

amnesty international

Democratic Republic of Congo

"Our brothers who help kill us"

**Economic exploitation and human
rights abuses in the east**

27/6-03

April 2003

Summary

AI Index: AFR 62/010/2003

Four years of conflict in the Democratic Republic of Congo (DRC) have proved among the most disastrous in the history of modern Africa. Some three million people are believed to have lost their lives and more than two-and-a-half million have been driven from their homes, 500,000 to neighbouring countries. The inhabitants of the eastern part of the country, under the control of foreign forces and armed political groups opposed to the government in Kinshasa, the capital, have experienced the highest levels of suffering.

Thousands of Congolese civilians have been tortured and killed during military operations to secure mineral-rich lands. Foreign forces have promoted interethnic conflicts and mass killings as a means to secure mining zones. Combatants of the various forces in the region have killed or tortured independent miners and traders for their minerals or money. Many of the hundreds of thousands of inhabitants, driven from their homes into neighbouring countries or other parts of the DRC, have died from malnutrition and lack of access to humanitarian assistance. Children as young as 12 have been among those forced into hard labour in the mines. Human rights defenders who have reported or criticized such abuses have been beaten, detained, forced to flee, or killed.

It is estimated that more than three quarters of the killings in the DRC over the last four years have taken place in eastern DRC and about 90 per cent of the DRC's internally displaced population have fled violence in that region. In eastern DRC, the neighbouring states of Rwanda and Uganda, in alliance with Congolese armed political groups have systematically plundered the region on a vast scale, justifying their military intervention and control of the area by the threat to their own security from the activities of Rwandese and Ugandan insurgent groups operating from within the DRC. The ambition of all these combatant forces to exploit eastern DRC's mineral and economic wealth has been the biggest single factor in the continuing violence. The major beneficiaries have been senior members of the Ugandan and Rwandese armed forces, foreign businesses and leaders of armed political groups. Recent troop withdrawals have not affected continuing control of the exploitation by Rwanda and Uganda. These economic interests have led to the emergence of a pattern of violence by all forces in the region that is aimed primarily at Congolese civilian communities and is predatory in character.

This report is the result of research, including in eastern DRC, into human rights abuses associated with economic exploitation taking place in areas under the control of the armed opposition groups and foreign forces. It sets out the economic context in which violations are taking place. It looks at the major actors, and at the economic forces and mineral resources fuelling the war. It documents human rights abuses and the failure to bring those suspected to be responsible to justice. It shows how the search for economic gain is still costing civilian lives.

The report concludes with recommendations aimed at achieving accountability and justice addressed to all parties to the conflict, both governments and armed political groups, and to the international community, including companies doing business in eastern DRC. Concerted and robust international action is needed to end the human rights and humanitarian crisis in DRC and to ensure that impunity for the military and political leaders who have condoned, encouraged and organized human right abuses does not remain the only response to such dire tragedy.

This report summarizes a 56-page document (21120 words): *Democratic Republic of Congo: "Our brothers who help kill us" – Economic exploitation and human rights abuses in the east* (AI Index: AFR 62/010/2003) issued by Amnesty International in April 2003. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://web.amnesty.org/ai.nsf/news>

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

amnesty international

Democratic Republic of Congo

"Our brothers who help kill us"

*Economic exploitation and human
rights abuses in the east*



April 2003
AI Index: AFR 62/010/2003
Distr: SC/CC/CO/GR

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

Contents

Acronyms.....	2
1. INTRODUCTION.....	3
2. THE CONFLICT: 'OUR BROTHERS WHO HELP KILL US'	6
2.1 THE MAJOR PROTAGONISTS.....	6
2.2 PEACE NEGOTIATIONS	8
3. WAR FOR PROFIT	11
3.1 SHIFTING ALLIANCES.....	13
3.2 PATTERNS OF CONFLICT AND ECONOMIC EXPLOITATION	14
3.3 PILLAGE AS A STRATEGY OF WAR	15
3.4 CORRUPTION AND 'TAXATION'	17
3.5 THE COLLAPSE OF PUBLIC SERVICES.....	20
4. ETHNIC RIVALRIES FUELLED BY ECONOMIC INTERESTS	21
5. DIAMONDS: THE KISANGANI WARS.....	24
5.1 COMMERCIAL COMPETITION	26
5.2 THE VIOLENCE CONTINUES FOR THE CONTROL OF KISANGANI.....	27
6. TAINTED GOLD.....	28
7. COLTAN: REAPING THE BENEFITS.....	30
7.1 MILITARY COMMERCIALISM	31
7.2 COLTAN KILLS	34
7.3 FORCED LABOUR AND DISPLACEMENT.....	37
7.4 THE DESTRUCTIVE SOCIAL IMPACT	38
7.5 INTERNATIONAL RESPONSIBILITIES.....	39
8. ROBBERY, EXTORTION AND ILL-TREATMENT.....	40
9. ATTACKS ON HUMAN RIGHTS DEFENDERS	42
10. INTERNATIONAL INVESTIGATIONS.....	43
10.1 THE UN PANEL OF EXPERTS.....	44
10.2 THE PORTER COMMISSION	45
11. THE LEGAL FRAMEWORK	47
12. CONCLUSION	50
13. RECOMMENDATIONS	52
13.1 RECOMMENDATIONS TO THE GOVERNMENTS OF RWANDA AND UGANDA	52

13.2 RECOMMENDATIONS TO THE ARMED POLITICAL GROUPS IN EASTERN DRC	53
13.3 RECOMMENDATIONS TO COMPANIES INVOLVED IN EASTERN DRC.....	54
13.4 RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY	55

Names and abbreviations - Acronyms

APC	<i>Armée populaire congolaise</i> , Congolese People's Army, military wing of RCD-ML
FDD	<i>Forces pour la Défense de la Démocratie</i> , Forces for the Defence of Democracy, rebel group fighting the Burundian government
FIPI	<i>Front pour l'Intégration et la Paix en Ituri</i> , Front for the Integration and Pacification of Ituri, led by Kawa Mandro.
DRC	Democratic Republic of Congo, formerly Zaire
<i>Interhamwe</i>	Mainly Rwandese Hutu militia
<i>Mayi-mayi</i>	Congolese militia
MONUC	<i>Mission de l'Organisation des Nations Unies au Congo</i> , United Nations Organization Mission in the Democratic Republic of Congo
MLC	<i>Mouvement de libération du Congo</i> , Movement for the Liberation of the Congo, headed by Jean-Pierre Bemba and backed by the Ugandan government
RCD-Goma	<i>Rassemblement congolais pour la démocratie-Goma</i> , Congolese Rally for Democracy-Goma, backed by the Rwandese government and led by Adolphe Onusumba Yamba.
RCD-ML or RCD K/ML	<i>Rassemblement congolais pour la démocratie-Mouvement de libération</i> , Congolese Rally for Democracy-Liberation Movement, also known as RCD-Kisangani, led by Mbusa Nyamwisi, backed by the Ugandan government and close allies of the DRC government
RCD-N	<i>Rassemblement congolais pour la démocratie-National</i> , Congolese Rally for Democracy-National, led by Roger Lumbala and backed by the Ugandan government.
RPA	Rwandese Patriotic Army, the Rwandese army
UPC	<i>Union des patriotes congolais</i> , Union of Congolese Patriots, led by Thomas Lubanga
UDPS	<i>Union pour la démocratie et le progrès social</i> , Union for Democracy and Social Progress, political party led by Etienne Tshisekedi
UPDF	Ugandan People's Defence Forces, the Ugandan army

Democratic Republic of the Congo

"Our brothers who help kill us"

Economic exploitation and human rights abuses in the east

1. Introduction

"I am convinced now...that the lives of Congolese people no longer mean anything to anybody. Not to those who kill us like flies, our brothers who help kill us or those you call the international community... Even God does not listen to our prayers any more and abandons us."¹

Salvatore Bulamuzi, a member of the Lendu community whose parents, two wives and five children were all killed in recent attacks on the town of Bunia, north-eastern DRC.

"Let's not hide the facts: there are only two principal actors in the area controlled by the rebels. On the one hand there is Uganda and its army, the UPDF. And on the other, there is Rwanda and the RPA [the Rwandese army]. The others you call rebels are only the local servants in the service of Kigali [Rwanda] and Kampala [Uganda]... And since they also find wealth in this way, they join up with these forces and all we poor people can do is die..."²

Hungui.T, a resident of Nyankunde, a small town near Bunia in Ituri, where more than 200 people died in intercommunal violence in September 2002.

Four years of conflict in the Democratic Republic of Congo (DRC) have proved among the most disastrous in the history of modern Africa. Some three million people are believed to have lost their lives and more than two-and-a-half million have been driven from their homes, 500,000 to neighbouring countries. The inhabitants of the eastern part of the country, under

¹ *Je suis convaincu maintenant (...) que la vie des congolais ne signifie plus rien à personne. Ni à ceux qui nous tuent comme des mouches, ni à nos frères qui les aident à nous tuer, ni à ce que vous appelez la communauté internationale (...) Même Dieu lui-même n'écoute plus nos prières et nous abandonne...*

² *Ne nous voilons pas la face : il n'y a que deux acteurs principaux dans la région sous contrôle de la rébellion. Il y a d'une côté l'Ouganda et son armée l'UPDF. Et de l'autre, il y a le Rwanda avec l'APR. Les autres que vous appelez rebelles ne sont que des valets locaux au service de Kigali et de Kampala. (...) Et puisqu'ils trouvent leur compte aussi dedans ils s'y accrochent et nous autres pauvres nous pouvons mourir...*

the control of foreign forces and armed political groups opposed to the government in Kinshasa, the capital, have experienced the highest levels of suffering.³

Thousands of Congolese civilians have been tortured and killed during military operations to secure mineral-rich lands. Foreign forces have promoted interethnic conflicts and mass killings as a means to secure mining zones. Combatants of the various forces in the region have killed or tortured independent miners and traders for their minerals or money. Many of the hundreds of thousands of inhabitants, driven from their homes into neighbouring countries or other parts of the DRC, have died from malnutrition and lack of access to humanitarian assistance⁴. Children as young as 12 have been among those forced into hard labour in the mines. Human rights defenders who have reported or criticized such abuses have been beaten, detained, forced to flee, or killed.

It is estimated that more than three quarters of the killings in the DRC over the last four years have taken place in eastern DRC and about 90 per cent of the DRC's internally displaced population have fled violence in that region. However, in eastern DRC, the neighbouring states of Rwanda and Uganda, in alliance with Congolese armed political groups have systematically plundered the region on a vast scale, justifying their military intervention and control of the area by the threat to their own security from the activities of Rwandese and Ugandan insurgent groups⁵ operating from within the DRC. The ambition of all these combatant forces to exploit eastern DRC's mineral and economic wealth has been the biggest single factor in the continuing violence. The major beneficiaries have been senior members of the Ugandan and Rwandese armed forces, foreign businesses and leaders of armed political groups. Recent troop withdrawals have not affected continuing control of the exploitation by Rwanda and Uganda. These economic interests have led to the emergence of a pattern of violence by all forces in the region that is aimed primarily at Congolese civilian communities and is predatory in character.

Yet, despite the scale of the still unfolding tragedy, the human rights crisis has been under-reported and misunderstood, allowing the major protagonists to escape scrutiny. The Kinshasa government has allowed the armed forces of Zimbabwe to exploit the DRC's diamond fields and commit human rights violations in return for their military support. In eastern DRC, the entrenched pattern of impunity has perpetuated the violence and lawlessness of armed forces in the region.

In an earlier report, Amnesty International examined the impact on human rights of the diamond trade in government-controlled DRC, where lethal force has routinely been used against unauthorised miners who have encroached on state-controlled mining concessions.⁶ Amnesty International's current report is the result of research, including in eastern DRC, into

³ The term eastern DRC is used in this report to denote the areas under the control of armed political groups and foreign forces: the provinces of Orientale, North-Kivu and South-Kivu and Maniema, part of the province of Katanga and a large part of the province of Equateur.

⁴ African Refugee Survey website www.ars.org

⁵ For Rwandese and Ugandan insurgent groups, see the Table of Acronyms.

⁶ *Democratic Republic of Congo: Making a killing – The diamond trade in government-controlled DRC*. Amnesty International, 22 October 2002 (AI Index: AFR 62/017/2002)

human rights abuses associated with economic exploitation taking place in areas under the control of the armed opposition groups and foreign forces. It sets out the economic context in which violations are taking place. It looks at the major actors, and at the economic forces and mineral resources fuelling the war. It documents human rights abuses and the failure to bring those suspected to be responsible to justice. It shows how the search for economic gain is still costing civilian lives.

This report concludes with recommendations aimed at achieving accountability and justice addressed to all parties to the conflict, both governments and armed political groups, and to the international community, including companies doing business in eastern DRC. Concerted and robust international action is needed to end the human rights and humanitarian crisis in DRC and to ensure that impunity for the military and political leaders who have condoned, encouraged and organized human right abuses does not remain the only response to such dire tragedy.

Amnesty International calls on the governments of Rwanda and Uganda, and on the leaders of the armed political groups, to end the killings and other grave human rights abuses committed by their forces in eastern DRC. It urges the governments to bring to justice those suspected to be responsible for abuses and the armed political groups to acknowledge and condemn the human right abuses by their combatants, and to immediately remove any combatant suspected of abuses and cooperate with any investigations.

Amnesty International's principal recommendations to the international community are the establishment both of an international commission of inquiry into human rights abuses in eastern DRC and supporting judicial mechanisms that can bring to justice perpetrators charged with war crimes, crimes against humanity and other serious human rights abuses. To bring to trial those responsible for the abuses would be the most effective deterrent to others. The recent withdrawal of some Rwandese and Ugandan forces from eastern DRC does not diminish their responsibility for atrocities committed in the course of the DRC armed conflict or the pressing need to see justice done.

Amnesty International also recommends the adoption of measures by the UN Security Council to promote transparency and to ensure that minerals from eastern DRC entering international markets have not been obtained in a manner that contributes to human rights abuses. International commercial interests in coltan, gold, diamonds, timber and other precious resources have, knowingly or unknowingly, contributed to human rights abuses. Minerals such as coltan are used in the manufacture of electronic products found in most homes in the industrialized world. Gold is a widely traded commodity as a hedge against inflation and is viewed as an investment. Diamonds are bought for ceremonial occasions. Timber is used for a variety of purposes in households in all parts of the world. DRC's resources, in other words, have international uses and have an international market. And yet international consumers have access to only limited information about the circumstances in which such resources are mined and procured, and the effect of such trade on the lives of people in communities around the plantations and minefields.

Revenues generated from commercial contracts involving national resources should contribute to the progressive realization of the inhabitants' social and economic rights. The

international community has a responsibility to link the quest for justice in the global campaign against impunity with global efforts for greater accountability regarding economic activities and their impact on human rights.

The Panel of Experts on Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo (UN Panel of Experts) appointed by the UN Security Council, has recommended the establishment of a long term monitoring body to be established to scrutinize continuing economic exploitation in the DRC.⁷ Amnesty International recommends that such a body's remit include assessment of the human rights abuses that have resulted from that exploitation. It calls mainly on the governments of Rwanda and Uganda, and on companies involved in mining operations in eastern DRC, to ensure that all commercial contracts involving the DRC's national resources are negotiated transparently and according to internationally recognized principles of public tendering and bidding. Amnesty International also makes recommendations to companies operating in eastern DRC, the most important being to ensure that they are not complicit in human rights abuses.

2. The conflict: "Our brothers who help kill us"

Most of the three million people estimated to have died as a result of the war launched in August 1998 to overthrow the DRC government have been women, children and the elderly. Many died in the humanitarian catastrophe caused by the war's disruption of food production and trade, as well as the disruption of access to shelter and medical care.

The number of victims of the conflict is very high. More than three quarters of the dead and about 90 per cent of the internally displaced have been in eastern DRC. Many were victims of disease and malnutrition brought about by displacement and the conflict; the remainder were victims of killings by foreign forces or Congolese armed groups. The inter-ethnic killings in Ituri are the exception, but these too are intimately linked to political manipulation and insecurity created by combatant forces. Social structures, medical facilities and local administrations have collapsed. Constant shifts in political and military alliances based on economic interests have left a political vacuum and stoked ethnic conflicts. Many communities suffering severe food shortages and starvation remain beyond the assistance of international humanitarian organizations. Insecurity as a deliberate strategy of war has allowed the combatants to justify their continued presence in the region and given them free rein to loot its natural resources.

2.1 The major protagonists

Eastern DRC has been under the control of the armed forces of Uganda and Rwanda, and to a lesser extent Burundi, in shifting alliances with local armed political groups, since August 1998.

⁷ Report of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 22 October 2002 (S/2002/1146).

Until the withdrawals of Rwandese and Burundian government forces in late 2002, the Rwandese Patriotic Army (RPA), the Rwandese Army, and their ally, the Goma-based faction of the armed political group the *Rassemblement congolais pour la démocratie* (RCD-Goma), Congolese Rally for Democracy, controlled the greater part of North-Kivu province, all of South-Kivu and Maniema provinces, and a large part of the province of Kasai Oriental and Oriental province, including Kisangani, the DRC's third largest city. Burundian forces controlled a relatively slender zone along the western shore of Lake Tanganyika. The RCD-Goma continues to control much of this territory following the withdrawal of their foreign allies although many areas have fallen under the control of *mayi-mayi* groups. The RCD-Goma claims to be the true political and military authority in these provinces, and undertakes local administrative functions, for example the collection of custom duties and business taxes. But the movement is militarily weak and relies heavily on the numerically and militarily superior forces of the Rwandese army, especially in the interior. Behind the scenes, Rwandese officials exercise administrative, political, military and economic power in the region. Policies implemented are decided and approved in Kigali. "The RCD are the allies of the RPA, not the other way round," according to one Congolese human rights defender.

The Ugandan People's Defence Forces (UPDF), the Ugandan army, and the Ugandan government have provided political and military backing to four armed political groups acting in differing capacities and with varying strengths. They are the *RCD-Mouvement de libération* (RCD-ML), RCD-Liberation Movement, the *Mouvement de libération du Congo* (MLC), Liberation Movement of the Congo, *RCD-National* (RCD-N), RCD-National, and a recently formed group, the *Union des patriotes congolais* (UPC), the Union of Congolese Patriots. RCD-ML and RCD-N are break-away factions of RCD-Goma. The UPC, made up primarily of members of the Hema ethnic group, also recently broke away from the RCD-ML and controls Bunia, the capital city of the Kibali-Ituri province created by Uganda in 1999. Uganda's transfer of support from the RCD-ML to the UPC suggested that it was seeking to sustain the newly formed Hema-dominated group and retain control of the gold-rich Ituri region⁸. Internal divisions subsequently emerged again within the UPC, with one faction reportedly favouring alliance with Rwanda and another with Uganda. This latter faction emerged as a new armed political group, the *Front pour l'intégration et la paix en Ituri* (FIPI), led by Gegere Chief Kawa Mandro Panga, whose formation was announced at the Speke Hotel in Kampala, Uganda, on 14 February 2003.⁹ These groups control much of northern and north-eastern DRC, including parts of North-Kivu province, Ituri province and large portions of Oriental and Equateur provinces. The four groups have been more or less in constant conflict with one another. Ethnic divisions and loyalties, notably in Ituri, have been a factor in these divisions, as has been ambivalent and shifting Ugandan political and military support to each group. Large numbers of civilians have been killed in periodic bouts of infighting.

⁸ In late 2002, the UPC dissolved its alliance with the UPDF and sought a new one with RCD-Goma. This suggests a high risk of new fighting between Uganda and Rwanda in Ituri, similar to what happened around Kisangani in 2000.

⁹ For further information on the Ituri crisis, see the AI report "DRC: On the precipice: the deepening of the human rights and humanitarian crisis in Ituri", March 2003 (AI Index: AFR 62/006/2003).

Opposing the Rwandese army, the Ugandan and Burundian forces and their client Congolese armed political movements in eastern DRC are the local Congolese armed groups collectively known as *mayi-mayi*, the mainly Rwandese Hutu combatants – who include former *interhamwe* militia -- and Ugandan and Burundian insurgent groups.

The governments of Rwanda and Burundi reportedly supply RCD-Goma forces with most of their arms and training. Arms include rocket launchers, armoured cars, machine guns, light artillery, mortars and landmines, manufactured in a wide range of countries, including China, USA, Belgium, France, the former Yugoslavia, Germany and Bulgaria. According to RCD-Goma personnel, Puma helicopters and Antonov aircraft have been used both in RCD-Goma and Rwandese army operations in eastern DRC and also to import arms and export timber and minerals such as coltan. They are said to be piloted by Ukrainians or Russians hired by companies with financial stakes in the coltan and diamond trade. The same situation prevails in Ugandan-controlled DRC. Most of the arms used by armed political groups there are supplied by and through Uganda. Uganda also provides military training to the warring movements including the MLC, RCD-ML, UPC and FIPI. The DRC government reportedly supplies arms and uniforms to the RCD-ML of Mbusa Nyamwisi. In 2002, Bunia residents and local human rights NGOs saw RCD-ML combatants wearing the uniforms of the *Forces Armées Congolaises* (FAC), the Congolese Armed Forces.

2.2 Peace negotiations

Lusaka Ceasefire Agreement

Under the auspices of the OAU¹⁰ (Organisation of African Unity) and the UN, a ceasefire agreement (*accord de cessez-le-feu en République Démocratique du Congo*) was signed on 10 July 1999 in Lusaka, Zambia, to end the conflict¹¹. It is called 'The Lusaka Ceasefire Agreement'. Clear ceasefire lines were defined and agreed upon by all belligerents. The agreement recognized the various armed political groups supported by Uganda and Rwanda, in control of part of eastern DRC. The agreement called for the withdrawal of foreign forces and further dialogue between the various Congolese actors. It also called for the disarmament of armed groups not party to the agreement, including the *mayi-mayi*, *Interhamwe* and other Rwandese, Ugandan and Burundian insurgent groups. These were characterized as "negative forces" (*les forces négatives*). The Lusaka Ceasefire Agreement remains, de facto, the only political framework for the peaceful settlement of the conflict.

¹⁰ Now the African Union (AU)

¹¹ Rwanda, Uganda and Burundi invaded the DRC in August 1998 in an effort to topple the DRC government of Laurent-Désiré Kabila, whom they accused of supporting and harbouring armed opponents based in his country. The DRC government received support from Zimbabwe, Angola, and Namibia and for a time Chad. The war that began in 1998 is often referred to as the second war, to differentiate it from the earlier 1996 war that brought Laurent-Désiré Kabila, then supported by Rwanda and Uganda, to power. This second war quickly resulted in a stalemate.

MONUC¹²

By virtue of the Lusaka Ceasefire Agreement, a neutral ceasefire monitoring body was to be set up as well as a Joint Military Committee. Resolution 1291 of the UN Security Council, passed on 24 February 2000, created MONUC with an initial strength of up to 5,537 military personnel, including up to 500 observers.¹³ MONUC is an observer mission one of whose major roles was to monitor the ceasefire lines. The mission was also authorised to include appropriate civilian support staff in the areas, *inter alia*, of human rights, humanitarian affairs, child protection, political affairs, and medical and administrative support. MONUC has five main operational sectors covering Kinshasa, Kisangani, Kananga, Kalemie and Mbandaka.

MONUC has been constantly under criticism from international NGOs and Congolese civil society for being understaffed, passive and unable to protect civilians on many occasions. Since the signing of the Lusaka Ceasefire Agreement the frontlines have changed and at least 90% of the armed clashes occur in zones known previously as non-combat areas. The deterioration of the security situation in Kisangani and the escalation of communal violence in Ituri has emphasised that there is a crucial role for MONUC to play. However, during the last quarter of 2002 and at the start of 2003 fighting between various armed political groups in parts of Oriental and South-Kivu provinces was escalating with no sign of MONUC being able to stop it or prevent the killings and displacement of unarmed civilians. On 4 December 2002, the UN Security Council passed Resolution 1445, increasing MONUC's military personnel from 5,537 to 8,700 to enable it to carry out more efficiently its ceasefire-monitoring role.

The Inter-Congolese "dialogues"

In March and April 2002, parties to the armed conflict, Congolese representatives of political parties and civil society met in an Inter-Congolese Dialogue in Sun City, South Africa. In response to the allegations of illegitimate exploitation of the DRC's natural resources, all sides agreed upon the need to review all commercial contracts concluded since the start of the conflict in order to ascertain their validity.

Politically, a power-sharing agreement between the DRC Government and the MLC was also reached in which Joseph Kabila remained DRC President and armed opposition leader Jean-Pierre Bemba was to become Prime Minister. That political component of the agreement was not signed by the Rwanda backed RCD-Goma, one main armed political group. A significant number of the main unarmed opposition groups also refused to sign it. The peace deal was not all-inclusive and proved extremely difficult to be implemented on the ground. Major ideological and opportunistic divergences arose between Joseph Kabila and Jean-Pierre Bemba. In practice, the agreement led only to months of fruitless negotiations to form a transitional government. In the meantime, the non-signatory parties, mainly RCD-Goma and the UDPS of Etienne Tshisekedi formed a coalition to oppose the agreement and called for a more inclusive accord. Fresh peace talks resumed in Pretoria, South Africa, in

¹² *Mission de l'Organisation des Nations Unies au Congo*, UN Organization Mission in the DRC

¹³ MONUC Public Information Service.

October 2002, which aimed at an all-inclusive power-sharing arrangement that would include the opposition groups left out of the Sun City agreement.¹⁴

Bilateral peace initiatives lead to troop withdrawals

On 30 July in Pretoria, South Africa, and on 15 August 2002 in Luanda, Angola, Rwanda and Uganda signed two separate bilateral accords with the DRC government, agreeing to the total withdrawal of their troops in the DRC by 5 October and 15 December 2002, in line with the Lusaka ceasefire agreement. Uganda also agreed to establish a Joint Pacification Committee for the region of Ituri. Rwanda told the UN Security Council that it had completed withdrawal of its forces on 5 October 2002, under the supervision of MONUC and other international monitors. Burundi also announced that it had pulled its troops out in October, although its government has denied involvement in the DRC conflict.

In October 2002, Uganda withdrew more than 90 per cent of its forces, but the UN Secretary-General asked that it to retain troops in Bunia, in Ituri province, to maintain security. Officially, three UPDF battalions remain in the province. Amnesty International has concerns that the Ugandan army has failed to be impartial in the inter-ethnic crisis in Ituri, threatening peace and fuelling further violence in the region. There are also strong indications that some Rwandese troops have not left their positions in eastern DRC or that they and their heavy weapons have been incorporated into the RCD-Goma forces. Local human rights groups have confirmed the presence of RPA forces in North-Kivu province, especially around the mineral-rich areas of Burungu, Kishanga in Masisi, and in Rushuru and Goma.

Troop withdrawals and economic exploitation

"The withdrawal of foreign forces is an important step towards ending the illegal exploitation of natural resources. Yet the necessary networks have already become deeply embedded to ensure that the illegal exploitation continues, independent of the physical presence of the foreign armies."
(Report of the UN Panel of Experts, 21 October 2002 (S/2002/1146), p. 25)

Troop withdrawals have been endorsed and strongly supported by the UN and the international community. They have undeniably created a discussion ground for belligerents and refreshed peace dynamics in the region, leading to new peace talks. However, they have not brought peace or ended the predatory economic exploitation and related human rights abuses. After the Rwandese troops left, there were no neutral forces to take over. The failure to provide alternative, practical security measures has led to confusion and violence in many areas, including in Ruzizi, Uvira and Kindu. Local *mayi-mayi* forces have filled the vacuum in most cases. Barely a week after they pulled out, the Rwandese and Burundian forces reportedly returned to eastern DRC to assist RCD-Goma in the recapture of Uvira from the *mayi-mayi*. More than 40 civilians, including women and children, reportedly died in the

¹⁴ On 17 December 2002, in Pretoria in South Africa, a new accord was signed by all parties involved in the conflict including all armed political groups, the government, unarmed political opposition parties and civil society. This opens the door to an all-inclusive power-sharing arrangement for a two-year transitional period. The accord is called the "1+4 formula" in which president Joseph Kabila is to remain president of the DRC and will be assisted by four vice-presidents. All parties signed the global transitional accord including the constitution during a plenary session in South Africa on 1 April 2003.

counter-attacks. The Rwandese forces have increased their presence in the area, patrolling at night in Bukavu and discreetly maintaining their previous positions around the region.

The uncertain withdrawal of Rwandese troops

On 13 October 2002, Rwandese President Paul Kagame told a delegation of United Kingdom members of parliament in Kigali, referring to the withdrawal of Rwandese troops a few days earlier, "Just because we are out today, I am not sure we won't be going back tomorrow."¹⁵ He said that 20,000 members of armed political groups in the DRC remained a threat to Rwanda, and that if the DRC government and the international community were unable to deal with the problem, Rwandese troops would return to the DRC.

The Ugandan troop withdrawals also left a power vacuum, particularly in Ituri. In a recent survey, a local human rights group based in Bunia has indicated an upsurge of violence, political murders and fighting across the province. Since the Luanda accord, the Ugandan army has again deployed troops in the DRC. Uganda has denied a report that on 20 October 2002 its troops were posted in Rwabisengo, on the Ugandan side of the border but easily able to cross the Semiliki River into eastern DRC.¹⁵

The lack of long-term vision and perspectives in planning the withdrawal process, and the unclear agenda behind the Ugandan and Rwandese agreement to withdraw their forces, have seriously affected the effectiveness and viability of the operation. MONUC was incapable of ensuring peace and security due to the restrictive interpretation of its mandate and lack of adequate resources. This threatens to reverse the troop withdrawal process.

3. War for profit

The eastern regions of the DRC are rich in gold, diamonds, coltan (columbo-tantalite), cassiterite, copper, cobalt, wolfram, zinc and oil, as well as timber, coffee and palm oil. There are considerable diamond deposits in Kisangani, Bafwasende and Watsa, high quality gold in Ituri, and coltan deposits throughout the eastern DRC. International traders in these commodities have never felt the need to make their operations more transparent. In the light of the reports of the UN Panel of Experts and concerns about the human rights abuses that are linked with the extraction of these commodities, there is an urgent need to bring some transparency to the commercial arrangements being agreed by warlords responsible for widespread abuses.

From the time of Belgian colonial rule, the inhabitants of the region have derived little if any benefit from its natural wealth. Instead, they have suffered an unbroken succession of abusive political administrations, military authorities and armed political groups that have looted the region and committed human rights abuses with impunity.¹⁶ King

¹⁵ On 6 March 2003, the UPDF defeated the UPC forces of Thomas Lubanga and regained full control of Bunia town. They officially announced deployment of additional troops in the DRC.

¹⁶ For further information on abuses committed, see for instance *King Leopold's Ghost* by Adam Hochschild, MacMillan, 1999.

Leopold II accrued vast personal wealth without ever setting foot on Congolese soil. The Belgian rulers of the then Belgian Congo, from 1905 to 1960 used slave labour to plunder its rubber, ivory and timber.

After independence in 1960, the long presidency of Mobutu Sese Seko made the newly named Zaire notorious for cronyism and corruption. When President Mobutu came into office in 1965, a sustained period of institutionalised corruption and misappropriation of state resources began. Large proportions of the revenues from state-owned companies, such as the copper and cobalt company Gécamines, went not to the state treasury but straight into the pockets of President Mobutu and his closest allies.

Following the war that brought Laurent-Désiré Kabila to power in 1997, Rwanda, Uganda and Burundi faced serious threats from armed political groups operating from within the DRC, such as the *interahamwe* militia and former members of the Rwandese government forces.¹⁷ However, the military operations of Rwanda and Uganda, their Congolese allies and their enemies became increasingly dictated by commercial and not purely security considerations.

Within Rwanda, a "Congo Desk" was set up as a division of the Department of External Security¹⁸ to administer proceeds from the exploitation of wealth from eastern DRC. In March 2002 Deus Kagiraneza, a former army intelligence officer attached to the Congo Desk and later a member of parliament, told a Belgian Parliamentary Commission of Inquiry on the Great Lakes region that dealers in minerals and other resources obtained from Rwandese-occupied DRC regularly visited the Congo Desk. He testified to the existence of a parallel, secret accounting system (*caisse noire*), which sustained Rwandese army operations in the DRC¹⁹ and whose revenues were not reflected in official government financial reports. This system enabled the army and its political leaders to hide vast sums of money.

The importance of the Congo Desk in financing the war

"The Congo Desk's contribution to Rwanda's military expenses would therefore have been in the order of US\$320 million. The activities funded by revenues generated by the Congo Desk strongly shape Rwanda's foreign policy and directly influence national decision-making in a number of domains. These transactions are, however, hidden from the scrutiny of international organizations." (Report of the UN Panel of Experts, October 2002 (S/2002/1146), p. 15.)

¹⁷ In 1994 more than one million Hutu, some of them members of the *interahamwe* militia and former Rwandese government forces who had participated in the massacre of as many as one million Tutsi and Hutu government opponents in Rwanda, fled when the Hutu-dominated Rwandese government was overthrown. Armed Hutu attacked Tutsi and other ethnic communities in Zaire and launched armed attacks against Rwanda.

¹⁸ *Département de la sécurité extérieure*

¹⁹ *"Qui avait permis de mener des opérations au Congo"*

The UN Panel of Experts indicated in its first report²⁰ that, unlike Rwanda, the Ugandan government does not benefit directly as a government from the resources exploitation in Congo. Only individuals were gaining from it. But the Ugandan government has remained silent and has taken no disciplinary action against those individuals.

Ugandan tactics and strategies for exploitation

"The elite network operating out of Uganda is decentralized and loosely hierarchical, unlike the network operating out of Rwanda. The Uganda network consists of a core group of members including certain high-ranking UPDF officers, private businessmen and selected rebel leaders/administrators (...). Other members include the Chief of Military Intelligence, (...) private entrepreneurs (...) and rebel politicians and administrators (...). The network continues to conduct activities through front companies such as the Victoria Group, Trinity Investment, LA CONMET and Sagricof. Each of these companies may concentrate on one or two commercial niches, though these may change. The role of the companies is to manage their respective niche activities by assembling the personnel, logistics and occasionally the financing for the operations. The network generates revenue from the export of primary materials, from controlling the import of consumables, from theft and tax fraud." (Report of the UN Panel of Experts, October 2002 (S/2002/1146), p. 19-20)

3.1 Shifting alliances.

A common interest in enrichment from the region's natural wealth and the desire to exploit it appears to have underpinned shifting alliances in the region. With the aim of extracting coltan, the Rwandese army reportedly entered into local alliances with armed political groups opposed to its presence in eastern DRC, including *interhamwe* and *mayi-mayi* groups in the territories of Walikale and Masisi. In 2002 *mayi-mayi* leaders from the *mundundu* 40 groups were incorporated into the Rwandese political administration in South-Kivu province. Uganda too has supported different and opposing protagonists at different times.

Old alliances have unravelled. Competing interests lay behind battles between the Rwandese and Ugandan forces that had previously shared a common interest in securing their borders. Hundreds of civilians were killed and thousands wounded as Rwandese and Ugandan forces fought in 1999 and 2000 for control of Kisangani, which has an economically strategic location on the river Congo and substantial diamond, coffee and timber industries. In Ituri, particularly around the town of Bunia, Ugandan government forces have effectively offered their services to the highest bidder and withdrawn them from the weaker protagonist in the bitter political and ethnic rivalries that have emerged in the area. In some cases, different UPDF units have supported rival groups.

It is increasingly difficult to differentiate the forces of the various armed political groups. RCD-Goma has recruited from among *mayi-mayi* traditionally believed to be their enemies. A woman from the town of Shabunda in South Kivu was reportedly abducted and

²⁰ The second and the third UN Panel reports have confirmed that analysis but unveiled a new system of looting that the Panel called "Elite networks", well structured on both the Ugandan and Rwandese sides.

raped in early 2001 by men she believed to be *mayi-mayi* forces. Weeks later, she recognized one of the rapists in the street in Shabunda, wearing the uniform of RCD-Goma.

3.2 Patterns of conflict and economic exploitation

Areas rich in mineral resources have been subjected to prolonged and repeated military operations and violence in the war.²¹ The areas most affected by violence include Shabunda territory in South-Kivu province; Kindu and Punia in Maniema; Walikale, Masisi and Lubero in North-Kivu; Bafwasende and Ituri in Oriental; and the major cities of Goma, Bukavu, Uvira, Bunia and Kisangani.

Members of the RCD-Goma from the Tutsi ethnic group known as the Banyamulenge in South-Kivu launched armed attacks on RCD-Goma and RPA forces in early 2002. This group of Banyamulenge combatants was reported to be in alliance with *mayi-mayi* who had been their enemies since 1996.

Until September 2002, Shabunda²² town, the administrative centre of a territory rich in coltan, gold, diamonds and timber, was controlled by RCD-Goma and RPA forces, but encircled by *mayi-mayi*. The town's inhabitants were effectively held hostage and forbidden to cultivate fields that lie between Shabunda town and the surrounding Ulindi River. This action significantly reduced their access to the fields, depriving them of their livelihood. Airstrips in the area surrounding Shabunda town were strategically important to the armed forces and economically important to the commercial centres established nearby to trade and transport the natural resources. The Rwandese army and RCD-Goma control most of the airstrips, but some were held by *mayi-mayi* and Rwandese insurgent forces. Extensive fighting took place around these locations for the control of the numerous mines across the territory.

In Shabunda territory, *mayi-mayi* and other armed groups repeatedly attacked, tortured and killed civilians. Perhaps more than in any other conflict area, rape has been used as a weapon of war against hundreds of women and girls.²³ Young people were forced to labour for combatants without pay or food. The Rwandese army and RCD-Goma forced children as young as 13 to take part in a practice known in Kiswahili as *Ulinzi* (security), in which families were required to give up one of their members on a daily basis to carry out security patrols.

Numerous attacks on civilians have reportedly taken place in the Kindu area of Maniema province. RCD-Goma and RPA forces control the town of Kindu, straddling the

²¹ In his testimony to the Belgian Parliamentary Commission of Inquiry on the Great Lakes region, Deus Kagaranza said that Rwanda tolerated the presence of *mayi-mayi* and Rwandese Hutu insurgent forces in North-Kivu province so as to buy coltan held by them at reduced prices or to seize it in the course of military operations. He said that, if it had wanted to, the Rwandese army could have removed these groups from the region within a month.

²² Shabunda fell to *mayi-mayi* forces in late September 2002.

²³ See *The war within the war: Sexual violence against women and girls in Eastern Congo*, Human Rights Watch, June 2002.

river Congo. *Mayi-mayi* forces frequently extort money at checkpoints on roads in the area. As in Shabunda, the town is cut off from its agricultural hinterland. Rwandese army, RCD-Goma and *mayi-mayi* forces, reportedly fighting for control of natural resources, attacked the area of Kampene, 150 kilometres southeast of Kindu. All the homes on a 17-kilometre stretch of road between Kindu and Kalima were destroyed, reportedly on the orders of the Rwandese army and RCD-Goma as a counter-insurgency measure.

The distribution of humanitarian aid has been severely restricted because of the widespread insecurity. International agencies have had to cease their operations when workers have been targeted, notably in Ituri where six employees of the International Committee of the Red Cross (ICRC) were killed in April 2001 and other agencies threatened and harassed. As a result, large numbers of the internally displaced receive only sporadic, if any, humanitarian assistance. They are often forced to rely on local residents to house and support them, or to seek shelter in the forest.

3.3 Pillage as a strategy of war

Looting – often accompanied by the killing and torture, including rape, of civilians – has become an everyday feature of the violence in eastern DRC, disrupting and destroying all aspects of communal life. Thousands of villages, markets, health centres, church missions and schools have been robbed since 1998 by all the forces involved in the conflict. Agricultural harvests have been targeted, leading to deepening food insecurity in the region. In many areas, people sleep out of doors at night or away from their homes, for fear of attack. Social festivities, such as wedding celebrations, are no longer held or are held in secret for fear that armed groups will target the community and its visitors.

Medical supplies and equipment are much sought after by armed groups, with the result that the region's already precarious health care infrastructure has suffered widespread destruction. On 5 February 2002, for example, an unidentified armed group broke into the medical centre in Kaniola, Walungu territory, and took food, first aid kits, drugs, blankets and equipment. Many medical professionals have been killed or wounded in such attacks.

Villages attacked and robbed

Few villages have remained untouched by the violence and many have been repeatedly attacked. In one case, at around 11.00pm on 11 May 2002, an unidentified armed group wearing military uniforms attacked the village of Masereka in Lubero territory, North Kivu province. At least seven men – Kakule Vakalani, Kahindo Muvatsi, Kakule Kapombo, Kasereka Kapombo, Rigobert Kikohwa, Karipi Maneno and Kapollo Mwanzi – were killed. The parish church, a medical centre and several homes were robbed of money and goods.

The Kabare area, about 30 kilometres north of Bukavu, was the scene of repeated attacks by unidentified forces believed to be *mayi-mayi* or *interahamwe* over 10 days in early June 2002. Health centres were particularly targeted.

Food aid systematically pillaged

In mid-October 2001 RCD-Goma's Zulu Battalion was reportedly responsible for the theft of about 100 tonnes of food aid intended for the desperate civilian population around Kalonge in the Kibuzi-Biega National Park, South-Kivu. The Zulu Battalion has previously been accused of responsibility for killings and torture, including rape, in Mwenga, Kaziba and Bunyakiri. The theft was carried out like a military operation, not an act of random pillaging. Staff of the UN World Food Programme (WFP) had encouraged the local population to return to their homes, after extended displacement in more inaccessible areas, to obtain humanitarian aid and resume cultivating their fields. Promises of security and permission to distribute the aid had been obtained from RCD-Goma authorities, traditional chiefs and commanders of armed groups operating in the area. However, immediately after distribution of the food in several villages, RCD-Goma combatants visited and threatened each household, forcing people to give up the food. Many people fled the area again after the incident.

An observer told Amnesty International, *"This wasn't pillage in the usual anarchic fashion, where soldiers take only what they can carry. They knew how much foodstuff each household had received and made sure that they got everything. They also took the villagers' clothing and any livestock, and even cut down the crop of banana trees. Cultivated ground was trampled over. Everything was taken away in a convoy of trucks. The pillage was utterly systematic and organized. And it was very clear that the WFP delivery and the recently returned population had been deliberately targeted."*

Many pillaging operations appear to be carefully planned and coordinated by senior commanders, often over a wide geographical area. On 11 February 2002, for example, the villages of Cibanda, Nshesha and Mukwale, and areas surrounding the General Hospital in Walungu-Centre, Walungu territory, South-Kivu, were reportedly cordoned off and looted by RCD-Goma and Rwandese army forces.

Various armed forces have used checkpoints on roads and rivers to extract money from civilians. This makes roads between the major towns permanently insecure. Although RCD-Goma or Rwandese army roadblocks are purportedly to prevent attacks by insurgents, their main purpose appears to be robbery and extortion, often accompanied by violence. At each roadblock civilians have to pay for passage and may, in addition, be forced to perform some manual labour such as digging a latrine or transporting looted goods to a military camp. There are fixed tariffs for pedestrians and vehicles, and traders may be required to hand over some of their merchandise.

There are many roadblocks on roads from coltan mining zones to the towns where the mineral is sold. For example, the Rwandese army established eight on the 60-kilometre road between Mumba and Goma, at which miners have reportedly been forced to sell coltan at reduced prices to army commanders. A 200-kilometre stretch of the river Congo downstream from Kisangani is said to contain as many as 50 roadblocks where traders are forced to surrender goods, increasing the difficulties of supplying the town. On 21 October 2001 the MLC commander of Banalia territory, north of Kisangani, specified tariffs for traders travelling on the river Lindi and for the goods they had to relinquish for "military rations".

Killed for resisting extortion

Refusal or reticence in paying often leads to ill-treatment or torture. Many roadblocks have makeshift lock-ups (*cachots*), usually pits dug in the ground, for punishing objectors. Travellers have been unlawfully killed and women and girls raped or sexually assaulted.

On 27 August 2001 Dada Bushole, 26, a pregnant mother of three children, was shot dead by an RCD-Goma combatant in Ihusi, Kalehe territory, South Kivu province. She had been travelling to Bukavu in a minibus, when RCD-Goma forces on the road stopped the vehicle and demanded payment. Many passengers refused and argued with the combatants, one of whom opened fire, killing Dada Bushole and wounding another passenger. The combatant was reported to have been summarily executed the next day on the orders of the RCD-Goma commander and administrator of Kalehe territory.

In Ituri armed political groups as well as the Ugandan army and RCD-ML forces harass the population at roadblocks. At a roadblock at Mufutabangui on the Bunia-Beni road groups of former Congolese soldiers, Rwandese insurgents and local militia forces all set up barricades. Women have been raped and abducted there, and men forced to join the various armed groups. On 23 July 2002 Mami Sangai, a businesswoman from Beni, was reportedly raped and killed on that road by armed men believed to be *mayi-mayi* wearing RCD-ML uniforms. Her 13-year-old daughter was raped and abducted.

3.4 Corruption and 'taxation'

Foreign armed forces and armed political groups collect customs duties and other taxes to sustain their rule. There is little evidence that these revenues are being deployed to pay for the region's ruined public services or infrastructure. The amounts involved are large. In August 2001 RCD-Goma announced that it was raising approximately US\$1.5 million a month, principally from customs duties at the borders with Rwanda, Uganda and Burundi, and by direct and indirect taxes on business.²⁴ In early 2002, while it still controlled the entire Ituri province, the RCD-ML also reportedly raised over US\$2 million a month from custom duties at Mahagi, Bunia Aru and Butembo. Senior RCD-ML officials admitted that half of such income is used for military needs including arms purchases, military training and recruitment and the remaining part goes to the personal needs of the movement's leaders and maintaining troops.

Travellers passing between zones controlled by RCD-Goma and RCD-ML are required to declare goods and pay duties at the so-called border. In June 2002 RCD-Goma forces seized identity cards from more than 500 travellers on the road between Goma and Sake. On 3 July the Mayor of Goma announced that this measure had been taken for "security reasons" and that cards or replacement papers would be restored on payment of US\$2 by their owners.

²⁴ In South-Kivu province alone, revenue collected by RCD-Goma at the five customs posts in Bukavu, Kalundu, Kiliba, Kavimvira and Kamayola reportedly amounted to US\$12,050,000 between January 2000 and October 2001 - an average of almost US\$550,000 a month.

In the areas under its control, RCD-Goma has demanded heavy and arbitrary taxes from businesses for its fighting forces, which often contribute to the personal enrichment of its leaders and to the purchase of arms from Rwanda and Burundi. A 10 per cent tax explicitly for the "war effort" has been levied on certain businesses, among them coltan trading houses. In April 2001, 68 pharmacies were closed down for failing to pay a US\$166 "business operating tax"; they were charged a further US\$150 before they could reopen. There are burdensome annual taxes of up to US\$200 on vehicles – including those vital to food supply – and a panoply of charges for individual journeys, road "tolls" and non-existent "insurance". The many civilians who carry large loads over long distances by foot or bicycle are levied a "portage tax" at roadblocks or on entry into towns.

Amnesty International accepts that charging taxes to pay for public services is a legitimate role of governments. Amnesty International also recognizes that in some territories and in certain situations an armed opposition group may perform functions that are usually performed by legitimate governments. But in the areas under its control, RCD-Goma's activities are often extortionist in nature, and the derived revenue is used to maintain the military conflict.

This is becoming more acute, as income from coltan has declined after the mineral's international market price fell. As a result, RCD-Goma raised its demands. On 21 November 2001 it decreed the requisition, for one month, of the income from all public companies, including the electricity and water companies, purportedly to pay civil servants. Strikes and unrest in many cities in early 2002 were met with a show of military force and the brief detention of trade unionists and industry managers. A student, Patrick Yufuyuru, was shot and wounded by RCD-Goma forces as they broke up a student protest in March 2002. The order was subsequently amended to require only 40 per cent of each company's revenues.

In September 2002, RCD-Goma unveiled the introduction of new licence plates for all vehicles in circulation in territories under its administration. The replacement will cost US\$100 per pair, not including the log-book (known as the "blue book"). A coalition of civil society organisations has vehemently criticised the cost of the new Kivu licence plates, which they consider "exorbitant". In Kinshasa, for example, the same licence plate would cost US\$10 inclusive of the "blue book". Apparently, the measure was dictated by the difficult financial situation facing the movement following the seizure of RCD-Goma's assets in European countries. Civil society, trade unionists, international non-governmental organisations (NGOs) operating locally, the business community and the Catholic Church, strongly rejected the measure, especially in Bukavu. The insistence of RCD-Goma on enforcing its decision has hampered business activities in the region and severely disrupted the work of NGOs and affected goods circulation for local traders. In urban Bukavu, vehicles without the new plates are harassed by RCD-Goma and in the rural areas including Buyakiri and Shabunda, held by *mayi-mayi*, the new plates are not accepted. Communities in those rural areas are desperately in need of humanitarian assistance but unfortunately cannot be reached. In December 2002, the RCD-Goma authorities threatened to eliminate all opponents to the measure and insisted that they did not care if NGOs suspended their activities. At the

start of 2003, the situation remained chaotic. Goma had almost complied with the measure while resistance to it remained stiff in Bukavu.

Until late 2002, in the Ugandan-controlled zone of the eastern DRC, repeated power struggles within the RCD-ML and rival armed political groups who are all receiving Ugandan support have frequently centred on the profitable customs points along the Ugandan frontier. A complex and corrupt system of tax collection has benefited warlords and a business community consisting mainly of Ugandan nationals. There is frequent misappropriation of duties collected by customs departments. Business permits and tax exemptions can be obtained on the sole authority of a number of Ugandan officials, most of whom Ugandan army commanders.

Tax exemption for the Ugandan army and its allies

"Members of the Ugandan network are typically tax-exempt. The Panel is in possession of documents showing that the network uses its control over the RCD-K/ML rebel administration to request tax exonerations for imports of high-value commodities. The granting of numerous tax exonerations to UPDF Colonel Otafire, Uganda Government minister of regional cooperation, between late 2001 and early 2002 is one of numerous cases. Not only did Colonel Otafire benefit financially but eventually, those exonerations forced local competitors out of markets in Bunia and Beni, leaving the petrol trade largely under the control of the network."

Local commercial operators are, however, required to pay substantial import and export duties... Revenues generated from import duties and prefinancing payments are diverted to UPDF officers... None of these payments to the rebel administration is used to finance public services." (Report of the UN Panel of Experts, 21 October 2002 (S/2002/1146), p. 20-22.)

The Ugandan army's economic strategy of "military commercialism" – exploitative taxation, unfair competition and the untaxed import of Ugandan products – has contributed to the destruction of the eastern DRC economy for the benefit of a handful of Congolese and of Ugandan businesses and army officers. One man who was forced to close down his business told Amnesty International: "Our leaders force you to pay taxes in advance before you bring in your goods while Ugandan businessmen... are doing business without any problem because they are connected to UPDF people. We could not sustain the unfair competition. There is no rule in this country anymore."²⁵ Local NGOs on many occasions told Amnesty International that Ugandan soldiers and armed political group leaders often protect business holders who accept to safeguard their interests. Moreover, many arbitrary taxes are levied by the local authorities which never contribute to building social infrastructures or to socio-economic development projects.

A Ugandan entrepreneur told Amnesty International: "The war has not reduced in any way business activities. I can tell you that since the war has started, business interest in the DRC has increased and we are enjoying it. I have tripled my investment and have taken

²⁵ A businessman from Butembo.

on new sectors." However, this business boom for some is not reflected in the official revenues of the *de facto* authorities. Comparisons of customs and other public revenues during the conflict in areas under Ugandan and RCD-ML control with those from 1996 show a marked decrease²⁶. Taxes and duties levied on business and trade are clearly not reaching the *de facto* authorities. A very large percentage of taxes are collected by senior figures in armed political groups instead of the appropriate tax offices and are mainly used for their personal needs and to purchase weapons.

3.5 The collapse of public services

Despite their status as *de facto* authorities and their collection of taxes, the foreign forces and armed political groups have not assumed any governmental obligations to the civilian population, such as the provision of state education or health care, but have only deepened the poverty of the region. It is clear that revenues raised at all levels are not being used for the progressive realisation of economic, social and cultural rights of the people.

In 2001, the Congolese Franc fell in value against the US Dollar by more than 200 per cent, forcing prices for essential goods ever higher. Rampant inflation and repeated currency devaluation have made investments impossible for small local investors. At the same time, the conflict has significantly reduced local food production. Increasingly, food products are imported, at higher cost, from and through Uganda, Rwanda and Burundi, further profiting states responsible for prosecuting the war in eastern DRC.

In areas under RCD-Goma rule, the region's ailing infrastructure, already poorly served under previous administrations, has headed into freefall. Armed groups repeatedly attack and cause extensive damage to medical centres and hospitals, particularly in the interior. Health professionals are unpaid, health facilities unfunded, and medical care accessible only on payment of sums unattainable for most people. *"We can no longer afford increasingly expensive medical treatment. When you have headache you resort to prayers as treatment instead of going to hospital. When you get malaria it's worse. Two of my children died of malaria because I could not afford to take them to the hospital. Before the war started, this could never happen to me! [...] Who will deliver us from this?"*²⁷.

The education system is underfunded and pupil drop-out rates have increased. The number of street children has also considerably increased in Goma and Bukavu. While it is extremely difficult to gather reliable statistics on the issue, the local human rights organization *Héritiers de la Justice* (Heirs of Justice) *"there is a perceptible and evident link and correlation between the war, the high number of school drop-outs and the increase of street children in RCD-Goma controlled eastern DRC."* Parents have to make payments direct

²⁶ More than \$4 million is collected monthly from the customs points of Bunia, Mahagi, Aru and Beni as opposed to the \$2 million collected monthly by the RCD-ML while it was still controlling the entire Ituri province.

²⁷ Amnesty International interview with a woman living in Goma, March 2002. She lost two of her children and was also affected by the volcanic eruption in January 2002 which destroyed large parts of Goma.

to teachers that, although small, are beyond the means of many. Consequently, many children are, de facto, deprived of their basic right to education.

Civil servants – including law enforcement and other security officials – have been largely unpaid since 1998, and many in the revenue-raising sectors rely on corruption to survive. As one qualified and experienced civil servant told Amnesty International, "Every day leaves me morally debased."

In September 2001, the Kinshasa government offered to pay part of the three-year salary arrears of civil servants in eastern DRC including in the territories of RCD-Goma. RCD-Goma's authorities vigorously rejected the offer while the large majority of the population welcomed it. The rejection by RCD-Goma led to strikes and unrest. Large numbers of civil servants were detained. On 13 September in Bukavu, growing discontent led to children demonstrating in the streets against RCD-Goma's decision, chanting slogans such as: "We want the salaries of our parents, the salaries to soften our misery and go to school." The demonstration was brutally repressed and victims included a 15-year-old boy, **Ombeni Mundeke Bahaya**, who was shot dead by the security forces. A few days later, teargas was also fired to disperse the peaceful crowd that gathered for the boy's funeral.

In the areas under Ugandan and RCD-ML control, the education and health systems have totally collapsed. Any socio-economic development work has been carried out primarily by the churches, local cooperatives or civil society groups and international non-governmental organizations (NGOs). In common with towns across eastern DRC, the city of Bunia, for example, suffers power failures for several days at a time. International organizations recently renovated its water system, but further work is needed to prevent cholera and other water-borne diseases.

4. Ethnic rivalries fuelled by economic interests

"Everyone is convinced that this is not only an ethnic problem but also a political matter fuelled by economic interests."

Amos Namanga Ngongi, the UN Secretary-General's Special Envoy to the DRC, August 2002, after ethnic violence erupted in Bunia, Ituri.

As many as 60,000 people are believed to have died in the Ituri region of Oriental province as the economic ambitions of Ugandan commanders have exacerbated local tensions and aggravated rivalries over mineral-rich land. Disputes between the Hema and Lendu ethnic communities were not new. "But this never got out of hand until Ugandan forces arrived in the region and worsened the divides along economic lines," one local traditional ruler told Amnesty International.²⁸

²⁸ Amnesty International interview in August 2002 with a traditional leader from the Nande community, who was taking part in a reconciliation meeting between Hema and Lendu traditional leaders convened by Uganda.

The Ituri region is very rich in gold.²⁹ In 1999 the then Ugandan army commander in the region Brigadier James Kazini, currently acting UPDF Chief of Staff, created a new province of Ituri out of the territories of Ituri and Haut-Uele. He appointed former teacher Adèle Lotsove, a member of the Hema community, as governor, and promised Ugandan military support. He was reported to have been "seeking loyal leaders in the region to protect growing economic interests."³⁰ The Ugandan authorities retained military and political influence in Ituri when the UPDF backed the Hema-dominated UPC, which in September 2002 took control of Bunia from the RCD-ML.

Ugandan army links with the Hema community

"The majority of transporters and local traders in Bunia come from the Hema group... They have established close links with a succession of UPDF commanders and troops in the area and work closely with them in conducting cross-border trade... They transport shipments of primary products from Ituri across the border to Uganda under the protection of UPDF troops and return with gasoline, cigarettes and arms, all exempt from taxation." (Report of the UN Panel of Experts, 21 October 2002 (S/2002/1146), p. 22-23.)

Inter-ethnic killings in Ituri broke out in 1999. According to a Human Rights Watch report, the inter-ethnic killings claimed more than 50,000 lives, most of them civilians from the Lendu communities. In February 2002 hundreds of civilians died and thousands were forcibly displaced. The UPC was reported to have burned villages, in one case killing at least five people in Songolo – three men, farmers Golima Albert, Peko Libo and Singo Pekadro, and two women, farmer Avesi Jeanne and a housewife, Androsi Marie. Ugandan soldiers allegedly killed six civilians in Kagoro, according to a survivor who was shot and wounded.

In August 2002, a Hema militia and UPC forces, backed by Ugandan soldiers and artillery reportedly killed more than 100 civilians, mostly from the Bira and Ngiti ethnic groups, in attacks on districts of Bunia inhabited by non-Hema residents. They burned houses and destroyed property to drive the residents out of the area. "Hema militia massacred everyone they considered as enemies," a local observer said. Those killed included the Reverend Basimaki Byabasaija, a minister in the Anglican Diocese of Boga. Many Anglican Church members were forced to flee to Uganda, including the Archbishop of the Anglican Province of the Democratic Republic of the Congo. Over 50 people, most of them women and children seeking shelter, were killed at the residence of the Governor of Ituri province when the residence was bombarded, including by UPDF using heavy artillery. Among them was Mrs Candy, a 27-year-old pregnant woman from Katanga.

²⁹ Colette Braeckman, *L'enjeu congolais: l'Afrique Centrale après Mobutu*, p. 162.

³⁰ Amnesty International interview with an RCD-ML leader, Kampala, September 2002.

Killings in Bunia

A young survivor told Amnesty International:

"Two days before the attacks, I was told and advised by one of my schoolmates... that I should leave the place quickly. He told me Lendu will be killed and chased from Bunia and the town will be theirs. Also the non-Hema should leave, he said. He told me that Lendu, through the Governor [appointed by the RCD-ML], are planning an ethnic cleansing of Hema and that, before they do it, they [Hema] have to protect themselves. He explained that Ugandan soldiers are with them and will protect them. I told him I am neither Muhema nor Lendu, and that I don't know why my family and me should leave. I went and told my mum the story. At that point we thought we could find safety in the Governor's residence since he has military guards. My mum insisted that we should go to Beni immediately. We left early in the morning when the situation was getting tense. Ugandan 'Mambas' were posted right in the direction of the Governor's residence. Already some killings had been reported in Muzipela. We got scared. Some family friends remained behind. They were all killed in the Governor's residence. That's all that I know. It was so frightening. I will never go back to Bunia again, I swear."

On 5 September 2002, members of the Lendu community backed by RCD-ML forces reportedly carried out reprisal killings in Nyankunde of more than 200 people, most of them of Hema and Bira origin. The victims included 10-year-old schoolgirl Pepe Marie and all 10 members of her family. A resident of Greek origin, Socrates, an engineer at the Nyankunde Evangelical Medical Centre and his family survived and were forced to flee Nyankunde in critical condition. They lost all their property. Hema patients in the hospital were reportedly killed in their hospital beds. The Red Cross buried 69 unidentified bodies. Dozens of houses were burned. Thousands of civilians fled to Beni and Owitsa.

The Ugandan army creates cover for its continued presence in Ituri

"UPDF have created the conditions that require the presence of troops and their continued involvement in commercial operations. This has entailed providing arms to both sides in the ethnic conflict, the Lendu and the Hema. The consequent increase in ethnic fighting has resulted in UPDF being urged to assist in furthering the peace process in Bunia. This function was formalized in an official Protocole d'Accord signed on 22 February 2002 by Mbusa Nyamwisi and John Tibasima as President and Vice-President of RCD-K/ML and by Colonel Noble Mayombo as an official representative of the Government of Uganda... In exchange, UPDF were promised a monthly stipend of \$25,000 from the RCD-K/ML public treasury, and all Ugandan enterprises that were approved by UPDF were accorded exoneration from all duties and taxes due to the rebel administration. This has given UPDF a legitimate cover for continuing military support for the elite network's activities in the area." (Report of the UN Panel of Experts, 21 October 2002 (S/2002/1146), p. 23)

5. Diamonds: the Kisangani wars

In a six-day battle in June 2000, more than 1,200 civilians were killed and many thousands wounded as Rwandese and Ugandan forces fought for control of Kisangani. Scores of civilians had died in earlier battles in August 1999 and May 2000 for Kisangani, with its strategic position on the river Congo and its diamonds, coffee and timber. As Ugandan forces tried to seize control of the city centre, the two sides poured indiscriminate fire into houses, schools, churches and workplaces. No effort was made by the opposing forces to evacuate civilians trapped between them. Reports suggest that the Rwandese forces in particular used homes that were sheltering civilians as firing positions and then moved on, leaving the trapped householders to face returning Ugandan fire. On 11 June the two forces agreed to a ceasefire, negotiated by MONUC.

Despite the clearly civilian character of the cathedral area, it was repeatedly struck by shellfire, and many of the several hundred people sheltering there were killed or wounded. The death toll was highest in the residential districts to the north, especially the *communes* of Tshopo, Makiso and Mangobo. In July 2001 a local human rights organization, *Groupe Lotus*, named 253 civilians who were killed during the battle: they included 106 children.



The cemetery in Kisangani where victims of the June 2000 fighting are buried. © AI

Three years on, thousands of civilians wounded and traumatized by the violence remain without adequate medical and psychological care. Some have still not had shrapnel removed from their wounds. Landmines and huge amounts of other unexploded ordnance have killed and maimed civilians. In August 2000, for example, three brothers, aged three, five and eight, of the Bobe family were killed while playing with a grenade they had found outside their house.

On 16 June 2000, the UN Security Council, through UN Resolution 1304, voiced its "unreserved condemnation" of the fighting and demanded that Ugandan and Rwandese forces, as well as forces of the Congolese armed opposition and other armed groups, "immediately and completely" withdraw from Kisangani and demilitarize the city and the surrounding area. The Rwandese and Ugandan forces withdrew, although Rwandese officers are still allegedly present in the city. In fact the city has never been demilitarised. Resolution 1304 also requested the governments of Rwanda and Uganda to "make reparations for the loss of life and the property damage they have inflicted on the civilian population in Kisangani." They have not done so. On 15 June 2001 the demand that RCD-Goma demilitarize Kisangani was reaffirmed in UN Resolution 1355. To date, the governments of Rwanda and Uganda, and the RCD-Goma authorities, have failed to fully comply with these terms.



Andre Kazadi © AI

The UN Security Council has contributed to the abandonment of Kisangani's population by failing to pursue vigorously the implementation of the two UN Resolutions. Urgent priority should be given at the international level to the future protection of civilians and human rights defenders in Kisangani, and to the assistance and compensation of those directly affected by the recurrent fighting between the various armed forces. Although primary responsibility lies with Uganda and Rwanda to bring to justice those who ordered, perpetrated or condoned the human rights abuses, only unrelenting international pressure and a commitment by the UN Security Council to ensure the implementation of its own resolutions can ensure an improvement of the situation on the ground.

The case of André Kazadi

Wounded during the fighting in Kisangani in June 2000, André Kazadi, a 34-year-old electrical engineer, lives in constant pain, deprived of his livelihood. On 6 June 2000 a shell landed on his house, close to the cathedral. He told Amnesty International: *"I heard the children screaming and I realized I wasn't dead. I looked up and saw there was no roof... When I tried to clear the rubble away to get back to the children, I realized I couldn't move my arm. There was a huge wound running the length of my arm, the hand was hanging by some scraps of flesh and bones were protruding from my wrist... The children were safe, although the eldest had received a light wound. I was losing blood badly, but I was making every effort not to sit down because I knew I wouldn't have the strength to get up again."*

He managed to reach an aid post nearby. *"There were two nurses here and many, many wounded and dead. I asked for help but they said they didn't have the materials. They offered me an injection to let me sleep, but I knew this would be the end. So I sat down with a bucket beside me to collect the blood. I filled two and on the third began to faint."*

5.1 Commercial competition

From their arrival in Kisangani in August 1998, Ugandan and Rwandese army officers set about the wholesale looting of the city's commercial assets. Ugandan officers appropriated and evacuated to Uganda valuable timber stocks. According to the UN Panel of Experts, between US\$1 million and US\$ 8 million was looted from Kisangani's central bank by RCD-Goma and Rwandese officials. In his testimony to the Belgian Parliamentary Commission of Inquiry on the Great Lakes region, Deus Kagiraneza, responsible for the operations of the Rwandese Congo Desk in Kisangani and Orientale province, confirmed that he had organized an inventory of major businesses in the city whose revenues could be used to finance the Rwandese presence in eastern DRC.

Senior Ugandan officers effectively cornered the market in diamonds, entering into deals with a number of trading houses (*maisons d'achat or comptoirs*). In one incident on 25 December 1999, Ugandan soldiers beat and detained customs officials at Kisangani's Bangboka airport who attempted to seize part of a consignment of US\$600,000 in Congolese francs, escorted by Ugandan soldiers on an aircraft from Kampala and destined for a diamond trading house. Deus Kagiraneza told the Belgian Parliamentary Commission of Inquiry: *"We were outraged to see the Victoria company, sponsored by the Ugandans, sign contracts without the Rwandese. That's the sole reason we went to war against the Ugandans, because we alone wanted to control the diamonds."*

The battles for Kisangani ultimately left the city of Kisangani in the hands of RCD-Goma. But most diamond mining zones in the north of Kisangani were left in the hands of the Ugandan army and the MLC. This and the steep levels of taxation levied by RCD-Goma authorities in Kisangani encouraged most diamond traders to export their production through the Central African Republic and Uganda. It is estimated that in 2001 US\$3.8 million worth of diamonds were exported to Antwerp, Belgium, from Uganda, which has no domestic

diamond production. The RCD-Goma authorities in Kisangani have since concentrated on other commodities such as palm oil to supplement their income.

The city's population continues to suffer. Kisangani is now effectively an RCD-Goma enclave within an area controlled by Uganda and the MLC and is one of the most expensive cities in the DRC, dependent on provisions flown in at enormous cost from Goma, Kigali and recently from Kampala. Even though the reopening of the river Congo to the public has facilitated freedom of movement and circulation, trade on the river, vital to the city's economy, remains largely prohibited by the MLC and RCD-Goma. Electricity and water are rationed, and petrol is in extremely short supply, making the population reliant on *toleka* (bicycle-taxis) for public transport.

5.2 The violence continues for the control of Kisangani

RCD-Goma's refusal to demilitarize Kisangani has led directly to further atrocities against the city's population. In the early hours of 14 May 2002, mutinous RCD-Goma soldiers took control of the official radio station and called on Kisangani citizens to take up arms against Rwandese soldiers. Youths stoned and burned alive about six people taken to be Rwandese nationals. Loyalist RCD-Goma units suppressed the mutiny, and reinforcements were flown in from Goma, reportedly on a Bukavu Air Transport (BAT) plane.³¹ These reinforcements, from RCD-Goma's 5th and 7th Brigades, took a leading role in the reprisals, which began shortly after their arrival from Goma. At least 180 people were killed.

In the afternoon of 14 May 2002 police or RCD-Goma combatants suspected of supporting the mutiny were led blindfolded and bound to the river Tshopo where they were shot or had their throats cut. The bodies were thrown in the river. On 17 May RCD-Goma combatants buried bodies that had resurfaced in mass graves. Among those believed killed were many police officers and commanders and other combatants.³²

Reprisals against civilians

Many of the reprisals were directed against civilians in districts already badly scarred by the June 2000 fighting, especially the Mangobo commune. About 100 civilians were killed by RCD-Goma forces, most of them summarily shot. They included many children, women and elderly people.³³

No action was taken to prevent the killings, although a large MONUC contingent was stationed in the city. Their role, according to a Kisangani human rights organization, was "*counting the dead rather than protecting the population*". RCD-Goma accused Kisangani civil society of having incited the mutiny and human rights defenders were forced into hiding.

³¹ The same airfreight company has been implicated in the transporting of coltan to Rwanda.

³² For more detailed information on this, see the report "*Democratic Republic of Congo. War crimes in Kisangani: the response of Rwandan backed rebels to the May 2002 mutiny*", Human Rights Watch, August 2002.

³³ *Idem*.

6. Tainted gold

Gold is one of the most important mineral resources to have attracted foreign and other armed forces in eastern DRC. Rich deposits can be found in many places in Oriental province, Maniema, Kibali-Ituri and the Kivus. Industrial mining has considerably reduced as a result of the conflict and, since 2001, there have been several attempts to allocate the Kilo-Moto gold concessions near Bunia to well-established mining groups. Artisanal mining by independent miners has expanded significantly, reportedly employing more than 15,000 people, and is one of the major income-generating activities in the Mongbwalu mining area of Kibali-Ituri. In the Kilo-Moto area, Ugandan and RCD-ML forces control operations at the Gorumbwa and Durba mining sites. Gold produced at the Malaka site, which reportedly employs 10,000 diggers and generates gold valued at US\$10,000 every day, is sold at the Victoria trading house and many other places in Kampala, including the *Altaboush* restaurant.

The UN Panel of Experts cited the sharp rise in Ugandan gold exports, in excess of the country's national production, as evidence that the Ugandan forces transported gold out of eastern DRC to Kampala.³⁴ The Ugandan government attributed the increase in its exports to 1993 policies liberalizing gold sales and exports, which permitted artisanal miners in Uganda to keep hard currency earned from sales. Officials said that, because of ease with which gold can be smuggled, Uganda had become the preferred destination for gold produced by artisanal miners in the surrounding region.

The case of Romeo Amisi

In December 2001, 22 year-old Romeo Amisi and five of his friends were forced by Ugandan soldiers to work in the Mongbwalu mines for more than a month. They were threatened and beaten with rifle butts. The gold that they mined was confiscated and sold in Kampala. At night, their place of detention was infested with mosquitos and flies. They were given poor food to eat only once a day. Romeo Amisi told Amnesty International of his escape at night, *"I told Captain Fred I want to go to the toilet. Normally they follow us. That day he said: just go and come back here in three minutes. They were with a certain lady. Two other women joined them later. I left half naked. I walked down to the valley and ran 50 minutes to reach the first inhabited area... Three hours later I met an old friend of my dad. I told him my story and he got scared of taking me home."*³⁵ He walked for weeks to reach Kampala. He has tuberculosis. He has no information about his friends left in Mongbwalu but feared that they might have suffered reprisals. *"They could have been killed. Those people are animals. They can do anything. They can kill all of them."*

As exploitation of gold has become more important and the profit made from gold mining in the region has increased, human rights abuses have also increased. Workers are forced to work longer hours, which has added to the profits of the companies and individuals mining gold. Ugandan and RCD-ML forces control the artisanal gold exploitation and trade. They openly recruit workers and offer surveillance and guard services. Local people in

³⁴ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, 16 April 2001 (S/2001/357), para. 22.

Mongwalu have also been forced to work for them, and detained or ill-treated if they refuse. In areas such as Mabanga, Ugandan soldiers have sometimes insisted on collecting a daily percentage of the gold found by independent miners.

Mining site owners have paid Ugandan soldiers in order to evade custom duties. A gold trader in Butembo told Amnesty International, "*They can do it because they are the ones who provide security. When they are paid they can convoy the goods up to the Ugandan border. You don't account to customs provided that they escort you.*" Gold is transported to Kampala from mines in Mbijo, Iga-Barriere and in Pluto, 12 kilometres from Bunia.

In the Irumu territories, in south Ituri, the Ugandan military are involved in artisanal gold mining and trade in the Gety and Songolo concessions. With gold revenues local Lendu communities, especially businessmen, purchase light weapons and ammunition frequently used during inter-ethnic clashes with Hema. Sources of acquisition also include individual UPDF elements involved in the deals without necessarily the knowledge of their hierarchy.³⁵



Ammunition collected after the June 2000 clashes between Rwanda and Uganda in Kisangani.

© AI

³⁵ In most known cases, the UPDF have favoured and armed Hema militias.

Homes destroyed for gold

In May and June 2001, at least 44 homes in Kaseti village, Wamuzimu "collectivité", "territoire" of Mwenga, South Kivu, were destroyed on the orders of the local authorities, acting in complicity with the RCD-Goma administration, to clear space for a large water course to extract gold. It was reported that an RCD-Goma officer and unit were ordered to ensure that the local population abide by the orders of the authorities and that those who protested against the destruction of their land and property were "fined" 2,400 Congolese francs (around US\$20).

7. Coltan: reaping the benefits

The victims of the killings, torture and forced labour linked to the exploitation of coltan, and their families, have not received justice, and the perpetrators and the military and political leaders who organized, encouraged, condoned or ordered them have not been held to account.

Coltan is used in the manufacture of a range of electronic consumer goods.³⁶ In mid-2000 shortage in the world supply of one of its component minerals, tantalum, and rapid expansion in the mobile phone and computer games market caused the price of coltan to rise spectacularly, from US\$65 per kilogram in late 1999 to a peak of around \$530 in mid-December 2000. In mid-2001 the price fell equally sharply as market forecasts proved over-optimistic. Profits from these transactions contributed to the continuation of the conflict in eastern DRC. The Rwandese army, RCD-Goma and other armed groups who effectively controlled the trade sustained their forces on the profits they made, and killed and tortured local people as they drove them from their lands or forced them at gunpoint to work in coltan mines.

Eastern DRC has deposits of coltan in the provinces of North-Kivu and South-Kivu and Maniema, substantial parts of which are controlled by the Rwandese army and RCD-Goma; in the part of North-Kivu controlled by the Ugandan-backed RCD-ML; and in Oriental province, in areas mainly under the control of the Ugandan army, the RCD-ML and the MLC.

In post-colonial DRC, major mining operations in eastern DRC had centred on cassiterite, the source of tin. Cassiterite mining operations were dominated until 1995 by mainly Belgian commercial interests, grouped together as the *Société minière et industrielle du Kivu* (SOMINKI), Kivu Mining and Industrial Company, which owned and operated a large number of cassiterite concessions. Coltan, often found along cassiterite deposits, was

³⁶ Columbo-tantalite, familiarly known as "coltan", combines two precious metals, niobium, also known as columbium, and tantalum. Tantalum's major application is in the electronics industry where its primary use is in the manufacture of capacitors in electronic equipment such as mobile phones, laptop and personal computers, hand-held computer games, pagers, digital cameras and camcorders. It is also used in aircraft.

extracted and traded as a relatively insignificant by-product of cassiterite. The collapse in world tin prices, however, brought about a gradual end to industrial-scale cassiterite mining in eastern DRC. In 1997, Banro Corp, a Canadian firm, wholly acquired SOMINKI and its concessions. In July 1998 the new government of President Laurent-Désiré Kabila expropriated the company's assets by decree and formed a new company in which the DRC state had a controlling interest. Although Banro Corp reached a legal settlement with the DRC government in April 2002, by then the concessions were in areas beyond the DRC government's control, and most of the cassiterite concessions had reportedly been sold on by RCD-Goma to Rwandese interests.

Once coltan's value was realized, interest was renewed in the ex-SOMINKI concessions and in other deposits of coltan outside these concessions. Individual miners panned for the ore in riverbeds or excavated holes in the ground and in hillsides. Lacking proper equipment or engineering knowledge, the numbers who died in such mines were large. Entire populations that had relied on agriculture developed into mining communities, exploiting their own lands, selling it in concessions to speculators or dispersing as itinerant miners. An estimated 95 per cent of those involved were drawn from the region's rural poor, and civilian miners may have numbered up to 50,000 during the boom. Mainly adult men, but also school-age children and women, took on work such as crushing and transporting the ore.

The miners sell their production to local buyers, to dealers in larger commercial centres or to the coltan *comptoirs* in Goma and Bukavu. They receive a higher price by selling further afield, but this often entails several days' journey on foot, carrying a heavy load. Personally transporting the coltan and returning with money exposes them to the banditry of Rwandese soldiers and combatants from RCD-Goma and other armed groups.

7.1 Military commercialism

Although the collapse in coltan prices has led to the abandonment of direct Rwandese army control over a large number of mines, its interest in the coltan trade, and that of RCD-Goma and other armed political groups, remains strong. The RCD-Goma authorities have profited from the coltan trade, and Rwandese army commanders and others in Rwanda have reaped even greater rewards, transferring coltan directly to Rwanda and depriving RCD-Goma of significant revenues.

Statistics relating to coltan extraction in eastern DRC need to be treated with caution, as the authorities have an interest in obscuring the true value of the trade and many transactions evade customs and recording controls. However, RCD-Goma figures show that, between January and October 2000, the 19 coltan trading houses in Rwandese-controlled eastern DRC declared exports of more than 445 tonnes of coltan.³⁷ In November 2000 RCD-Goma instituted an export monopoly and declared exports of 208 tonnes in December 2000 and January 2001. Taking into account illicit exports and direct transfers to Rwanda by the

³⁷ Figures provided by RCD-Goma's *Département des Terres, Mines et Energie* in March 2001, published by the International Peace Information Service, *Central Africa Minerals and Arms Research Bulletin*, 14 June 2001.

Rwandese army, the actual tonnage of coltan produced in the Kivu provinces in 2000 may have been between 1,400 and 1,700 tonnes.³⁸ According to one estimate, more than US\$60 million flowed to the *comptoirs* during the boom months. The UN Panel of Experts estimated that the Rwandese army must have made at least US\$250 million from coltan transferred to Rwanda over a period of 18 months.

Most of these profits went to Rwandese and RCD-Goma military figures and connected business people who controlled the trade – many of them reportedly Rwandese nationals or close to the Rwandese government. International traders and processors also made huge profits through shadowy business deals with the warring parties.

The Rwandese army's extraction and transfer of coltan and other natural resources to Rwanda was a carefully managed military operation. For example, it was led by four senior commanders in Walikale and Masisi territories, North-Kivu province. Checkpoints on roads in the mining areas deterred civilian coltan traffic. In major towns and airstrips, coltan and other materials were stockpiled for onward transport by air or road. Airstrips in the mining zones were created or extended to accommodate larger aircraft. Army helicopters and contracted airfreight companies, including Swala Express, Bukavu Air Transport (BAT) and Kivu-Air, regularly transported coltan from Walikale, Punia, Lulingu, Lugushwa and other locations in DRC to Rwanda, where state-owned facilities were reportedly used to warehouse the material. Return flights brought in arms and equipment. Civilian flights from Punia to Goma and Bukavu, which the locals used to take their minerals to sell to the *comptoirs*, were reportedly stopped by the army.

In mining sites and areas taken over directly by the Rwandese military, civilians were forced into unpaid labour, and paid miners had to sell to army commanders at vastly preferential rates. Rwandese soldiers have been contracted as private security guards at mining concessions acquired by foreign speculators, in return for a slice of the profits. Some of the output from the military mines was traded through the *comptoirs*, but most was flown directly to Rwanda. Rwandese army officers and business people with connections to the Rwandese military or government were reportedly directors or shareholders in most of the *comptoirs* in Goma and Bukavu, including *Grands Lacs Metals* (Great Lakes Metals) and *Rwanda Metals*. They colluded with the Rwandese government's Congo Desk in the direct export of coltan to Rwanda and the international market. Until the withdrawal of the Rwandese forces in late 2002, direct army transfers reportedly continued on a significant scale, despite the fall in coltan prices. On 5 October 2002 for example, 36 tons of coltan cargo belonging to *Rwanda Metals* and transiting via Tanzania was impounded following a case filed by the DRC government saying that the mineral had been looted from the DRC. *Rwanda Metals'* officials refuted the accusation and insisted their coltan was mined in Rwanda. Even though the Tanzanian High Court nullified the case in early 2003, the origin of the coltan remains unclear and the quantity seized has not yet been returned to *Rwanda Metals* as requested by its lawyers.

³⁸ A Jesuit priest based in Bukavu and who is well connected to the coltan trade network.

RCD-Goma does not have the logistical capacity or military forces that enabled the Rwandese army to control the trade comprehensively in the mining zones. As the self-proclaimed political authority in large areas of eastern DRC, RCD-Goma has taxed the coltan trade and sold mining rights to which it has no apparent legal title. It has demanded mining licence fees, non-refundable deposits, various export taxes and a "war effort tax", which increased exponentially as the price of coltan soared. It took a controlling 75 per cent stake in the *Société minière des Grands Lacs* (SOMIGL), Great Lakes Mining Company, and awarded the company a monopoly on all coltan exports, which produced an immediate surge in revenues. The 112 tonnes of coltan exported in December 2000 earned tax of more than US\$1,112,000 and yet no revenue has been invested in social infrastructure such as health care or education facilities for the people.

Rwandese army links to the coltan trade

"The bulk of coltan exported from the eastern Democratic Republic of the Congo, as much as 60 to 70 per cent, has been mined under the direct surveillance of RPA mining détachés and evacuated by aircraft from airstrips near mining sites directly to Kigali or Cyangugu. No taxes are paid. Rwandan military aircraft, Victor Bout's aircraft and small airline companies are used in the evacuation of the coltan. RPA has maintained control over most of the coltan sites where rich deposits are found, where the percentage of tantalum is high, and where local airstrips are accessible. A variety of forced labour regimes are found at sites that have been managed by RPA mining détachés, some for coltan collection, some for transport, others for domestic services. Many accounts report the widespread use of prisoners imported from Rwanda who work as indentured labour." (Report of the UN Panel of Experts, 21 October 2002 (S/2002/1146), p. 15)

The monopoly was dissolved in April 2001 after the Rwandese army ignored it, the *comptoirs* withheld stocks and the price of tantalum fell. Letters from RCD-Goma officials about the loss of revenue caused by direct exports to Rwanda by their Rwandese army allies demonstrate the domination of the coltan trade by the Rwandese army and the level of its profits. The letters refer to monthly exports of 46 tonnes of coltan which, assuming standard tantalum content and based on average year-end prices for 2000 of US\$463 per kilo, would have been worth up to US\$21 million on the world market.¹⁹

RCD-Goma has also profited from the sale of coltan concessions whose legal title is owned by Banro Corp or the DRC government. In February 2001 an RCD-Goma committee managing the former SOMINKI concessions awarded a Swiss company, Medival Minerals Ltd., a contract to extract cassiterite in a number of concessions for 18 months. In eastern

¹⁹ In February 2001 a senior RCD-Goma official wrote to a number of *comptoirs* with agencies in Punia complaining that 46 tonnes of coltan were being directly exported from Punia every month, evading the SOMIGL monopoly and RCD-Goma's export duties. The consequent tax loss to RCD-Goma was calculated at US\$460,000 per month. An earlier letter between RCD-Goma officials, dated 23 December 2000, compares statistics for the quantity of coltan transferred from Punia to SOMIGL (7.7 tonnes) with the quantity exported by "the Allies" directly from Punia to Rwanda (43.3 tonnes) between January and November 2000.

DRC, coltan is frequently mis-described as cassiterite, in order to evade the higher export and import duties on tantalite. According to the contract, the committee would receive 20 per cent of the average sale price, and security would be provided "with the support of" RCD-Goma armed forces and "the Allies", a term usually meaning the Rwandese army.⁴⁰ In another case, 28 former SOMINKI concessions were sold in August 2001 to the new Congo Holding Development Company, whose shareholders reportedly include South African and Rwandese interests and a former RCD-Goma official.

The *mayi-mayi* and *interahamwe*, although opposed to RCD-Goma and the Rwandese presence in eastern DRC, have collaborated, at times, with the Rwandese army in the exploitation of mineral resources. They have colluded with and sold coltan on to the Rwandese army, for example in the Kahuzi-Biega national park in South-Kivu province, a UNESCO-classified World Heritage Site. In 2001 there were reportedly 16 coltan mines there, some controlled by the *mayi-mayi* and *interahamwe*, others by the Rwandese army. All the armed forces were reported to be using civilians, including children, as forced labour in the mines, drawn mainly from the surrounding villages of Ninja, Kajeje and Kalange and from shifting populations that live inside the park. A similar arrangement was reported to be operating in April 2001 in the Matanda, Kibabi and Mishanga areas of Masisi territory, North-Kivu, and in other parts of Masisi and Walikale territories.

By contrast, Congolese miners have earned very little from coltan, receiving only a proportion of the buying price by the time they have paid a percentage to dealers, transport companies, tax collectors, landowners and local Rwandese army, RCD-Goma or armed group commanders. Even when the price peaked, independent miners could expect to earn only small amounts of cash or goods in return for hours labouring in the dirt. In some areas, the Rwandese army effectively determined the price by ensuring, through coercion, that coltan miners sold only to them. More recently, the fall in prices has resulted in miners receiving as little as US\$1.50 a kilogram.

7.2 Coltan kills

The Rwandese army and RCD-Goma forces, and the armed political groups opposing them, have all been responsible for unlawful killings of civilians while fighting for control of areas rich in coltan deposits and other valuable resources. Attacks on villages and local populations have occurred particularly around Punia and Kindu in Maniema province, Shabunda in South-Kivu province, and Masisi and Walikale in North-Kivu province, where large stretches of territory have been depopulated and villages razed.

Individual civilians involved in the coltan trade have also been killed or badly wounded in attacks and armed robberies by Rwandese soldiers and RCD-Goma combatants. On 25 May 2001 Saasita Babaoni, aged 34, a Congolese employee in a coltan *comptoir* in

⁴⁰ "The Allies" is a standard euphemism for the Rwandese army in areas of the DRC controlled by Rwanda. The same expression is used by the RCD-ML, MLC and RCD-National to refer to the Ugandan armed forces or government.

Masisi town, was shot dead in his office by a Rwandese soldier who ordered everyone else outside before firing wildly. Bandu Lutyatso, 28, another employee, was seriously wounded. The soldier had threatened Saasita Babaoni the day before but the Rwandese military authorities had taken no action in a response to a complaint against him. Following the killing, the soldier was reportedly transferred to Rwanda. To Amnesty International's knowledge, the government of Rwanda has taken no steps to investigate the incident and bring the perpetrator to justice.

Killings in Kabale

In late April 2001, fighting between the Rwandese army and the *mayi-mayi* for control of mines near the village of Kabale forced its residents to flee into the forest. At about 07.00am on 3 May 2001, when some tried to return home, Rwandese soldiers opened fire on them. Kazanku Bihango, aged around 25, his wife and two children, and an unnamed woman carrying an infant on her back, were among those killed – the injured infant died two days later in the forest. Bindu Hamuli Makoye, who worked in a coltan mine, and "Luanda" Kambale were shot and wounded, but were spared after handing over coltan. Both bleeding profusely, they were left out of doors overnight until they had been identified to the Rwandese forces as having no connection with the *mayi-mayi*. Only then were they allowed to seek medical treatment.

RCD-Goma has on occasion acknowledged that its forces have been responsible for human rights abuses, but has said that individual soldiers acting without authority were responsible. However, the RCD-Goma leadership is not known to have taken any steps to prevent such abuses, such as the removal of anyone suspected of abuses from positions where they can continue to carry them out. In addition, there is compelling evidence of systematic



Bindu Hamuli Makoye © AI

and repeated abuses, over a long period of time, indicating that forces may be acting on the orders of or with the full knowledge of their commanders. For example, during a period of several months in 2000 and 2001, RCD-Goma units reportedly forced entry into scores of homes in Goma at night to steal items of value, often killing, wounding or ill-treating the occupants.

A number of attacks by RCD-Goma forces were directed at civilians involved in the coltan trade. No

action was taken to identify the assailants. On the night of 18 November 2000 **Edouard Kasereka Kahimba**, aged 31, a coltan buyer for the General Business Comptoir in Goma, was attacked in his home by armed men led by three RCD-Goma combatants. The attackers, who were reportedly in the pay of another *comptoir* in the city, told him to hand over his business records and any coltan held in the house, then shot and wounded him in his leg and beat his wife and younger brother. On 9 April 2001, RCD-Goma combatants attacked a coltan miner, **Pierre Hakizimana**, aged 36, at his home in Goma. He had just returned from his concession, and had sold some kilograms of coltan earlier in the day. The assailants shot and wounded him in the eye, then stole US\$3,000. His father was severely beaten with rifle butts. On 8 September 2001, early in the morning, unidentified men in uniform attacked a coltan trader, **Sengiyumva**, aged 41, at his home in the Katoyi quarter of Goma. He was beaten with sticks and shot three times in the leg. Money and a quantity of minerals were taken. On 14 October 2001, during the night, another coltan trader in the same neighbourhood, **Papy**, 26, was beaten and shot twice in the stomach, reportedly by RCD-Goma forces. He survived the attack but needed lengthy hospital treatment.

Mass killings in Punia

In October 2001 Rwandese and RCD-Goma forces reportedly carried out a series of killings in the Punia region of North-Kivu. A trader told Amnesty International that he had been stopped at a military checkpoint on the road from Punia to Bapwani and ordered to transport an RCD-Goma combatant on his motorbike to the village of Mulita. There, he was told he would be needed the next day and was placed overnight in a *cachot souterrain*, a narrow pit in the ground, about four metres deep and covered with wood planking. Six other occupants – five men, all aged in their 30s, and a woman, **Rose Okita Amakana**, about 20, from Fakiri – were taken out during the night by soldiers and the trader heard gunshots. The next morning he saw their bodies on the ground. They were apparently accused of collaborating with the *mayi-mayi*. Large parts of Mulita had been set on fire and a mission hospital looted.

As he transported a soldier carrying ammunition to Fakiri the next day, he saw the bodies of about a dozen people by the roadside at the village of Bongbenyama, which had been entirely destroyed, and more destruction and more than 20 bodies in Fakiri. Those killed included women, elderly men and children. When he later refused another journey to Fakiri, he was taken to RCD-Goma headquarters in Punia and placed in a pit. Later in the day an RCD-Goma combatant fired directly down at him, wounding him in the arm. He subsequently escaped while fetching water and hid in the forest for a week before making his way out of the area.

People involved in the coltan trade have also been victims of robberies by other armed political groups. On 5 May 2001, **Chibinda Habeshi**, a coltan trader, was reportedly killed by *mayi-mayi* near the village of Bitale, on the edge of the Kahuzi-Biega National Park in South-Kivu, after he refused to give up a briefcase containing several thousand dollars.

Robbery with violence by RCD-Goma forces

In the early hours of 29 December 2000, RCD-Goma combatants, reportedly led by an officer, burst into a compound in the Karisimbi commune of Goma. They shouted that they were looking for *interahamwe* and fired at random through doors and windows. They were reportedly seeking a coltan trader named "Safro" Sanvura, who was away at the time, and stole coltan from his house with a reported value of US\$7,000. Two youths who were staying there were beaten and threatened. The combatants stole money and valuables from other occupants of the compound and shot dead Elias Bahati, aged 28, a radio repairer from Masisi.

Although the RCD-Goma mayor and senior security officials visited the compound following a formal complaint, there appears to have been no genuine attempt to identify the culprits, even though one of them had dropped his identity card. Issued in May 2000, it identifies him as an *askari* (private) in the *Bataillon de Garde de Protection*, Protection Guard Battalion, in the *Armée Nationale Congolaise* (ANC), Congolese National Army, RCD-Goma's armed wing.

7.3 Forced labour and displacement

The various parties to the conflict in eastern DRC have made wide use of forced labour, including child labour, in their exploitation of coltan.

In April 2001 children were reportedly forced to work as miners by Rwandese soldiers at coltan mining sites at Mumba and Rugeshe in Lwundje locality, Osso collectivity, Masisi territory. On 28 August 2001 a Congolese human rights activist was forced to work in a coltan mine in the Masisi territory of North-Kivu province after he visited the mine to investigate reports of the use of forced labour. Rwandese soldiers made him and a number of other civilians work in the mine for several hours. He told Amnesty International that up to 200 forced labourers, most from the surrounding villages of Rubaya, Kibabi, Mumba and Katoy, were prodded with rifle butts, knives or bayonets to make them work harder. They included a large number of children. Alongside him as he worked was a girl aged about 12.

At Numbi in South-Kivu, Rwandese forces made local people carry foodstuffs to the camp where prisoners from Rwandese prisons lived. Large numbers of such prisoners worked in the coltan mines in eastern DRC to earn their freedom or a reduction in sentence, although their number reportedly declined after 2001. The majority of Rwanda's prison population are Hutu prisoners accused of participation in the 1994 genocide. Some of those detainees have no case files and most of the others have incomplete case files in which there has been no complete judicial investigation of the allegations against them.

Local populations have been forcibly displaced to make way for coltan mines. In the second half of 2001, for example, local people were forced off a plantation in Kabati, Masisi territory that was taken over by RCD-Goma or Rwandese army forces. Between April and October 2001 thousands of people were forcibly displaced from their lands surrounding Mahanga, Osso collectivity, Masisi territory, when combined RCD-Goma and Rwandese army forces took control of mining sites in the area. Homes were set on fire and the

inhabitants chased into the forest. Several people died after hundreds of the displaced were left without aid, food or adequate sanitation at the school in Mahanga where they had gathered.

7.4 The destructive social impact

For the civilian population in eastern DRC, the exploitation of coltan by armed political groups, foreign armies and their business partners, has had a devastating impact. Large stretches of agricultural land have been turned over to coltan prospecting, contributing to a rise in food prices and greater food insecurity in the region. Rates of malnutrition have risen, through a combination of reduced agricultural output, mass population displacement and the disruption of humanitarian aid. Hundreds of cases of malnutrition affecting both children and adults have been diagnosed at the Heri Kwetu nutritional centre of Shabunda. According to the person in charge of the centre, many persons suffering from malnutrition do not come forward to benefit from food distribution and medical care. Hundreds other cases are believed to go unreported in Shabunda and other coltan mining regions. A Bukavu-based human rights organization *Héritiers de la Justice* (Heirs of Justice) also reported that the prevalence of malnutrition among the population had considerably increased.

Coltan mining is dangerous. The hurried and anarchic construction of coltan mines has led to frequent collapses in which large numbers of men, women and children have died. In one incident, in April 2001, 50 or more people, including a six-year-old child, were reportedly killed when a hillside collapsed into a coltan mine controlled by the Rwandese army at Mumba, in Masisi territory, North-Kivu. The RCD-Goma Governor of North-Kivu insisted that only four miners had died. To Amnesty International's knowledge, none of the victims or their families have been compensated. Conditions in the mine were not improved and in July 2001 the Rwandese army reportedly forced the miners to increase production by working night and day.

Sexual exploitation

Levels of sexual exploitation, including of children, are high in the areas near coltan mines. In late 2001 for example, in Bukavu and other towns in South-Kivu, girls as young as 12 or 13, abandoned by their families or displaced by the conflict, were provided with accommodation and food in return for earning money as prostitutes at the coltan mines. Impoverished families push children into prostitution or give their daughters to the "coltan men", to take with them into the mines, in exchange for money or items for home consumption sale. Most of these girls are aware of the risks, but lack the means to protect themselves. As a result, many were reported to have contracted HIV/AIDS and/or become pregnant, entrenching a cycle of poverty and neglect.

7.5 International responsibilities

In its reports to date, the UN Panel of Experts has documented various international connections with the exploitation of coltan in eastern DRC. The involvement of several European companies or individuals and one US Company in the coltan trade has also been detailed by the Belgium-based NGO, International Peace Information Service (IPIS).⁴¹ Many of the companies named in the UN Panel reports, particularly in the final October 2002 report, have denied the specific allegations made against them.

Clearly, companies active in eastern DRC have little choice but to provide resources in the form of taxation, or provide services, or otherwise contribute to the warring factions' revenues. Failing this, they cannot operate in the area. Consistent testimonies show that such contributions are the major, if not the sole, source of finance with which armed groups acquire weapons to administer the region they control. These weapons are used to commit human rights abuses and violations against civilians in the region. The link between companies and the war is clear, and the companies are indirectly contributing to the cycle of violence and the consequent human rights and humanitarian catastrophe in eastern DRC.

The international traders and the tantalum-processing companies worldwide that purchased coltan directly from the Rwandese army and RCD-Goma sources or their proxies in eastern DRC or Rwanda are complicit in the human rights abuses by these forces in the region. Their business deals have paid for the "war within a war" in eastern DRC that has claimed hundreds of thousands of civilian lives and subjected millions of others to an associated humanitarian catastrophe.

The current absence of an international certification scheme or of a system of chemical analysis makes it impossible to determine the source of tantalum ore once it leaves the processing plants. Yet the host of capacitor manufacturers and companies in the electronics, aviation, automobile and other industries that use tantalum in their products must not allow this to continue. It is likely that these companies have had no direct knowledge of where or how their tantalum was mined. But statistical evidence indicates that during the coltan boom of 1999 to 2000 (see the SOMIGL and other coltan export statistics given earlier in this report) a significant part of their supplies originated in the conflict zones of the DRC. They and their customers should use their considerable influence to bring an end to the abuses of civil, political, economic and social rights associated with the coltan trade in eastern DRC, and to prevent their recurrence. As the Preamble to the Universal Declaration of Human Rights makes explicit, *"every individual and every organ of society...shall strive...to promote respect for these rights and freedoms and to secure their universal and effective recognition and observance..."*

⁴¹ *Supporting the war economy in the DRC: European companies and the coltan trade*, International Peace Information Service, January 2002.

8. Robbery, Extortion and Ill-treatment

Although the major focus of the combatants has been towards exploitation of precious mineral resources, no commercial activity is immune to predation by the various armed forces in eastern DRC. Traders are regularly subjected to extortionate demands or are victims of killings or other abuses motivated by acquisition of wealth, often by robbery at gunpoint. In July 2001, RCD-Goma's 61st Battalion based at Kamituga and Mungombe in Mwenga territory, South-Kivu province, was reportedly using two *cachots* (cells) to detain traders or miners of coltan and other precious minerals, who were often also tortured into handing over money or minerals. In most cases, no action has been taken to bring those suspected to be responsible for abuses to justice.

Fishermen detained and beaten

Fishermen on Lake Tanganyika and Lake Kivu are frequent targets for armed attack, partly because their work takes them on waters regularly crossed by armed political groups, but also because they represent a ready source of money and valuable equipment. Fishermen have had their equipment seized by RCD-Goma forces and have had to pay up to US\$200 to get it back. In September 2001, two fishermen from Lulinda, Manuel and Luebo Mayele, were arrested on suspicion of links with armed political groups. Held for several days in a *cachot* (cell) in Lusenda, Fizi territory, South-Kivu, they were said to have been severely beaten before they paid US\$20 to secure their release. Another fisherman, Bilai Sombo, was arrested on the basis of similar allegations on 6 November 2001 and held in the Kimanga zone police detention centre in Uvira for several weeks before being released without charge. He was reportedly beaten in detention and held with 14 other detainees in a poorly ventilated cell measuring only 3m x 4m, without adequate sanitation or light.

On 25 August 2001 two diamond traders from Lodja, Kasai Oriental province, Albert Lukombre Kasonga, aged 41, and Lofolo "Machine" Mbutu, aged 40, were arrested in Goma after arriving in the town with a diamond of reputedly exceptional quality in their possession. They were detained at a security police detention centre in Goma. They claimed to have been interrogated by RCD-Goma military commanders and politicians, including RCD-Goma's president Adolphe Onusumba. "They had it in their heads that this supposed diamond was worth US\$180,000," said Lofolo Mbutu. "They all wanted to know where it was." Lofolo Mbutu, who denied that he ever possessed the diamond, said that for three days he was blindfolded, with his arms bound behind him, and severely beaten. The two men were released on 12 November 2001 after the intervention of visiting Amnesty International delegates. Lofolo Mbutu was rearrested in December 2001 on charges of fraud and subsequently transferred from prison custody to hospital to receive treatment for injuries sustained in detention. On 18 December his wife publicly challenged the RCD-Goma leadership about the case, and the same night RCD-Goma officials visited the hospital and demanded his return to prison custody. His lawyer and a doctor insisted that he was too ill, and he was not rearrested after he left hospital in January 2002.

In the MLC-controlled area north of Kisangani, artisanal diamond miners are reportedly required to perform occasional obligatory work for local MLC administrators and commanders. On 29 September 2001, an MLC soldier reportedly stabbed a miner, Eric Bongwa, aged 22, in the head for refusing to work at Sali-Sama mine near Banalia.

Farmers robbed of their crop

On 17 January 2002, the inhabitants of the villages of Ake I and II, Iyawa and Swima, in Tanganyika "collectivité", "territoire" of Fizi in South-Kivu were forbidden by their local chief (*chef de groupement*) to enter their fields for one month. Burundian government soldiers based at Ake, in collaboration with local administrators, harvested the palm oil, a relatively valuable commodity, and reportedly sold it in Uvira and over the border in Burundi. Local people were pressed into working for the soldiers, who were reported to have seriously wounded one villager, M'Mabi Birire, with a machete for refusing to climb a palm tree, and to have beaten another, Mshenje Ishibilebwa.

Thousands of civilians have been forcibly displaced from their lands. On 27 March 2001 the RCD-Goma authorities awarded exclusive 25-year rights to a Kenya-based company with contacts in Kigali to fell timber on a 133,344-hectare site in the locality of Pinga, straddling the Walikale and Masisi territories of North-Kivu province. Under the terms of the contract, the Kenya-based company would pay US\$35,000 for the right to extract 43,750 m³ of wood, followed by an annual tax of US\$113,344 (US\$1 per hectare). The contract specified that the company was to ensure that no cultivation took place on the site, effectively depriving local populations of their main source of subsistence. In late September 2001, several hundred Rwandese soldiers reportedly cordoned off the villages of Peti, Bukonde and Katanga, forcing their inhabitants out. On 20 October Samuel Byaniro, a 32-year-old nurse from Walikale, had to flee his religious ministry in Pinga and walked to Goma, a journey that took him a week. He reported seeing sickness and extreme malnutrition among those fleeing the areas, who were repeatedly questioned about armed insurgents by Rwandese soldiers. Two displaced men, Simwerayi Bakulu and Barati Bakulu, were detained by Rwandese soldiers on 24 October 2001 at Kalimbe, south of Pinga, and questioned about their movements. They estimated that, at the time they fled the region, many thousands of the displaced had sought refuge in Pinga and that many hundreds had died from malnutrition and disease.

Law enforcement officials and security force members frequently supplement their meagre income – indeed they are frequently unpaid altogether – by arbitrary detentions and the extortion of fines, or by obliging the detainee's relatives to pay in order to visit or supply food to the detainee. In August and September 2001 the RCD-Goma authorities, assisted by Rwandese soldiers, forcibly recruited into their armed forces about 120 men and 51 children aged between 15 and 17 in Uvira territory. The children included a group of secondary school students. The detainees were held in prisons, police stations and army camps before being sent for military training to camps near Bukavu and Goma. RCD-Goma officials, including the Administrator of the Territory and a local RPA commander, reportedly agreed to release some of them in return for payment. However, most of the children – including Mbirise Mpira, Bela Kasongo, Ngopa Mabruki and Kiza Rudema, all aged 15 – did not have the money or goods to purchase their freedom.

In August 2001 four boys aged between 15 and 17 – Ibochwa Daudi, Mauridi Tulimani, Ngoma Tulamani and Floco Bitomwa – were arrested by RCD-Goma soldiers in Lusenda, Fizi territory, South-Kivu. They were accused of collaborating with the *mayi-mayi*, although the real reason appears to have been to hold them to ransom. After a number of days in detention, their parents paid a total of US\$120 to secure their release. On 2 November 2001, officials of the RCD-Goma *Auditorat militaire*, Military Prosecutor's Office, arrested a man named Kasongo Kitoga in Uvira, in place of his adult son who was being pursued by the authorities for debt. After the intervention of a local human rights organization, Kasongo Kitoga was released, but not before having paid US\$10 to RCD-Goma officials and signing over a parcel of land as security on his son's debt.

9. Attacks on human rights defenders

RCD-Goma and RCD-ML forces have harassed and threatened human rights organizations and individual human rights defenders for denouncing human rights abuses, for advocating demilitarization and the compensation of victims of the fighting, and for informing the outside world about the human rights in eastern DRC as a whole. Human rights organizations that have been especially targeted include *Groupe Lotus*, *Justice et Libération*, *Les Amis de Nelson Mandela* (The Friends of Nelson Mandela), *Groupe Lufalanga*, *Justice Plus* and *Paix sur Terre* (Peace on Earth).

The *Union des victimes de guerre de Kisangani* (UVGK), Union of Kisangani War Victims, established to obtain justice and compensation for victims of the June 2000 conflict, condemned RCD-Goma officials for selling roofing materials intended for those made homeless by the fighting. In April 2001 RCD-Goma officials suspended the group's activities, accusing it of carrying out "actions contrary to the ideals of the RCD". In early 2001 another group, *Synergie pour la paix* (SYPA), Synergy for Peace, was suspended for months after it organized a television broadcast that included film footage of the June 2000 fighting.

Church leader flogged

Claude Olenga Sumaili, President of the *Commission Catholique Justice et Paix*, (Catholic Justice and Peace Commission), was detained and tortured on 9 August 2001. Taken to the RCD-Goma *Département de la Sécurité et Renseignements* (DSR), Security and Intelligence Department, he was accused of supporting the demilitarization of Kisangani and of passing information to the international community. He was severely whipped across his buttocks and thighs before being released late at night the same day. Adolphe Onusumba, President of RCD-Goma, later met the victim and reportedly attributed the incident to the "over-zealousness" of a DSR officer. No action was taken against the officer.

Norbert Kisanga, a 47-year-old journalist for *Les Coulisses* newspaper, was arrested in Kisangani on 29 October 2001, beaten and detained for six days by the RCD-Goma's DSR. He was accused of writing an article alleging that the RCD-Goma Governor of Kisangani had authorized the seizure and resale as "war booty" of counterfeit textiles confiscated by RCD-Goma. In his article, Ugandan and Rwandese armed forces officers are alleged to have been

involved in the importation through Uganda of faked goods which undercut the trade of a local textiles company and major employer.

On 3 November 2001, Matenga, a district leader (*chef de quartier*), was arrested by RCD-Goma police in Uvira, South-Kivu province. He was reportedly whipped with electrical flex, leaving him with a fractured arm and injuries across his lower back and hands. He had denounced the arbitrary detention of residents in Kilibula district of Uvira and the extortion of money from them by the RCD-Goma police. He was subsequently released.

In the Ituri region, human rights defenders have also been harassed. Among them was Me Honoré Musoko, a lawyer and leading member of *Justice Plus*, a human rights organization in Bunia, who was arrested by RCD-ML forces on 3 September 2002 in the town of Aru, 260 kilometres north of Bunia. He had just returned from Uganda and was detained for several days at the "Mont Hawa" camp of the RCD-ML armed forces, accused of collaborating with RCD-ML opponents. The reason for his arrest appeared to be an interview he had given to the *Voice of America* radio station about the political and human rights situation in the Ituri region.

10. International investigations

Several international NGOs have published research on the economic dimension of the war in the DRC and campaigned on behalf of the Congolese victims.⁴² In June 2000, responding to growing international concern about the exploitation of the DRC's resources by the warring parties, the UN Security Council established a Panel of Experts to investigate the exploitation of the DRC's natural resources by foreign countries involved in the conflict.⁴³ The UN Security Council recommended that each government implicated by the report should conduct independent inquiries into the allegations. Key countries named in the reports include Rwanda, Uganda, and Belgium among others. The Panel revealed in its reports that the RPA presence in DRC is mainly motivated by resources exploitation sustained through a highly well organised military commercialism.

Rwanda has constantly denied all allegations linking it to the looting of the DRC's natural resources and other forms of wealth. Rwanda told the UN Security Council that the third report of the Panel is "biased, subjective and unprofessional" and that the report "adds nothing new to earlier reports". Rwanda also opposed the creation of a monitoring body recommended by the Panel. Rwanda has never established a national, independent commission of inquiry to look into the allegations, ignoring the recommendations from the UN Security Council. The UN Security Council has also failed to take any action regarding the non-compliance by Rwanda with the council's recommendations. Investigations have only been initiated in Uganda and Belgium.

⁴² Pole Institute, Héritiers de la Justice, Bureau d'Etude et de Développement, Amnesty International, Human Rights Watch, International Crisis Group, International Peace Information Service, Movements for Justice and Development Network, Oxfam, Partnership Africa Canada and other national and regional associations.

⁴³ By a request from the Security Council to the UN Secretary-General of 2 June 2000 (SPRST/2000/20).

In Belgium, the Senate set up a Parliamentary Commission of Inquiry on the Great Lakes⁴⁴ region in June 2001 to look into the legal and illegal trade of natural resources from the DRC, with particular attention to Belgian involvement in this trade. The Commission has been hearing national and international observers and concerned parties since November 2001. In a public statement issued on 14 February 2003, *Broederlijk Delen* and *11.11.11*, two Belgian NGOs actively involved in the DRC, stated their concern and disappointment about the outcome of the proceedings and the Commission's work: "The hope to see Belgium play a major and leading role in the campaign against one of the key issues fuelling the conflict in DRC seems to be vanishing [...]" The final report is expected to be released soon.

10.1 The UN Panel of Experts

In its reports, the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo has named senior Ugandan and Rwandese armed forces officers and senior government officials and their families, who are allegedly responsible for illegal exploitation of the DRC's natural resources and other abuses.⁴⁵ It has proposed measures to be taken against the states, individuals and companies most implicated in the exploitation, including travel bans, financial penalties and reductions in aid disbursements.⁴⁶

Summary of Accusations

The main accusations against Ugandan officials are made in the panel's first report and confirmed in the second and the third. These accusations were summarised by the Ministry of Foreign Affairs, when making public the establishment of the Porter commission (see below) in May 2001, as follows: "[being] facilitators or passive accomplices, corrupting economic data, monopolies and price-fixing, allegations against President Museveni's family, systemic exploitation, mass-scale looting, allegations against Lt. Kainerugaba Muhoozi, allegations against General Salim Saleh."

In its first report in April 2001, the UN Panel of Experts alleged that the Ugandan government, senior Ugandan army officers and other Ugandan individuals had been responsible for "illegal and mass-scale exploitation" of the DRC's wealth and that members of Ugandan President Yoweri Museveni's family were complicit or involved.⁴⁷ There was intense criticism by Rwanda and Uganda of the first report. The second report, in October 2001, included criticism of the DRC government for illegal exploitation, saying that some DRC government ministers "actively interact" with companies exploiting resources in rebel-

⁴⁴ From November 2001 to January 2003 the commission conducted 71 hearings (*auditions*). Half of the hearings were held behind closed doors (*à huis clos*). For more information on the Commission's work please refer to the Senate website: www.senate.be

⁴⁵ For full and detailed information on individuals accused or named in connection with economic exploitation, refer to Annex II of the third UN Panel report, 21 October 2002 (S/2002/1146).

⁴⁶ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 21 October 2002 (S/2002/1146).

⁴⁷ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 16 April 2001 (S/2001/357), para. 29.

held areas.⁴⁸ The Panel's Chair said, "There may be differences in style and forms of exploitation but in the end, it was illegal. Illicit trafficking occurred in such precious materials as coltan, diamonds, gold, timber, copper, coffee and others." The third report, released on 21 October 2002, found that the exploitation by foreign forces continues despite the withdrawal of troops. It found corroboration of allegations against 54 politicians, businessmen and army commanders, many of them from Uganda and Rwanda.

On 24 January 2003, Resolution 1457 of the UN Security Council extended the panel's mandate for a period of 6 months.⁴⁹

10.2 The Porter Commission inquiry in Uganda

In May 2001, the Ugandan government established a judicial commission of inquiry headed by retired judge, Justice David Porter, and known as the Porter Commission, to investigate the allegations by the UN Panel of Experts against Uganda.⁵⁰ Its terms of reference included inquiry into alleged illegal exploitation of natural resources and matters such as tax fraud. President Museveni had dismissed the findings of the UN Panel of Experts as biased and its members as corrupt.⁵¹

Meanwhile, in November 2001, the Ministry of Foreign Affairs published an interim report that exonerated the government, army, members of President Museveni's family and others of all the UN Panel of Experts' charges. The report disagreed with the UN Panel of Experts' definition of "illegality" as it related to Uganda's involvement in the DRC.⁵² However, the Porter Commission did not commit itself as to whether Uganda lawfully entered the DRC, on the grounds that proceedings between the two countries were pending before the International Court of Justice. Justice Porter was reported as saying that the UN Panel of Experts' conclusions were "misconceived and unwarranted".⁵³ A further statement from the Ministry of Foreign Affairs expressed the Ugandan government's concern that the Panel had accused "senior military officers of continuing to have commercial networks in place in the DRC".⁵⁴

⁴⁸ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, October 2001.

⁴⁹ The Security Council asked the Panel to recommend measures that could be taken to ensure that the DRC's resources are legally extracted, on a fair commercial basis to benefit of the Congolese people. The Panel was also asked to review and analyze previous information in order to verify, reinforce and update its findings, and/or clear parties named in its previous reports, with a view to adjusting the lists of those involved in illegal activities. The Panel was also to include information about steps taken by governments in response to its previous recommendations.

⁵⁰ The Commission of Inquiry (Allegations into Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo), 2001.

⁵¹ See "UN Congo expert corrupt - Museveni", *The Monitor*, Kampala, 11 May 2001.

⁵² Press release by the Ministry of Foreign Affairs, New Vision, Kampala, 9 November 2001.

⁵³ *The Monitor*, Kampala, 9 November 2001.

⁵⁴ *The Monitor*, Kampala, 9 November 2001.

However, according to the UN Panel of Experts, the Porter Commission has acknowledged that one of the accused army commanders, General James Kazini, lied to it on a number of occasions. He subsequently admitted to the Commission that he had written to his field commanders and to the leaders of armed political groups in eastern DRC, instructing them to allow only the mining and trade of diamonds and coltan that he had approved. The other accused army officers denied all the UN Panel of Experts' accusations against them.

The Porter Commission had its mandate extended several times and was due to report in November 2002. On 31 January 2003, after a long delay, the final report containing the Commission's findings was transmitted to the Minister of International Affairs for President Museveni's consideration and approval. On 31 January the State Minister for Foreign Affairs in charge of International Cooperation, Major Tom Butime, promised that the whole report would be made public "as soon as possible".⁵⁵ A cabinet meeting chaired by President Museveni met to discuss the report.

Porter Commission concedes that army commander lied under oath

"When the [Porter] Commission recalled Major-General James Kazini [former commander of Ugandan forces in the DRC] in May 2002 to question him on the basis of documents supplied by the [UN] Panel, the UPDF military commander finally admitted that the signatures on the documents were indeed his and accepted that the documents related to his actions as the former commander of UPDF operations in the Democratic Republic of the Congo. Justice Porter commented during the questioning that General Kazini, who had consistently denied under oath any involvement in such illicit economic exploits, had perjured himself repeatedly during both that hearing and his original testimony before the Commission the previous year. The head of the Commission also conceded, according to transcripts of the hearing, that the UN Panel's 'allegations' about General Kazini's involvement in exploitation activities, including those related to the diamond trade and tax revenues, 'were actually true'." (Report of the UN Panel of Experts, 21 October 2002 (S/2002/1146), p 25.)

Although Tom Butime promised "to be transparent about the issue", the report had not been made public by the start of April 2003. Moreover, it remains unclear what action will be taken against those found to have lied to the Porter Commission or to have been involved in illegal exploitation in the DRC and associated human rights abuses. The Commission has not thoroughly carried out investigations in the DRC and its terms of reference fall short of including human rights abuses committed in the process of economic exploitation. Senior army commanders named in the UN Panel of Experts report have remained in post or have been promoted: General James Kazini has been appointed Acting UPDF Chief of Staff; Colonel Noble Mayombo remains head of the Chieftancy of Military Intelligence (CMI); Colonel Kahinda Otafire is the current Minister in charge of Regional Cooperation; Reserve General Salim Saleh remains a member of parliament representing the army.

⁵⁵ *The New Vision*, Kampala, 14 February 2003.

No investigation is known to have been carried out against any officers with a view to disciplinary or criminal proceedings. The UN Panel of Experts, in its third report, quoted Justice Porter explaining that *"any recommendation by the Commission to refer an individual for criminal prosecution as the result of its enquiries must first be approved by the Minister for Foreign Affairs and President Museveni. A criminal investigation would then be necessary before the authorities could determine if grounds for prosecution existed."* The Panel also understood that, *"in spite of the Commission's extensive investigative powers, its terms of reference restrict the scope of its enquiries into the activities of military personnel. It is not empowered to obtain military records and documents from the Defence Ministry. Nor can it conduct audits of individual officers' finances."*⁵⁶

Fighting impunity should be at the heart of such a judicial process. It is essential that crimes, particularly violations of international human rights and humanitarian law, committed in the DRC are thoroughly and impartially investigated and that the Porter Commission does not prove to be merely a public relations operation to appease the international community and to allow an escape route for offenders. For the sake of the Congolese victims awaiting justice and in order to maintain its credibility, the government of Uganda must immediately make public the Porter Commission report. It must take every necessary step to fully implement its recommendations, facilitate and support any further work of the Commission and bring to justice those suspected to be responsible for human rights violations.

11. The legal framework

Eastern DRC is the site of an international armed conflict and several internal conflicts. International human rights standards such as the International Covenant on Civil and Political Rights, to which Rwanda, Uganda and Burundi are state parties, have been consistently violated during the conflict. These standards provide for the right to life and the right to be free from torture. These are non-derogable rights which must always be protected – no exceptional circumstances whatsoever, whether a state of war or state of emergency, may be invoked by the government as a justification for violating these rights. These human rights standards apply to governments in wartime as well as in peacetime. Similarly, the African Charter on Human and People's Rights, to which the three countries are also state parties, also provides for these rights as well as economic, social and cultural rights, and does not allow states to derogate from their treaty obligations even during states of emergency.

Also, the four Geneva Conventions of 1949, to which these countries are parties, establish minimum human standards for internal armed conflict in Article 3, common to all of them and applicable to all governments and opposition groups. Common Article 3 of the four Geneva Conventions defines the people to whom its protection is extended as: *"Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause..."*

⁵⁶ Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, 21 October 2002 (S/2002/1146).

Common Article 3 also requires that "*in all circumstances*" such people shall be "*treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria*". The article prohibits certain acts "*at any time and in any place whatsoever with respect to the above-mentioned persons including: a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; b) taking of hostages; c) outrages upon personal dignity, in particular humiliating and degrading treatment; d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples*". Amnesty International opposes the carrying out of executions under any circumstances, by governments or opposition groups, in line with its total opposition to the death penalty in any of its forms.

The official Commentary of the International Committee of the Red Cross (ICRC) on Common Article 3 refers to criteria by which to distinguish "*a genuine armed conflict*", including the party in revolt's degree of organization and its control of the population. But it also says that these criteria need not be met for Common Article 3 to apply. Therefore the minimum standards of humanitarian conduct reflected in Common 3 should be respected in all circumstances, by government forces and opposition forces, no matter what the level of the conflict or armed encounters. However, Amnesty International holds all the combatants to the highest standards of international humanitarian law regarding the protection of civilians and applies the specific rules on the conduct of hostilities (codified in Protocol I Additional to the Four Geneva Conventions) in all situations of armed conflict.

The Additional Protocol II to the Geneva Conventions applies to armed conflicts within the territory of a High Contracting Party: "*...between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this protocol*". Murder, hostage-taking and torture are prohibited also under Article 4 of Additional Protocol II to the Geneva Conventions. In its official Commentary on Common Article 3, the ICRC makes it clear that humanitarian law applies even if one or more parties fails to respect its rules. The Commentary states that each party is required to apply Article 3 "*by the mere fact of that Party's existence and of the existence of an armed conflict...* The obligation is absolute for each of the Parties, and independent of the obligation on the other Party. The reciprocity clause has been omitted intentionally".

The Fourth Geneva Convention relates to the protection of the civilian population in time of war. Article 146 of the Convention places an obligation on the High Contracting Parties to enact effective penal sanctions for persons who have committed, or ordered to be committed, "*grave breaches*" of the Convention. Article 147 defines "*grave breaches*" as "*wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, wilfully depriving a protected person of the rights of fair and regular trial, taking of hostages and extensive destruction and appropriation of property, not justified by military*

necessity and carried out unlawfully and wantonly". In addition, Article 146 requires each High Contracting Party "to search for persons alleged to have committed or to have ordered to be committed, such grave breaches, and [it] shall bring such persons, regardless of their nationality, before its own courts". If it does not do so, it must extradite such suspects to any other High Contracting Party on the request if that Party has sufficient evidence to commence a prosecution.

Article 51 of the Fourth Geneva Convention which all combatants are required to respect, prohibits using civilians as forced labour except on certain essential tasks such as "work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied territory". The use of forced civilian labourers aged under 18 is forbidden in all circumstances. According to this provision, protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. Also, such persons may not be compelled to employ forcible means to ensure the security of the installations where they are performing compulsory labour. The Article further provides that "every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article".

In addition, the ILO Forced Labour Convention 29 aims at suppressing the use of forced labour in all its forms within the shortest possible period. According to Article 2(1) "forced or compulsory" labour is "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". Exploitative child labour practices are also specifically addressed in the ILO Worst Forms of Child Labour Convention 1999, (No. 182). The Convention applies to all persons under the age of 18 and calls for "immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency".⁵⁷

In many of the situations described in this report, Rwanda, Uganda and Burundi have clearly failed to implement the provisions of ILO Conventions, especially Convention (182) on the worst forms of child labour and Convention (29) on forced labour, which they have ratified.

Rwanda, Uganda and Burundi are also parties to the International Covenant on Economic, Social and Cultural Rights, which guarantees such rights as the right to food, education, health and water. The committee on Economic, Social and Cultural Rights, the body responsible for monitoring state parties' compliance with the Covenant has held these

⁵⁷ For more details on AI's concerns on the issue see *Fundamental Rights At Work - Amnesty International's Concerns to the International Labour Conference (4-20 June 2002, Geneva)*, (AI Index: IOR 42/001/2002), published 1 May 2002.

rights to be non-derogable. State parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enumerated in the Covenant. As the Committee observes, without such a core obligation, the Covenant would be largely deprived of its *raison d'être*. The Committee has stated that core obligations are non-derogable; and that they continue to exist in situations of conflict, emergency and natural disaster.

RCD-Goma, RCD-ML, RCD-National, the MLC and the UPC are armed political groups who are parties to the conflict. Their level of political and administrative organisation allows them to exercise a sufficient degree of control over their respective spheres of influence. They name cabinets that administer the territories they control, carry out political and economic activities, and levy and collect taxes and other contributions. In over four years, they have raised hundreds of millions of US\$ dollars in income from the territories under their control but have failed to invest any substantial proportion of this income in the welfare of the people. The above-named armed political groups have the responsibility of acting within the established framework of international human rights and humanitarian law and can be expected to use official revenues for the progressive realization of the population's economic and social rights.

12. Conclusion

The people of eastern DRC have suffered, and continue to suffer, killings and torture at the hands of foreign forces and their allies while those forces continue to exploit the country's natural resources. Thousands of civilians throughout eastern DRC are starving and remain inaccessible to humanitarian assistance as a result of conflict, systematic repression and plunder. In large parts of eastern DRC, armed political groups and other insurgent armed groups' activities are often extortionist in nature, and the authorities are using the revenue to maintain the military conflict.

The governments of Rwanda and Uganda and the armed political groups must all take immediate steps to end the human rights abuses committed by their forces. They are duty-bound to ensure the protection of civilians taking no active part in the conflict. Armed political groups have some of the same obligations under international humanitarian law. All parties to the conflict should comply with the terms of the Lusaka Ceasefire Agreement, reaffirmed in the Luanda and Pretoria agreements between the DRC government and the Ugandan and Rwandese governments respectively, which calls on all parties, *inter alia*, to protect human rights and to cease all acts of violence against civilian populations, including summary executions, torture, harassment, detention, executions on the basis of ethnic identity, incitement to racial hatred and sexual violence.

There is also an urgent need for corporate social responsibility and legal accountability to be upheld by all companies doing business and, moreover, making profits. *"Companies operate in a grey zone at the international level where rules are unclear and control is difficult. Arguably, they can do what they want and get away with it; or they can*

choose not to do what they ought to do because they have no clear legal obligation".⁵⁸ Companies active in the DRC must take steps to make sure their operations are transparent and that their conduct does not violate the human rights of their employees or of communities in which they operate. Their trading practices must be transparent and fair, and their contributions to governments or armed groups in control of the territory in which they operate must not facilitate the flow of resources or logistical, financial or military support which can enable armed groups to commit human rights abuses. Companies should not only safeguard the interests of employees, business partners and suppliers, but should seek to safeguard also the interests of communities in which they operate.

The tantalum industry, for example, with the support of sectors dependent on tantalum such as the electronics industry, needs to adopt measures which make the trade more accountable and which protects the human rights of miners and other civilians whose livelihood depends on the coltan trade. Many industry bodies and individual companies have already come under pressure.⁵⁹ Some companies have issued statements rejecting the UN Panel of Experts' findings linking them with illegal exploitation in the DRC.

Statements of goodwill are an important step by companies, but in order to address the impact that their business can have on the rights and well being of ordinary people, legal mechanisms of accountability are needed beyond commitments to voluntary approaches.⁶⁰

In conclusion, only a very strong, genuine and unequivocal political will on the part of the UN Security Council and concerted international action using a combination of measures, including approaches of corporate social responsibility, will succeed in bringing an end to the human rights and humanitarian crisis in eastern DRC. And it is only by combating impunity and demanding accountability that the international community will deliver justice to the Congolese people.

⁵⁸ "Taking stock: Corporate social responsibility and human rights" (AI Index: IOR 50/003/2003). Irene Khan, Secretary-General, Amnesty International, Statement delivered at "Public Eye On Davos" 24 January 2003.

⁵⁹ International pressure has mounted as a result of the UN Panel of Experts' reports and public campaigns launched, among others, by a coalition of Belgian NGOs entitled "No blood on my mobile!" ("Pas de sang sur mon Gsm!") and by the Diane Fossey Gorilla Fund, which drew particular attention to the destruction of wildlife and habitats in eastern DRC.

⁶⁰ ⁶⁰ "Taking stock: Corporate social responsibility and human rights" (AI Index: IOR 50/003/2003), Irene Khan, Secretary-General, Amnesty International, Statement delivered at "Public Eye On Davos" 24 January 2003.

13. Recommendations

13.1 Recommendations to the governments of Rwanda, Uganda and Burundi

End human rights violations by their armed forces in eastern DRC by:

- Complying with the terms of the Lusaka Ceasefire Agreement, reaffirmed in the Luanda and Pretoria agreements between the DRC government and the Ugandan and Rwandese governments respectively, which calls on all parties, *inter alia*, to protect human rights and to cease of all acts of violence against civilian populations, including summary executions, torture, harassment, detention, executions on the basis of ethnic identity, incitement to racial hatred and sexual violence.
- Publicly acknowledging and condemning the human rights violations, including of economic, social and cultural rights, perpetrated in eastern DRC by their armed forces;
- Cooperating with any investigations into human rights violations in eastern DRC, and ensuring that any of their forces, officials, citizens or other individuals on their territory suspected to be responsible for such violations are brought to justice in accordance with international standards for fair trial;
- Establishing competent, independent and impartial commissions of inquiry, with all necessary powers and resources, to investigate human rights violations involving their forces or officials, with the aim of:
 - ensuring that suspected perpetrators are brought to justice without delay and in conformity with international standards for fair trial;
 - determining, and ensuring the payment of, appropriate compensation to victims or their relatives;
 - fighting against corruption, as a contributing factor to human rights abuses, and ensuring that officials suspected of corruption are immediately suspended from their duties pending criminal investigations;
- Assisting and compensating the victims or their families who were directly affected by the indiscriminate use of force by their armed forces in Kisangani in June 2000, as required by UN Resolution 1304;
- Setting up proper reporting mechanisms to ensure that shooting incidents by members of their armed forces against civilians as witnessed in Ituri, Kisangani, Punia and elsewhere are fully investigated and documented with a view to appropriate disciplinary or judicial remedy;

Promote accountability and transparency by:

- Making public and reviewing the terms of commitments made by the governments of Rwanda and Uganda at the Inter-Congolese Dialogue held in Sun

City, South Africa, in March and April 2002, and confirmed in the newly signed "all inclusive power sharing agreement" on 17 December 2002 to uphold human rights in eastern DRC;

- Carrying out a review of all commercial contracts concluded since the start of the conflict in order to ascertain their validity, in keeping with the commitments made during the Sun City peace talks by foreign forces that control areas of the eastern DRC. The principle underpinning such a review should be that commercial contracts involving national resources should be negotiated in a fair and transparent manner, so that the government can meet its obligation of progressive realization of the population's economic and social rights and not deprive them of the benefits to be gained from their country's natural resources.⁶¹
- Ensuring that all commercial contracts involving the DRC's national resources are negotiated transparently and according to internationally recognized principles of public tendering and bidding, with a view to ensuring that the Congolese people obtain the maximum possible benefit from such contracts, including in terms of promoting the DRC's overall social and economic development.

13.2 Recommendations to the armed political groups in eastern DRC:

- Acknowledge publicly and condemn the unlawful killings and other serious human rights abuses perpetrated by their forces in eastern DRC;
- Cooperate with any investigations into suspected unlawful killings and other serious human rights abuses in eastern DRC by their forces, and ensure that any of their forces suspected of responsibility for such abuses are surrendered to the appropriate authorities to be brought to justice in accordance with international standards for fair trial;
- Cooperate fully with any transition and post-transition mechanism to bring to justice all forces suspected of violations of human rights and take lawful steps to guarantee that such mechanism deliver justice to the Congolese people;
- As long as the conflict lasts, to abide by the Geneva Conventions particularly the Common Article 3, which sets out "*minimum*" provisions for the protection of civilians and all "*persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause*" who shall in "*all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria*";
- Make public and review the terms of commitments made by armed political groups, at the Inter-Congolese Dialogue held in Sun City, South Africa, in March and April 2002, and confirmed by the all inclusive power sharing agreement signed on the 17 December 2002, to uphold human rights in eastern DRC;

⁶¹ Recommendations already made in the AI report "*Making a Killing*" (AI Index AF62/017/2002), October 2002

- Carry out a review of all commercial contracts concluded since the start of the conflict in order to ascertain their validity, in keeping with the commitments made during the Sun City peace talks, by foreign forces that control areas of the eastern DRC. The principle underpinning such a review should be that commercial contracts involving national resources should be negotiated in a fair and transparent manner, so that the government can meet its obligation of progressive realization of the population's economic and social rights and not deprive them of the benefits to be gained from their country's natural resources.

13.3 Recommendations to companies involved in eastern DRC

- Acknowledge publicly and condemn the unlawful killings and other serious human rights abuses perpetrated in eastern DRC;
- Ensure that the company's involvement in mining and other forms of resource exploitation and processing in eastern DRC is consistent with its obligations under international law to promote and respect human rights within its sphere of influence;⁶²
- Cooperate fully with any commission of inquiry set up to investigate abuses of human rights and corruption in eastern DRC;
- Formulate and enforce a code of conduct, based on the principles of international human rights law;
- Promote and enter into a constructive dialogue with Congolese civil society, including human rights organizations, and consult civil society in a free, fair and impartial manner on decisions affecting their lives. Publish periodically an independently audited report of the human rights impact of the company's activities.
- Take steps to ensure that minerals, timber and other commercial products from eastern DRC entering international markets have not been obtained in a manner that contributes to abuses of human rights, by:
 - ensuring that all commercial contracts involving the DRC's national resources are negotiated transparently and according to internationally recognized principles of public tendering and bidding and that their terms are made public;
 - making public the terms of all contracts signed since the start of the DRC second conflict in 1998;
 - using the company's influence to support human rights in the country.
- Ensure that the company's operations are free from forced labour and other similar practices, and hazardous and exploitative forms of child labour in line with relevant provisions of ILO Conventions 29 and 182. In areas of operations where such practices are prevalent, companies should ensure that they do not benefit from them and should publicly oppose them.

⁶² For more information on AI's position on business and human rights, see *Human Rights are everybody's business* (AI Index: POL 34/008/2002), 1 October 2002.

To the global tantalum industry:

- Introduce greater transparency and accountability to the international trade in tantalite ores. Trade bodies such as the Tantalum-Niobium International Study Centre (TIC) in Belgium have a pivotal role to play in organizing and supporting these improvements, and electronics and other companies using tantalum actively should support these measures;
- Use their commercial and public influence to obtain action by governments worldwide to halt human rights abuses in eastern DRC and bring the perpetrators to justice.

13.4 Recommendations to regional bodies and international Community

These recommendations are aimed at the UN Security Council, the donor community, the African Union, and relevant international and regional financial institutions.

- Condemn publicly the massive killings of civilians and other serious human rights abuses perpetrated in eastern DRC, and demand that the governments of Rwanda, Burundi and Uganda take all necessary steps to end these violations and bring the perpetrators to justice in accordance with their commitments under international law;
- Train a civilian police force to ensure the safety of the local populations and fully implement the mandate of MONUC, so that every necessary action is taken, including the demilitarisation of Ituri province and an increased MONUC troop deployment there and anywhere else that it is deemed necessary, in order to ensure the security and safety of civilian populations;
- Encourage a thorough review of MONUC mandate and adapt it to the fast-changing nature of the conflict in the DRC. It should move from a simple cease-fire monitoring role and become more active in protecting civilians in the violence-torn areas in the region;
- Facilitate the effective functioning of the joint Ituri Pacification Commission so that it can effectively promote much-needed cross-community dialogue in Ituri province;
- Establish an international commission of inquiry to investigate allegations of human rights abuses in eastern DRC since August 1998, including abuses of economic, social and cultural rights pertaining to economic exploitation; the commission should be given sufficient resources, with all necessary powers to compel witnesses to appear before it, and be mandated to recommend judicial and other actions to be taken against perpetrators it identifies to prevent future abuses;
- Encourage and support national and regional mechanisms that will bring to justice the suspected perpetrators of war crimes and crimes against humanity in

eastern DRC, including the military and political leaders that ordered, encouraged or condoned these acts;

- Maintain pressure on the governments of Uganda and Rwanda to assist and compensate the victims or their families who were directly affected by the indiscriminate use of force by their armed forces in Kisangani in June 2000, as required by UN Resolution 1304, and ensure future protection of civilians and human rights defenders in Kisangani and anywhere else in eastern DRC;
- Promote and develop an effective international mechanism to monitor the human rights records of all actors – companies, governments and individuals – involved in the international trade in eastern DRC's natural resources;
- Take steps to promote transparency and ethical trading, and to ensure that minerals from eastern DRC entering international markets have not been obtained in a manner that contributes to human rights abuses, including abuses of economic, social and cultural rights, with a view to ensuring that the Congolese people obtain the maximum possible benefit from such contracts involving national assets, including in terms of promoting the DRC's overall social and economic development. Such steps should include:
 - requiring that contract arrangements involving national resources are negotiated according to internationally recognized principles of tendering and bidding and that their terms are made public;
 - reviewing and making public the terms of all contracts entered into since the start of the DRC conflict in 1998;
 - putting in place a universal and mandatory process of governmental regulation that will guarantee compliance;
 - encouraging the DRC government's compliance with the Kimberley Process and pressing all the other diamond transit countries in the region to also adhere to the Kimberley Process;⁶³
 - recommending the introduction of similar certification measures for other resources which are fuelling the DRC war, including timber, gold, coltan;
- Strongly support and fund an integrated post-conflict development plan for the DRC which promotes the rule of law and a stable political transition.

⁶³ Website, www.kimberleyprocess.com