *mayi-mayi* forces ambushed a vehicle on the road between Bukavu and Uvira in South-Kivu. They made all passengers leave the vehicle and selected three Banyamulenge. Two of these were summarily executed while the third managed to escape. The other passengers were robbed.

On 31 July 2000, **Felix Katintima**, brother of Norbert Bashengezi Katintima, the RCD-Goma governor of South-Kivu province, was killed by a group of Rwandese rebels. They had lain in wait for him on the road between Bukavu and Kaziba on which he was travelling for a family visit. The attackers also looted his property.

5.2. Sexual violence against women and girls

Amnesty International has received consistent reports of abduction, rape and other forms of sexual violence used as a weapon of war to instil terror in the population. All parties to the conflict have engaged in rape and sexual violence against girls and women, but members of the Rwandese rebel groups, *mayi-mayi* and CNDD-FDD forces are reported to use sexual violence extensively as a means of terrorizing civilian populations.

Girls and women raped by combatants are often threatened with death if they try to resist. Beatings as part of the sexual violence are common. Often victims of sexual violence suffer terrible brutality, including having sharp objects such as piece of wood inserted into their genitals. Amnesty International also received reports of combatants who cut women's breasts off and hung them from trees. One Congolese women's rights association in Goma, known as *La Plate-forme des Femmes*, Women's Platform, reported to Amnesty International delegates that in Tamwara, in the Masisi territory of North-Kivu, members of armed groups repeatedly abducted the women of local villages, raped them and cut holes into their vaginal labia.

Many cases of rape reported to Amnesty International include gang rape. Most of the victims have contracted sexually transmitted diseases, including HIV/AIDS. Because of the lack of essential medical supplies in eastern DRC and because many hospitals and health centres have been looted or destroyed by combatants, the victims rarely receive treatment for their injuries, and many die as a result.

The terror wreaked by armed groups on civilian populations has also included the rape of girls and women in front of their husbands, parents or other relatives. Because of the stigma attached to rape in most cultures, many rape victims are subsequently abandoned by their husbands. Amnesty International delegates met a village nurse from the Masisi region who was the victim of an attack on 1 September 2000. She told Amnesty delegates:

"During the night, it was raining and we were sleeping in our huts when the assailants came and one of the assailants started beating my husband. I carried my youngest child on my back and begged the attackers not to rape her. They took my baby away and nine men raped me in front of my children and husband."

Her husband subsequently abandoned her and she remains alone with her children, without any social or psychological support, in Goma, where she fled after the rape.

On 13 February 2001, in the village of Ngundi in the Masisi territory of the North-Kivu province, 18 years old young woman and her mother were attacked, raped and wounded while working in the fields. Having been brutally wounded, the young woman died two days later.

On many occasion the women have complained or tried to bring the rapes to the attention of the authorities, but in most cases, because of the lack of confidence that the police, army, and the courts will deliver justice, the women are afraid to report their case, but also because they know there will be no response.

5.3. Children recruited as combatants

Because there are more than six different groups of *mayi-mayi*, with different leadership

structures, it is very difficult to collect information on the issue of child soldiers. Rwandese Hutu insurgents are even more difficult to approach, and collecting information about their recruitment of child soldiers is virtually impossible.

The recruitment and use of children is prohibited by international human rights law and international humanitarian law. International humanitarian law, the "laws of war", explicitly prohibits the recruitment of children under 15 into armed opposition groups as well as their participation in hostilities. Article 4 (3) (c) of Additional Protocol II to the Geneva Conventions states that: "*Children who have not attained the age of fifteen years shall be neither recruited in armed forces or groups nor allowed to take part in hostilities*".

The Congolese *mayi-mayi* militias are recruiting thousands of young people from all ethnic group, who are opposed to what they refer to the "Rwandan aggression." Today, the collapse of the economy, and the fact that the region is flooded with small arms and that traditional and state institutions are incapable of preventing violence, are encouraging many young people to join the *mayi-mayi* groups. The presence of the foreign troops, and the economic hardship linked to the war, have reinforced the organization and recruitment of these armed groups. The basic principle of the *mayi-mayi* is that the indigenous population must protect their land, and must fight the foreign occupiers. Therefore, these rural militias continue to recruit many children, and most of the fighters killed or wounded during the fighting are children under 18. The traditional rural *mayi-mayi* militias have in the past attracted support and sympathy from some of the most marginalized communities in North- and South-Kivu.

Continued recruitment has augmented the ranks of the Rwandese Hutu armed groups with young Rwandese Hutu refugees who may not have played any role in the 1994 genocide in Rwanda, together with Congolese Hutu. Several hundred street boys from Kenya and other Great Lakes countries are reportedly being recruited and trained in the DRC by the Rwandese armed groups.

Both FDD and CNDD-FDD Burundian rebels are reportedly recruiting children. Amnesty International continues to receive reports of the widespread use of child soldiers by the armed opposition, sometimes to carry ammunition or looted goods.

Children are reportedly seized by armed men while playing in their neighbourhoods and are considered as particularly useful because their size and agility gives them an advantage in combat situations. Children are also recruited because they are more easily controlled and manipulated. They are used as porters, cooks, or are exploited for sex, as well as taking part in combat.

Many of the children who have been abducted and forcibly recruited have also been victims of deliberate and arbitrary killing, beatings and other forms of torture or ill-treatment.

Girls have been raped and forced into sexual slavery. These abuses constituted some of the most serious violations of international humanitarian law.

Children are especially at risk of death or serious injury in combat because their bodies are more fragile than adults. Children also suffer disproportionately from the general rigours of the combatant's life, especially in the bush, and are particularly vulnerable to disease and malnutrition. The psychological impact on child combatants of active participation in hostilities, including witnessing and at times committing atrocities, will only become apparent over a long period.

6. ABUSES FACILITATED BY A CLIMATE OF IMPUNITY

The instability of the situation in the two Kivu provinces has led to frequent human rights abuses against the local population. Many abuses appear to be the manifestation of an extreme and illegal exercise in military authority over the local civilian population, including extrajudicial executions of and attacks on unarmed civilians by RCD-Goma or RPA soldiers. Other abuses, such as violent attacks, are perpetrated by uncontrolled military personnel from either side of the conflict.

On 20 August 2000, **Hamuli**, a merchant from the Katoyi neighbourhood of Goma, was attacked by around 30 soldiers who arrived outside his store in two trucks. The soldiers, who spoke Kinyarwanda, complained about a mineral deal they had transacted with Hamuli, accusing him of selling them poor grade materials and demanding that he reimburse them. The soldiers then attacked Hamuli and his family, seriously injuring the merchant and killing his wife, **Furaha Kashale**, and children **Murhula**, 18, **Ombeni**, 12, **Eliée**, 6, and **Fabrice** 2.

Paul Mitsindo Mutaka, a credit company manager aged 40, was shot in the back by RCD-Goma soldiers after leaving his office at 5.30pm on 11 January 2000. He was about 50 metres from his house when two soldiers stopped him and asked him where he worked. He answered that he was a teacher, but the soldiers apparently recognized him. They struck him in the face, stabbed him with a knife in his chest and then shot him in the stomach. He believed that his attackers clearly meant to kill him and that it was a "settling of accounts" motivated by the fact that he had money and possibly was known to have studied in Kinshasa. His family complained to the authorities, who promised to investigate. However the two soldiers, although detained briefly, were never charged. He sometimes sees his attackers in the street and, as he told Amnesty International delegates: "To have to look your assailant in the eye, to have to greet him, is hard, really hard. It's painful." He bears deep scars, mental as well as physical, from the attack and has still to recover fully from his wounds.

The identity of those responsible for many attacks on civilians has not been established. Often there are no clear indications as to their identity or motives. In other cases, there are

conflicting claims and interpretations as to whether RPA soldiers or members of armed opposition groups were responsible for particular incidents.

For example, Amnesty International met a victim who told them that in Kashebere territory of North-Kivu, an estimated 50 soldiers attacked a village at 5am, but said that the events took place so rapidly that she could not recognize the soldiers. The victim told Amnesty International that she and four of her friends were taken and raped. She said that each woman was raped by 10 men and that after the rape three of the women were killed. The two others remained in the village. She told Amnesty International:

“We were unable to walk after our ordeal. Our families took us to a dispensary to be cared for. After that we travelled on foot to Goma, where we live in extreme poverty. Until now we haven’t had a medical examination to see whether we have AIDS. It was the RCD-Goma who were surrounding the village. Three of the women were shot and then finished off with machete blows.”

Many people who have spoken to Amnesty International take it as given that human rights violators will walk free. Some argue that this is further evidence of official disinterest, and that justice is neither a possibility for people in the Kivus, nor a priority for the authorities. Yet, it is a clear responsibility for Rwanda’s government and RCD-Goma authorities, to make every effort to bring perpetrators of such human rights abuses to justice, under international human rights law.

7. OTHER HUMAN RIGHTS ABUSES COMMITTED IN THE RCD-GOMA AND RPA CONTROLLED AREA

The social disruption and insecurity make policing and criminal investigation a major challenge in these circumstances. However, the symptoms of institutional collapse include the failure to deal with human rights violations when they arise and the perpetration of further human rights violations by the institutions themselves. In spite of the nominal responsibility of the RCD-Goma for civil and military affairs in eastern DRC, Rwanda maintains a direct involvement in and close control over both. This occurs not only at the front lines, where the bulk of RPA forces are engaged, but also in the day-to-day administration of the rear areas. Therefore, the Rwandese authorities and RCD-Goma authorities are held accountable to ensure respect for human rights and address the problem of impunity in North and South-Kivu.

7.1. Patterns of arrests and “disappearances”

For several years Amnesty International has documented a pattern of arbitrary arrests and unlawful detention in the Kivus. Many detainees claim that they have not even been officially

informed of the reason for their arrest. Such practices are a violation of the Principle 10 of the UN Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, which states that: "*anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*" These standards apply to all states as they are established by the United Nations General Assembly resolutions.

In many cases, arrests of people on charges of "collaboration" appear to be politically motivated and used as a means of obstructing or stifling the activities of individuals perceived as opponents or critics of the RCD-Goma. Many have been arrested, apparently in connection with alleged collaboration with the DRC Government in Kinshasa or the Rwandese Hutu insurgents, *mayi-mayi* or other armed groups. In other cases, arrests may be carried out simply to rob detainees' property.

The practice of arbitrary arrests and illegal detention is compounded by the lamentable state of the judicial system in the Kivus. When Amnesty International delegates visited the Kivus, the judiciary in many parts of the region was effectively paralysed. It lacked facilities ranging from stationery and legal texts to means of transport and other resources. While this failure of the judiciary to function effectively to protect human rights, including the rights of detainees, has been exacerbated in part by armed conflict in the region, RCD-Goma and Rwandese authorities have given virtually no political or material support to the judiciary to enable it to do its work effectively.

Because of the lack of necessary materials, and the fact that the magistrates and judges are unpaid, cases are rarely documented and investigated, and detainees are rarely brought to trial. As a result, the overwhelming majority of the detainees are held unlawfully for prolonged periods, often without charge, without having the opportunity to challenge the basis of their detention before the courts.

A representative of an international humanitarian organization reported to Amnesty International that the security forces arrest people and say they will be tried later, "the authorities don't even try to collect evidence to support accusations and people are simply freed after three months." Other detainees have been known to have spent longer in custody without trial than the time they would have served if found guilty in a court of law of the offences of which they were accused.

In addition to the central prisons of Goma and Bukavu, there are numerous detention centres, official and unofficial. These detention centres, *cachots*, cells or military detention centres, are not under the supervision of the judiciary, and magistrates working at the Procuracy are denied access. In Goma, detention centres include the "*Chien Méchant*" (Savage Dog), and "Bureau 2" have been identified as the main centers of torture in Goma and are reportedly administered directly by RPA soldiers. Other detention centers which are not under the control

of the authorities department of security are the *Direction provinciale de sécurité et de renseignement* (DSR), Provincial Directorate of Security and Intelligence, the *Direction Generale de Migration* (DGM) General Directorate of Migration, and the *Auditorat Militaire*, Military Procuracy. In Bukavu, they include the *Agence Nationale de Renseignement* (ANR), National Intelligence Agency, the "6th Brigade", and the military camp of SAYO.

According to former civilians detainees, these detention centres civilian detainees are guarded by Congolese and Rwandese soldiers and military police. Food is often not regularly provided and families prevented from visiting detainees, and women are often raped while in detention.

As a response to Amnesty International questions to the RCD-Goma authorities about the conditions of detention, an official said that "there is need for the authorities and civil society to collaborate to improve prison conditions. There is a lack of human and material needs and the civil society should help rebuild the walls that the prisoners destroyed. The civil society should educate people about their civic rights, but in the end the problem is that we have inherited a corrupt system."

It is unlawful to detain civilians arrested for criminal offences in military detention centres, and the practice raises serious concerns. The situation of both civilian and military detainees held in military detention centres is especially alarming as in most cases, access is denied to relatives, lawyers, doctors, and human rights organizations. Incommunicado detention is considered as a factor in torture practices.

In addition to the different detention centres, many detainees are held in cells situated in the rooms or cellars of military officers' private homes, sometimes to prevent families and lawyers from finding them, or to extract money from the detainees. Detainees have also been detained in appalling conditions in metal freight containers or in tents at the airports, preventing lawyers, families and human rights defenders from finding out where they are. Prisoners should always be in recognized places of detention and these practices of holding detainees in unofficial or secret detention centres are in violation of the 1992 UN General Assembly Declaration on the protection of All Persons from Enforced Disappearances. In particular, Article 10 states that "*any person deprived of their liberty shall be held in an officially recognized place of detention and in conformity with national law, and be brought before a judicial authority promptly after detention.*"

On 21 January, 2001, following the death of President Laurent-Désiré Kabila, **Kaseraka Katatu, Kambale Kalioto, Awiba Basilwango**, members of the students committee from the Institut Buturande in Rutshuru, around 100km from Goma, took to the streets to peacefully express their grief. During the demonstrations some students were arrested for the peaceful exercise of their beliefs and detained at the Central Prison of Goma. As they neither used nor advocated violence, Amnesty International consider them to have been prisoners of

conscience. They were held for two months and had to pay US \$100 each for their release.

On 24 February 2001, **Nyalwango Lambert Chamgwi** was arrested by the RCD security agents in Bunagana, Rutshuru territory of North-Kivu, and then transferred to the DGM military detention centre in Goma. He was returning from Nairobi, Kenya, and was reportedly accused of carrying documents that he was planning to send to the Interior Minister of the new government in Kinshasa and a letter explaining that he was the vice-governor of North-Kivu. He was reportedly beaten after local human rights groups tried to visit him. By May 2001 he was still detained and had not appeared before a court. Amnesty International believes that he is at continued risk of torture.

On 2 August, **Nakabeya Bidinga**, **Maroyi Zihimirwe**, **Bagaya Mulumeoderhwa**, **Mapatano Basengezi** were arrested, accused of being involved in the death of Felix Namegabe Katintima, brother of the South-Kivu Governor, Norbert Bashengezi Katintima. They were detained at the "6th Brigade" military detention centre. They were transferred to the Central Prison of Bukavu on 14 March 2001. At the end of May 2001 they were still held without trial. Amnesty International is concerned they might face possible execution for murder, if convicted.

Matata Bahoze, a father of seven children from the village of Murambi, collectivity of Bukumu, was arrested in Gisenyi on 10 September 1998, accused of being an *agénocidaire* and a leader of Rwandese Hutu insurgents. He was released on 24 December 1998, but was rearrested in May 2000. He was detained first in the "Chien Méchant" military detention centre in Goma for one week, then transferred to the Bureau 2 for three months, transferred to the DGM detention centre for two weeks, then to the Military Procuracy, and was then held at the Central Prison of Goma. In May 2001 he received a life sentence, and was transferred to Muzenze prison. Amnesty International is concerned he is at risk of torture.

Some Congolese from the Kivu region have been arrested in Rwanda itself and detained there by the Rwandese police and security forces. While they are Congolese citizens travelling on the Rwandese territory, they are often arrested on suspicion of "collaborating with the enemy of the country". Those detainees are sometimes held incommunicado in Rwandese military camps or other detention centres, without access to legal representatives, families or humanitarian organizations, where Amnesty International believes they are at risk of torture.

Four male students from Goma, **Obin Wembo Lukete** (22), a trainee teacher, **Bahavu Mapendano** (26), a business science student, **Eric Sekubwabo Sibumana** (21), a law student, and **Lazare Tschonga Lukute** (22), a bio-chemistry student, were arrested in Rwanda on 3 June 2000. The four men had been on their way to Kampala, Uganda, to visit relatives and friends when they were detained at the Gatuna border crossing between Rwanda and Uganda. Later they were taken to the Kicukiro military detention centre in Kigali (*cachot de sécurité militaire*), where they were held for 16 days in poor conditions in a disused toilet block. They were given no food for the first three days of their detention. They were given water once a

day, and a tin can for use as a toilet.

While in detention, they were interrogated in turns by a senior officer of the Directorate of Military Intelligence, DMI, who accused them variously of travelling to Uganda to join the forces of former Rwandese king Kigeri V⁴⁴; of being recruits for the rival Congolese rebel group, the RCD-ML, which is backed by Uganda; of attempting to travel to Kinshasa to take part in a meeting organised by the Congolese civil society; or of being spies for the DRC authorities. They were ordered to sign a document admitting their guilt, threatened with pistols held to their head and ill-treated. One of the students was also beaten around the head with a piece of wood.

The students told Amnesty International delegates that during the early period of their detention they were not allowed to send any letters to their family, who believed that the students were probably dead. However, after a few days the students were able to pass a message through a released detainee to a lawyer and their families in Goma, who then put pressure on the RCD-Goma authorities to have the students released. They were subsequently transferred to Goma, but not before undergoing an interview lasting several hours at the Rwandese Ministry of Defence, where the students were this time accused of wanting to join the Ugandan army.⁴⁵ Military authorities at the meeting reportedly threatened them with death.

In Goma they were incarcerated at the "Chien Méchant". Before entering the cells they were beaten up and whipped with belts (*cordelettes*) by three of the RCD-Goma soldier guards. At the "Chien Méchant" their families were able to bring the students food, but had to pay \$10 US. The students remained there for a further 14 days and were interrogated and intimidated repeatedly. They were eventually provisionally released and are obliged to report daily to RCD-Goma authorities. They are not known to have been charged with any criminal offence and continue to live in fear of re-arrest. Amnesty International is concerned that they will be at risk of torture if they are re-arrested.

Bruno Bahati was arrested at the Rwanda-Uganda border on 22 April 2000 as he returned from a civil society conference in Kinshasa. He was reportedly accused of links with armed groups opposed to the RCD-Goma and their foreign allies. Following his arrest he was held in military detention in Kigali. Human rights groups and others who tried to visit him in detention were repeatedly denied access and the right to talk to him. He was then transferred

⁴⁴ "The army of the king" is reportedly assembling monarchists who are trying to reinstate the former king of Rwanda who was overthrown in 1959. Although it is not clear what support the army of the king has, or to what extent it actually exists, unlike previous opposition groups identified solely with Hutu, this one also reportedly includes Tutsi.

⁴⁵ In recent months the Rwandese and Ugandan governments have mutually accused each other of training or supporting their armed opponents.

to the "Chien Méchant", where he was held incommunicado. He is not known to have been charged with any offence before his release on 8 July 2000.

Safari wa Karume, a doctor, and his brother, Maître Lusambo Lwa Karume, a lawyer and former head of the Bar Association of South-Kivu, were arrested on 3 August 2000 in the Rwandese town of Gikongoro. The two brothers were travelling through Rwanda on their way to Nairobi, Kenya, where Dr wa Karume, who is diabetic and suffers from sinus and kidney problems, was due to receive medical care. They were initially detained at the Gikongoro police station in Rwanda, before being transferred back to the DRC on 19 August, where they were held in detention at the DSR detention centre in Bukavu. While held in detention, they were beaten several times, and were deprived of food for three days. On 24 August, their health having deteriorated as a result of the beatings, both were hospitalized under guard at Bukavu's general hospital. Both were eventually released without charge on 9 September. The motive for Dr wa Karume's arrest might have been his background as a popular local politician who had reportedly refused to join the RCD-Goma. Both were prisoners of conscience, Safari wa Karume because of his convictions and Maître Lusambo Lwa Karume because of his relationship to his brother. As a consequence of their detention, both have fled the country and continue to require medical treatment.

Amnesty International is most concerned that many detainees are very difficult to locate because of the numerous detention centres existing and because detainees are regularly held incommunicado or in military custody. In addition, Amnesty International has received numerous reports of arrests of Congolese and Rwandese civilians in eastern DRC who were subsequently transferred to Rwanda. It is presumed that at least some of them are detained in military custody; however, in most cases it is extremely difficult for families, lawyers, and human rights organizations to verify their whereabouts and some have "disappeared".

Amnesty International has received reports of "disappeared" individuals who were reportedly transferred across the border from detention centres in the Kivus to Rwanda, through a system of *cachots mobiles* (mobile cells). Individuals are reportedly transferred between many different detention centres in order to move them across the border without the lawyers, families, and human rights organizations being able to locate them. Amnesty International has received detailed information regarding houses or tents on the border or next to the airport that are used as transit centres to which detainees are taken often as a prelude to their "disappearance".

Rajabu Elenganya and Manou are both reportedly "disappeared". On 23 August 2000, they were arrested and detained, first in the "Chien Méchant" military detention centre in Goma and later in a cell behind the DGM, near to the border with Rwanda. Manon was detained in Minova. Congolese soldiers accused him of helping militias. On 16 September members of the Rwandese security forces took them away. Their current whereabouts are unknown, despite family attempts to find them.

Vianey Shamamba, a nurse, travelled from Goma to Kigali in early January 2001 to visit one of his patients. On 15 January 2001, his wife, Sylvie Safari Faïda, heard that her husband had been arrested and accused of espionage. Vianey Shamamba was reportedly held incommunicado at the Rwandese DMI of Kimihurura in Kigali where his wife and children have not been allowed to visit him.

7.2. Torture, ill-treatment and conditions of detention

Many detainees in the *cachots* and other detention centres are subjected to torture or other forms of ill-treatment, most commonly beatings, often with an iron bar or with a stick of wood. Beatings are usually inflicted during arrest or in the initial days of detention. Such torture and ill-treatment can still affect detainees several years after it took place. The physical conditions of victims of torture or ill-treatment are aggravated by extremely poor prison conditions and inadequate access to medical care, and incommunicado detention.

Some detainees interviewed by Amnesty International delegates showed scars and wounds from torture, and reported that they were still suffering the physical after-effects of ill-treatment which had been inflicted several years earlier.

Torture and other forms of cruel, inhuman or degrading treatment or punishment are prohibited under human rights treaties, including the Convention on Torture and Other Forms of Cruel, Inhuman or Degrading Treatment. Torture is also a violation of Article 7 of the International Covenant on Civilian and Political Rights (ICCPR) and Article 3 of the African Charter on Human and Peoples Rights. Rwanda is party to both the ICCPR and the African Charter. The RCD-Goma, as a party to the armed conflict, is specifically accountable to Common Article 3 of the Geneva.

In most prisons in the Kivus and other places of detention, detainees are held in cramped and harsh conditions, usually amounting to cruel, inhuman or degrading treatment, in clear violation of international law and standards, including Article 7 of the ICCPR, Article 5 of the African Charter and the UN Standard Minimum Rules for the Treatment of Prisoners. In most cases, the authorities do not provide any food to detainees and assistance by international humanitarian organizations is extremely limited. Detainees are wholly dependent on their families to bring them food. Sometimes this is not possible, either because the detainees' relatives are far away, dead, or because the families cannot even afford to feed themselves. Members of the security forces guarding places of detention are generally unpaid and often deprive detainees of food brought by their families or demand money from family members wishing to visit detainees. When the detainees are released, they have to pay for a certificate of release (*certificat de libération*)⁴⁶ in order to avoid re-arrest.

⁴⁶ The current rate for a release certificate is US \$80.

A leading figure of the South-Kivu branch of a former political party, interviewed by Amnesty International but who did not want to be named, was arrested by the RCD-Goma authorities on 19 May 2000 and spent four months in detention centre of the 6th Brigade. He was accused of collaborating with the *mayi-mayi*; of leading a political party dedicated to the destabilisation of the RCD-Goma; and of being in contact with the government in Kinshasa. For the first two months of detention, he was physically and mentally tortured. He was frequently beaten on the head and body with a stick made of very hard quinquina wood. One night he was shown a sack in which, he was told, he would be thrown into the lake.

The victim reported being held with up to 50 people in a cell of about 12 square metres. The International Committee of the Red Cross had provided blankets and some sheeting but conditions were appalling. Many detainees were sick and most had diarrhoea. Some detainees were taken away at night, he believes to be killed. He thinks he would have suffered the same fate were it not for the intervention of human rights organizations who intervened to facilitate his release, which he believed saved him and enabled his release on 10 September 2000.

Karume Chisirika "Kacho", a physics lecturer, was arrested while he was on his way to the university in Bukavu on 28 September 2000. The RCD-Goma soldiers who arrested him claimed he was involved in a grenade attack on a Bukavu market place on 26 August 2000 in which up to 10 people were killed. The authorities maintain that the attack was the work of the *mayi-mayi* armed group in collaboration with Rwandese Hutu rebels, but that Kacho had helped them prepare the grenade.

Kacho was held at the DSR and reportedly subjected to torture, including beating on his head with an iron bar while he was on the floor with his hands bound. He told Amnesty International that he had lost one of his teeth as a result of the torture. He also endured psychological torture: he was taken to a cemetery at night and told he would be killed if he did not sign a confession. Amnesty International delegates met Kacho's wife who said that when her husband was first jailed, she was able to visit him and take him food but that she was made to pay US \$5 per visit. Kacho was eventually provisionally released on 13 January 2001. On 24 February at 4am, two soldiers from the ANR, broke into Kacho's house and beat him, his wife and his children.⁴⁷

7.3. Violations against members of civil society and human rights defenders

The lack of freedom endured by the local civil society is demonstrated by the RPA and RCD authorities' attempts to control the flow of human rights information out of the region.

Amnesty International has received consistent and regular reports that human rights

⁴⁷ See Amnesty International Urgent Action 322/00, *Torture/ Fear of "disappearance"*, October 2000.

defenders and other civil society organizations pursuing initiatives to promote dialogue and peace in the DRC have been harassed because of their activities.

Members of human rights groups have particularly been targeted by the RCD-Goma authorities for intimidation and arrest. Human rights groups such as *Groupe Jeremie*, *Heritiers de la Justice* (Heirs of Justice), *Collectif des Organisations des Jeunes du Sud-Kivu*, (COJESKI), Collective of Youth Organizations of South-Kivu, APREDECI, and CEDAC⁴⁸ have been repeatedly humiliated, harassed, interrogated and arrested by the security forces for their human rights work. Many human rights defenders have been detained, tortured, their offices raided, and in some cases have had documents and office equipment relating to human rights confiscated by members of the security forces. They are frequently accused by the authorities of being a threat to the regime; spreading destabilizing rumours; supporting armed groups opposed to the RCD-Goma; conspiring with the DRC Government; inciting rebellion against the RCD-Goma; encouraging public disorder; or fostering ethnic hatred. In some cases, human rights defenders and civil society activists have been forced to flee the country fearing for their safety.

Human rights defenders and members of NGOs and Churches are also at risk if they attempt to meet representatives of the international community. On several occasions, RCD-Goma authorities have arrested and detained individuals after they met UN officials or other representatives of the international community. This consistent repression appears to reflect an increasing desire by Rwandese and RCD-Goma authorities to control information being disseminated to the international community regarding the human rights situation in the area. When challenged about allegations of official harassment against human rights and peaceful civil society organizations, RCD-Goma officials told Amnesty International that they considered many local NGOs in the Kivus too politicized and influenced by ethnic tensions in the region. They failed to respond to any of the cases Amnesty International presented to them.

On 9 October 2000, 12 human rights defenders, were beaten in public and then unlawfully detained and ill-treated by RCD-Goma soldiers in Bukavu. The victims were Oscar Baharanyi Bya-Dunia (CEDAC), Francois Maheshe (*Groupe Jeremie*), Nestor Bauma (CPDDH), Edouard Kabazimia (CADDHOM), Michel Aissi (*Groupe Jeremie*), Marcellin Musemakweli (CADDHOM), Dunia Yogolelo (PADEDHUM), Maitre Moise Cifende (APRODEPED), Magistrat Shamavu (ACAT/sud Kivu), Maitre Kizungu Loochi (AED), Muzalia Loochi (*Justice pour tous/Justice for All*), and Jolly Biayia Tshizaza (Livap).

⁴⁸ *Heritiers de la Justice* is a Bukavu-based human rights organization sponsored by several Protestant Churches in South-Kivu. COJESKI is a coalition of 180 youth organizations from South-Kivu.

The activists had been preparing a meeting at the office of Groupe Jeremie to discuss the formation of a new human rights network.⁴⁹ They were assembling at around 2.45pm, when 15 RCD-Goma soldiers equipped with batons entered the office. The troops started by confiscating paperwork, telephones and computers as well as personal effects such as watches and money. The human rights defenders were taunted by the soldiers, who told them "that they would see what the international community would do to help them". The RCD-Goma soldiers then began beating the activists with heavy sticks.

The activists were then taken by minibus to a detention centre in the SAYO RCD-Goma military base. Another of the defenders interviewed by Amnesty International reported that on their arrival they were systematically beaten with 50 blows across their buttocks before being sent to the cells. He continued:

"In the evening, we were interrogated, threatened with death, and accused of organizing a revolt by the people at the time of the funeral of Archbishop Kataliko.⁵⁰ The RCD-Goma authorities also reproached us for having met Mary Robinson, the UN High Commissioner for Human Rights, and accused us of passing information to the international community. We were then taken to the radio and TV station in Bukavu, where we were denounced on camera and on radio as terrorists. We were eventually released late that night and had to walk home, a distance of several kilometres for some, on injured feet."

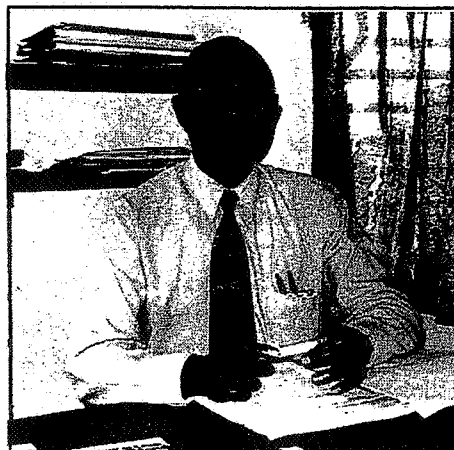
On May 2000, Sir Ketumire Masire, the former President of Botswana and OAU-appointed Inter-Congolese Dialogue Neutral Facilitator, visited Goma for a meeting on Inter-Congolese Dialogue, that had been organized in Kinshasa.⁵¹ The RCD-Goma authorities rejected his initiative and refused to allow local human rights and political activists to travel to Kinshasa. Those who met him without the agreement of the RCD-Goma were accused of being opponents of the RCD-Goma. **Tomy Tambwe, Seraphin Mirindi, Frank Fikirini, Lambert Konga** from Goma were arrested by RCD soldiers in the night of 19-20 May 2000, accused of having tried to speak with Ketumire Masire and of giving him a memorandum denouncing the situation. The four prisoners of conscience were detained at the "Chien Méchant" for more than a month.

⁴⁹ The meeting took place at an extremely tense time in Bukavu. The preceding week, Mary Robinson, the UN High Commissioner for Human Rights, had visited the region, drawing unwelcome attention (from the authorities' point of view) to the human rights situation in eastern DRC.

⁵⁰ See section: 4.1. Unlawful killings by RCD-Goma and RPA troops.

⁵¹ The Inter-Congolese dialogue, a political forum established by the Lusaka Cease-fire agreement and involving political and civil society groups to debate and chart a political future for the DRC.

Théophile Mirimo Shemumpunge, aged 40, a teacher and President of the Civil Society of North-Kivu province since 1 March 2000, had been the victim of official harassment after making a speech and delivering a report to Mary Robinson during her visit to Goma in October 2000. His speech denounced the political and human rights situation in the Kivus, but was entirely peaceful in character. After the meeting he was summoned to a four-hour interrogation by the authorities. Unidentified young men, whom he believed were RCD-Goma agents, forced their way into his house, and beat him and his wife. Later that month, fearing for his safety, he fled the country.



Théophile Mirimo Shemumpunge © AI

The lack of freedom endured by the local civil society is also demonstrated by the RPA and Rwandese authorities' attempts to control the flow of human rights information out of the region. In a communiqué from the Governor of South-Kivu on 13 October 2000, the RCD-Goma authorities announced that the Human Rights Commission of the Kivus would henceforth include the Governor of the Province, the Procuracy, various units of the security forces, civil society of South-Kivu, international non-governmental organizations (NGOs), UN agencies and more controversially the RPA.

Amnesty International has received frequent reports of churches and hospitals having been attacked and looted, priests being killed, nuns being raped and churches being burned down. According to human rights and humanitarian organizations "this deliberate targeting of Roman Catholic churches is an attempt by the RCD-Goma authorities to limit the influence and power of its leaders, unsettle the population, and avenge the church's perceived role in the 1994 genocide in Rwanda."⁵² In addition, Amnesty International received reports of attacks on and harassment of church leaders who have made public their opposition to Rwandese invasion, the human rights abuses by Rwandese forces and their Congolese allies, and the war between the DRC Government and the RCD-Goma authorities.

On 18 and 19 June around 50 soldiers attacked and pillaged a Roman Catholic church and convent in the town of Kabare, South-Kivu Province. Three unarmed civilians were killed. Despite a strong local presence of RPA soldiers stationed in the area, the RCD-Goma soldiers

⁵² Relations between the Roman Catholic church and RCD-Goma backed by Rwanda have been strained since the invasion of former Zaire by Rwanda, in September 1996. Some Roman Catholic church leaders were supporters of the former Hutu-dominated Rwandese Government and are accused of complicity in the 1994 genocide in Rwanda. The Roman Catholic church also played a key role in the ascendancy to power by Hutu after the overthrow of Tutsi domination in Rwanda in 1959.

blamed the attack on Rwandese Hutu rebels.

On 15 August, at around midnight, the parish of Kaniola, in the Walungu territory, in South-Kivu, was attacked by around 30 armed men believed to be supporters of the RCD-Goma. One parish security guard was killed with a machete. The assailants also killed two local peasants, a man and a woman, and looted the dispensary and the maternity ward, stealing even the clothes of the women patients.

Journalists, academics and students have also been arrested, interrogated, intimidated, harassed, and their places of work raided, often simply because they were perceived as critical of the RCD-Goma authorities and of the Rwandese presence in eastern DRC.

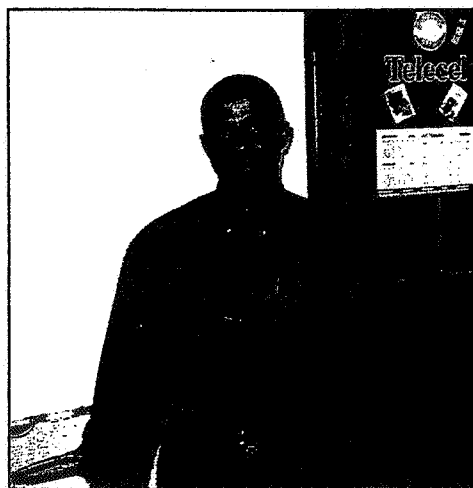
Several students and professors went into hiding after the authorities accused them of being in contact with foreigners, or being critical or opposed to the RCD-Goma authorities and Rwandese presence.

Wilfried Hamisi, a Congolese human rights activist and president of the *Conseil provincial des étudiants*, Provincial Student Council, was arrested on 29 August 2000, after taking a leading part in peaceful public demonstrations against human rights violations in the Kivus and arrests of students by the RCD-Goma. He was reportedly arrested with four other students and was released after having been beaten up and interrogated for several hours.

The arrest and detention of journalist, students or teachers on the accusation that they have endangered national security appear arbitrary and inconsistent and seem more to be an attempt by the authorities to control information and prevent the information from being disseminated to the outside world.

Since July 1999, there has been no independent media in the Rwandese-controlled areas of the DRC. One radio station most targeted is *Radio Maendeleo*, an independent radio which since 1993 had broadcast news and programs on development, community values, human rights, civic education and the economy. On 20 July 1999, the station organized a round-table discussion on the Lusaka Cease-fire Agreement to which the authorities were invited but declined to attend. The resulting discussion was considered too critical of the RCD-Goma and the following day, RCD-Goma authorities closed down *Radio Maendeleo* and seized its equipment and materials.

In August 1999, **Mushizi Nfundiko Kizito**, the director of Radio Maendeleo and his head of programming, **Omba Kamengele**, were arrested and held in detention until 8 September 1999, accused of using a military frequency on their personal walkie-talkie radios. Radio Maendeleo was offered the chance of reopening, but only on a number of conditions including only broadcasting official news items provided by the RCD-Goma authorities. Staff at the station did not agree to these constraints and as a result the ban on the station remained until 15 March 2000, when the local authorities appeared to agree that the station could restart broadcasting free of restrictions. However, since then, the seized materials and equipment which the station requires to begin broadcasting have not been returned by the authorities.



Mushizi Nfundiko Kizito, the director of Radio Maendeleo

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8. CONCLUSION

Since the beginning of the Rwandese occupation of the eastern part of the DRC, Amnesty International has received many reports of atrocities, committed by all sides to the conflict, most of which have not been investigated by the authorities. Amnesty International believes that the longer the perpetrators enjoy complete impunity, the more difficult it will be to bring about peace and reconciliation, based on a culture of respect for human rights, among the different ethnic groups involved. Investigation of all such reports is essential to reveal to the people of the DRC the truth about what occurred, what the causes were and which individuals should be brought to justice. Impunity is one of the greatest hindrances to the effective protection of human rights and no long-term solution to the crisis will be effective if impunity is ignored.⁵³

Given that leaders of forces responsible for human rights abuses in the DRC have failed to heed previous appeals by the international community, Amnesty International believes that the international community should step in to correct past wrongs and prevent their recurrence. Thus, the organization is recommending to the protagonists and the international community to commit themselves to ensuring that an international investigation into allegations of serious

⁵³ A human rights activist told Amnesty International delegates that "for the RPA crimes, the military Procuracy and the Tribunal of the city of Goma are declared [by the RCD] not the correct jurisdiction to judge Rwandese soldiers. The soldiers are supposed to be brought back to Rwanda to be judged, but the Congolese rarely hear about such judgments."

human rights abuses takes place and to bringing the perpetrators to justice. In Amnesty International's view, this is the main way these violations can be stopped and further violations prevented.

In August 1997 the UN Secretary-General set up a team known as the UN Secretary-General's Investigation Team (UNSGIT) to investigate violations of international humanitarian law that had occurred in the DRC between 1993 and 1997. The investigation was set up mainly to investigate allegations of large scale massacres in late 1996 and early 1997 of Rwandese Hutu refugees and other unarmed civilians by the RPA and its allies in the DRC. The UNSGIT's work was obstructed by the DRC Government, despite the agreement of the government to the weak terms of reference.⁵⁴ After August 1998, the DRC Government blamed the obstruction on forces and allies of the Rwandese Government. Although it was unable to complete its work, the UNSGIT concluded that, on the basis of testimonies and evidence it obtained, combatants, including those loyal to President Kabila and particularly Rwandese government troops, had committed atrocities, which could amount to genocide. The team recommended further investigation by an independent body to identify the perpetrators. Through UN Security Council Resolution 1234 and UN Commission on Human Rights Resolution 1999/56 of April 1999, these UN bodies have demanded and emphasized the importance of a full, independent and impartial investigation into the violations of international humanitarian law and human rights law, and a need to bring the perpetrators to justice. These resolutions must not be forgotten and indeed the international community, including the bodies that unanimously passed them, should ensure that they are fully implemented. The February 2001 report on the situation of human rights in the DRC, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission on Human Rights resolution 2000/15, has requested that investigation into human rights violations and breaches of international humanitarian law committed between 1996 and 1997 in the DRC be conducted.

In the complex political and military crisis that the DRC continues to experience, it is clear that there is no single jurisdiction with powers to bring perpetrators of torture and other human rights abuses to justice. Amnesty International believes that in addition to measures required of governments and armed opposition groups to end impunity for crimes such as torture, it is necessary that the international community considers setting up a UN-sponsored special court for the DRC to oversee an investigation into violations of human rights and to bring the perpetrators to justice, regardless of their status or nationality. Amnesty International fully agrees with the UN Secretary-General when he says in his 30 May 2001 statement to the UN Security Council that "the question of impunity has to be addressed by investigating alleged massacres and other major violations of human rights. Without accountability for the most severe crimes, there can be no lasting peace".

⁵⁴ The UNSGIT's terms of reference, which had been agreed between the UN Secretary-General and the DRC Government, were watered down by the separate intervention of the then US Ambassador to the UN Security Council, in an apparent effort to make them acceptable to the DRC Government and its allies.

9. RECOMMENDATIONS

9.1. To Rwandese and RCD-Goma authorities

1. Issue strict orders prohibiting further deliberate killings of unarmed civilians and ensure a strict chain of command in the security forces;
2. Take immediate measures to prevent human rights abuses including unlawful killings, torture, rape, child recruitment, "disappearances", arbitrary arrest, and other violations of international law by forces under their control;
3. Undertake prompt, through impartial investigations of allegations of human rights abuses. Bring to justice those found to have committed or condoned human rights abuses and ensure unconditional release of those against whom there is no substantive evidence;
4. Hold those responsible for human rights abuses accountable, and undertake to pay compensation as determined by the courts to victims of human rights abuses, particularly unlawful killings and torture, or to their relatives, committed by forces under their control;
5. End the recruitment of any person under the age of 15 into the armed forces, as required by ILO Convention 182 on The Worst Forms of Child Labour (1999), to which Rwanda, is party. Strategies to demobilize children without offering them legitimate employment and means of supporting themselves are counter-productive. In order to avoid re-recruitment, the authorities should organize the demobilization and work with the military authorities, the families, individual military units to avoid re-recruitment;
6. Ensure that all members of the armed forces and Local Defence Forces are given practical and sustained training, including in human rights protection and humanitarian law, and that the application of this training is monitored;
7. Take immediate steps to eradicate torture and detention in unofficial or secret detention centres, and ensure that detainees are held only in recognized places. Guarantee free access to members of the judiciary, human rights and humanitarian organisations;
8. Ensure that employees of humanitarian and human rights organizations are not threatened, arrested or killed;
9. Make a public commitment to cooperate fully with and facilitate an international investigation into allegations of violations of international humanitarian law and other international and regional human rights treaties during the armed conflict in the DRC;

10. Publicly undertake to ensure that commanders and combatants will give evidence to the international investigation. Make a public and unequivocal commitment that those identified as having a case to answer will be submitted for trial by a court of law, with sufficient guarantees of a fair trial and without recourse to the death penalty;
11. Fully cooperate with an international investigation, as recommended by the UN Security Council in several of its resolutions on the DRC, into violations of international humanitarian law, including torture, and submit any perpetrators to an appropriate jurisdiction for trial, according to international standards of fairness and without recourse to the death penalty.
12. Cooperate with and facilitate the MONUC function of monitoring, reporting on and preventing human right abuses in the DRC.

9.2. To the leaders of Rwandese and Burundian Hutu and *mayi-mayi* armed forces

1. Halt human rights abuses against the civilian population including unlawful killing, torture, rape, child recruitment, and other violations of international laws and make clear to their subordinate that human rights abuses will not be tolerated;
2. Ensure that employees of humanitarian and human rights organizations are not threatened, arrested, or killed, and can freely carry out their work;
3. Refrain from recruiting minors, and from involving children in the transportation of equipment;
4. Take immediate action to prevent rape and sexual violence against women;
5. Make a public commitment to cooperate fully with and facilitate an international investigation into allegations of violations of international humanitarian law and other international and regional human rights treaties during the armed conflict in the DRC;
6. Fully cooperate with an international investigation, as recommended by the UN Security Council in several of its resolutions on the DRC, into violations of international humanitarian law, including torture, and submit any perpetrators to an appropriate jurisdiction for trial, according to international standards of fairness and without recourse to the death penalty. bringing the perpetrators to justice.
7. Cooperate with and facilitate the MONUC function of protection, monitoring, reporting on and preventing human right abuses in the DRC.

9.3. To political leaders and civil society activists

1. Use their influence to ensure that human rights are a central point of current political debate and support the peace negotiation between different communities and ethnic groups;
2. Refrain from inciting violence or other human rights abuse.

9.4. To foreign governments, Organization of African Unity, Southern Africa Development Community and European Union

1. Denounce violations of human rights and humanitarian law by all parties involved in the DRC conflict and pressure foreign countries involved in the DRC conflict as well as the Kinshasa-based Government to observe their obligations under international human rights and humanitarian law. Pressure the parties to the conflict to conform to the provisions of Common Article 3 of the Geneva Conventions and its Additional Protocol II, and hold them accountable for violation of these principles;
2. Use their political influence and financial resources to support programs to promote and protect human rights in the Kivus and provide support for local human rights defenders;
3. Support Amnesty International's call for the UN to set up an international commission of inquiry to investigate violations of international humanitarian law and other human rights treaties in the DRC, including since August 1998;
4. Cooperate with, facilitate and provide resources required to carry out an international inquiry established by the UN;
5. Demand that all governments and armed groups, without exception, cooperate fully with the inquiry and cooperate with any prosecution;
6. As a minimum, prevent the transfer of military, security and police (MSP) equipment, weaponry, personnel and training likely to be used for human rights abuses to all state parties and non-governmental entities with armed forces involved in the DRC conflict. Such a suspension, including of related logistical and financial support, should be maintained until it can be reasonably demonstrated that such transfers will not be used to commit human rights abuses or violations of international humanitarian and human rights law.
7. Use all influence at the UN to ensure that an international investigation into violations of international humanitarian law and other human rights treaties is set up and that a special jurisdiction is set up to bring the perpetrators to justice. Exercise pressure on all

the protagonists in the armed conflict in the DRC to fully cooperate with an international investigation, as recommended by the UN Security Council in several of its resolutions on the DRC, into violations of international humanitarian law, including torture, and to submit any perpetrators to an appropriate jurisdiction for trial, according to international standards of fairness and without recourse to the death penalty.

9.5. To the UN Security Council

1. Urgently set up an international commission of inquiry composed of experienced investigators with a known reputation for their competence, independence and impartiality to investigate violations of international humanitarian and human rights law in Eastern DRC since 1993. The commission should specifically follow up on and complete the work of the UNSGIT;
2. Provide adequate material and human resources for a full investigation and for subsequent action, including bringing the perpetrators to justice, once the investigation is completed and the perpetrators have been identified;
3. Deploy the investigators to begin their work as soon as possible and in areas where their security can be assured;
4. Demand a binding commitment by Rwandese and RCD-Goma political and military leaders, as well as by leaders of armed groups with forces in the DRC, to cooperate with and facilitate the investigation and to submit for trial or extradite alleged perpetrators identified by the inquiry.
5. Ensure that the MONUC has a responsibility for monitoring the human rights situation in the DRC and publicly reports its findings, particularly abuses against women and children;
6. Urgently demand an expansion of the office of the High Commissioner for Human Rights in the DRC and that its personnel, with demonstrable independence, impartiality and competence, are closely involved in the human rights protection aspect of the MONUC, including protection for the civilian population, and deployment of human rights monitors and child protection officers;
7. Demand that UN member states prevent the transfer of military, security and police (MSP) equipment, weaponry, personnel and training likely to be used for human rights abuses to all state parties and non-governmental entities with armed forces involved in the DRC armed conflict. Such a suspension, including of related logistical and financial support, should be maintained until it can be reasonably demonstrated that such

transfers will not be used to commit human rights abuses or violations of international humanitarian and human rights law.

GLOSSARY OF ACRONYMS

AFDL:	<i>Alliance des forces démocratique pour la libération du Congo-Zaïre</i>
AliR:	<i>Armée de Libération de Rwanda</i>
CNDD-FDD:	<i>Conseil National pour la Défense de la Démocratie - Forces pour la Défense de la Démocratie</i>
DRC:	Democratic Republic of Congo
Ex-FAR:	Former <i>Forces Armée Rwandaise</i> , Rwanda Armed Forces
EU:	European Union
FAC:	<i>Forces Armées Congolaises</i>
FDD:	<i>Forces pour la Défense de la Démocratie</i>
ICCPR:	International Covenant on Civil and Political Rights
MONUC:	<i>Mission de l'Organisation des Nations Unies au Congo</i>
MLC:	<i>Mouvement pour la libération du Congo</i>
OAU:	Organization of African Unity
RCD-Goma:	<i>Goma-based Rassemblement congolais pour la démocratie, RCD-Goma, Congolese Rally for Democracy</i>
RPA:	Rwandese Patriotic Army
RPF:	Rwandese Patriotic Front
SADC:	Southern Africa Development Community
UNITA:	União Nacional para a Independência Total de Angola
UPDF:	Uganda Peoples Defence Forces