

## NORTH KIVU: NO END TO THE WAR AGAINST WOMEN AND CHILDREN

### GLOSSARY

CNDP	National Congress for the Defence of the People ( <i>Congrès National pour la Défense du Peuple</i> )
CPRK	Kinshasa Central Prison ( <i>Centre Pénitentiaire et de Rééducation de Kinshasa</i> )
DDR	Disarmament, Demobilization and Reintegration
FARDC	DRC national armed forces ( <i>Forces Armées de la République Démocratique du Congo</i> )
FDLR	Democratic Liberation Forces of Rwanda ( <i>Forces Démocratiques de Libération du Rwanda</i> )
IDP	Internally Displaced Person(s)
MONUC	United Nations Mission in the DR Congo ( <i>Mission de l'Organisation des Nations Unies en RD Congo</i> )
PARECO	Congolese Patriot Resistants ( <i>Patriotes Résistants Congolais</i> )

### INTRODUCTION

Months after a peace agreement to end conflict in North Kivu province, eastern DRC, civilians are still being killed, raped, abducted and tortured by armed group and government forces.

Amnesty International has found substantial evidence that armed groups in North Kivu have continued to commit crimes under international law, including unlawful killings, rape, torture, and the recruitment and use of child soldiers, even after the armed groups promised to immediately end these abuses in a 23 January 2008 “Act of Engagement”. Government security forces have also unlawfully detained and in some cases tortured and ill-treated captured children, and continue to rape and sexually abuse women and girls.

Amnesty International welcomes the intensive national and international efforts that have been made to resolve the armed conflict in North Kivu, in particular the establishment of the Amani Programme for the security, pacification, stabilization and reconstruction of the Kivu provinces. If the peace process is to remain credible, however, human rights abuses committed by both state and non-state actors must end. The most important measure of armed group and government commitment to the peace process is an immediate halt to further attacks against civilians, the ending of rape and other forms of sexual abuse, the immediate release without preconditions of all children associated with the armed forces, and the prompt investigation and prosecution of alleged perpetrators of serious human rights abuse.

Amnesty International is urging the DRC government and armed groups to renew their commitment to upholding international human rights and humanitarian law, in deed this time, not just in words. The organization urges the international mediators brokering the peace process to concentrate all efforts to ensure that addressing human rights abuses and violations of international humanitarian law is made a priority. Only then can the peace process meaningfully move forward.

This report is based on eyewitness testimony collected in the province of North Kivu during February and March 2008. It examines alleged human rights abuses committed before and

after the signature of Act of Engagement, focusing primarily on sexual violence and the recruitment and use of children by parties to the conflict.

This report is based on research conducted by Amnesty International in 2008, including in North Kivu. The testimonies presented in this report were obtained by direct interviews with victims and witnesses conducted in Goma, the provincial capital, and at locations in Rutshuru, Lubero, Beni and Masisi territories of North Kivu, as well as in Kalehe territory, South Kivu province. Unless indicated, the real names of these individuals have been withheld from this report for their own safety.

## **BACKGROUND**

In August 2007 armed conflict erupted in the province of North Kivu. The renewed fighting, the worst since the official end of the DRC conflict in 2003, pitted the regular Congolese army (FARDC) against the CNDP armed political group, under the command of renegade general Laurent Nkunda. Also involved were mayi-mayi ethnic militia opposed to the CNDP, and the Rwandan FDLR, a mainly Rwandan Hutu armed insurgent group which contains remnants of forces allegedly responsible for the 1994 Rwandan genocide. The United Nations (UN) peace-keeping force in the DRC, MONUC, was unable to contain the fighting and at its height could only assure the security of major population centres.

The outbreak of conflict was preceded by months of rising insecurity, which included a number of political killings and abductions by unidentified assailants, often described as wearing military uniforms. Victims included **Floribert Bwana Chui Bin Kositi**, provincial secretary of the Congolese Rally for Democracy (RCD) political party, who was abducted in Goma on 9 July 2007 and whose body was found dumped two days later, showing signs of having been strangled and beaten to death. Another was **Célestin Kambale Milonga**, president of the National Mayi-Mayi Party (PANAM), who was reportedly taken from his home by FARDC soldiers at his home in Goma on 24 June 2007 and who has not been seen since. Official investigations into these killings have stalled and none of those responsible have been identified or brought to justice.

The immediate cause of the August 2007 fighting was a breakdown in attempts to integrate CNDP forces into the FARDC. Laurent Nkunda claims his CNDP forces are fighting to protect eastern DRC's ethnic Tutsi population from attacks by the FDLR, which the CNDP accuses the government and FARDC of supporting militarily.<sup>1</sup> The government, for its part, asserts it launched military operations against the CNDP to restore the authority of the state.<sup>2</sup> Also ranged against the CNDP are mayi-mayi militias, many of which are grouped in an armed political coalition called PARECO. The mayi-mayi are drawn from a number of ethnic groups in North Kivu and purport to protect their communities from opposing forces, primarily the CNDP, which they accuse the Rwandan government of supporting.<sup>3</sup>

Civilians bore the brunt of the violence, which was marked by serious violations of international human rights and humanitarian law by both the armed groups and government armed forces and which triggered a desperate humanitarian crisis. By the end of 2007, more than 500,000 people had fled their homes and sought shelter with host families or in camps for the internally displaced that sprang up across the province. The humanitarian and security situation in many sites, many of which are located close to military positions, is extremely poor.<sup>4</sup>

The escalating violence in North Kivu, which again threatened regional stability, led to concerted international efforts to resolve the crisis. In November 2007, the governments of the DRC and Rwanda agreed, in the “Nairobi communiqué”, to take joint measures to dismantle the FDLR. The measures agreed included the launch of DRC government military operations against the FDLR. The two governments also undertook to prevent support to other armed groups operating in eastern DRC.<sup>5</sup> The Nairobi agreement was mediated by the UN, the African Union (AU), the European Union (EU) and the United States (US), and was followed in March 2008 by UN Security Council Resolution 1804, which demanded that the FDLR immediately lay down their arms and submit to repatriation to Rwanda.

In January 2008, after the failure of a government military offensive against the CNDP, a Conference on Peace, Security and Development for the Kivus was organized in Goma, the capital of North Kivu. The conference, which was again facilitated by representatives of the US, AU and EU, brought together representatives of the DRC government, the CNDP, PARECO and other Congolese armed groups (the FDLR was not invited to the conference) and Kivu civil society. The negotiations led to an “Act of Engagement” signed on 23 January by Congolese armed groups in the Kivus, including the CNDP and PARECO, in which they committed to an immediate cease-fire, to the progressive demobilisation of their forces, and to an immediate halt to violations of international humanitarian law, including “acts of violence... of all forms against the civilian population, particularly women and children...” In return, the government undertook to end the threat posed by the FDLR and to grant an amnesty to members of the Congolese armed groups who signed the Act of Engagement for “acts of war” not including crimes against humanity, war crimes or genocide, a definition that limits amnesty to participation in armed conflict but not to acts that constitute war crimes or other serious human rights violations.

The Peace Conference also led to the creation of an ambitious government-led programme, known as the Amani Programme, for security, pacification, stabilization and reconstruction of the Kivus, which has the potential to resolve some of the underlying causes of instability in the Kivus. The Amani Programme, through the work of its three main commissions, aims to negotiate and secure the demobilisation of the armed groups or their integration into the national army, establish accountability for violations against human rights and humanitarian law, including violence against women and children, restore state authority in the Kivus, and assure the return of the internally displaced and refugees, community reconciliation and the rehabilitation of essential social services, including health centres and schools.

In spite of the promise held by these initiatives, however, the situation in North Kivu has not fundamentally moved forward since January 2008. The province remains deeply insecure and the human rights situation continues to be appalling. Since the signing of the Act of Engagement, the cease-fire has been broken on hundreds of occasions<sup>6</sup>, thousands of women and girls have been raped, hundreds of children recruited into the armed groups, often through abduction, and scores of civilians unlawfully killed. Hundreds of thousands of people living as IDPs remain too fearful to return to their homes and fields.<sup>7</sup> Congolese and foreign armed groups remain in control of large parts of the province and the majority of the FDLR continues to resist the disarmament and repatriation to Rwanda of its forces. The Amani Programme is being vigorously promoted by its National Coordinator, Abbé Apollinaire Malu Malu, and his staff, but has not yet been able to deliver tangible results.

North Kivu and neighbouring South Kivu have been at the epicentre of conflict in the DRC since the early 1990s. Resolving the protracted crisis in the Kivus remains pivotal to establishing peace and security in the country and throughout the African Great Lakes region. The recent fighting in North Kivu arose largely because the DRC government, regional states and the wider international community have failed to address the underlying causes of conflict. These include the continued presence of a multiplicity of Congolese and foreign armed groups, tensions between the province's ethnic communities and related questions of the return of Congolese Tutsi refugees living abroad, land ownership, and control of North Kivu's considerable mineral and agricultural wealth.<sup>8</sup> A further prime cause of the continued insecurity in North Kivu is persistent impunity for human rights abuses and violations of international humanitarian law. Present in all the parties to the conflict are individuals who are suspected or accused of perpetrating, ordering or condoning serious human rights violations and crimes under international humanitarian law, none of whom have yet been brought to justice.

A high price is being paid by civilians for the presence of around 20,000 FARDC troops and several thousand armed group fighters in North Kivu. All armed groups and the FARDC have been responsible for unlawful killings of civilians, abductions, rape, arbitrary arrests, acts of torture, and looting of civilian and humanitarian property. Armed groups have also routinely violated their obligations under international humanitarian law, including by obstructing the delivery of humanitarian aid, attempting to force IDPs to move into, or away from, areas under their control, recruiting from within IDP camps, and the deliberate targeting for attack of IDP sites, humanitarian personnel or the looting of aid equipment.

Under international law, parties to an armed conflict have a responsibility to take all practicable steps to ensure the protection of civilians. Deliberately targeting civilians in a situation of armed conflict is a violation of international humanitarian law. It is a war crime and where evidenced that acts are systematic and widespread it may constitute a crime against humanity.

The UN peacekeeping mission to the DRC, MONUC, is the only force which is currently providing meaningful security for civilians in North Kivu. MONUC is mandated<sup>9</sup> to protect civilians and humanitarian personnel under imminent threat of physical violence "by all necessary means", including the use of armed force. MONUC is also mandated to assist in the promotion and protection of human rights, with particular attention to women, children and vulnerable persons, and investigating human rights violations. MONUC has made strenuous efforts to fulfil its protection mandate in North Kivu, including by the redeployment to the province of additional peace-keepers, establishing mobile bases and standing combat deployments in insecure areas. However, the force, despite reinforcement, is still relatively thinly spread and its protection and assistance activities are limited by difficult terrain, the mobility of armed groups and the need to respond to reported cease-fire violations as well as to maintain buffer zones between the armed forces at various locations. Nevertheless, Amnesty International believes that MONUC military forces could do more to ensure the protection of women and children in those areas and locations where they are most vulnerable to attack, including by mounting regular patrols of roads leading to schools, markets and fields in the most militarized areas, and by maintaining a presence at FARDC checkpoints.

## THE CONTINUING HORROR OF RAPE AND OTHER FORMS OF SEXUAL VIOLENCE

In North Kivu, members of armed groups and government security forces continue to rape and sexually abuse women and girls, and in a smaller number of cases, men and boys. Infant children and elderly women are among the victims, many of whom have suffered gang rape or have been raped on more than once. Rape has been committed in public and in front of family members, including children. Some women have been abducted and held as sexual slaves. In many cases, sexual abuse and rape appear to be ethnically motivated and/or aimed at terrorizing and demoralizing communities suspected of supporting enemy groups.

The armed group signatories to the 23 January 2008 Act of Engagement committed themselves to the “strict respect of international humanitarian and human rights law”, including an immediate “halt to acts of violence, extortion, discrimination and exclusion, of all forms, against civilian populations, particularly women and children, the elderly and disabled”.<sup>10</sup> As documented in many of the testimonies below, however, widespread rape and other forms of sexual violence have continued despite the signing of the Act of Engagement. None of the women and girls interviewed for this report expressed faith in the Kivu peace process for as long as armed group fighters and soldiers continued to commit systematic violence against civilians. As enunciated in the Declaration of Women to the Goma Peace Conference, “Women’s voices have still not been heard or given their rightful place [in the search for peace]. Yet, alongside children, women are the main victims of diverse forms of violence.”<sup>11</sup>

Complete statistics of the scale of rape in North Kivu do not exist. According to December 2007 UN figures, around 350 rape cases are reported every month in North Kivu, with around a third committed against children under 18.<sup>12</sup> The North Kivu Provincial Commission for the Struggle Against Sexual Violence, however, reported 800 new cases in April 2008 alone, 670 of which were in Rutshuru territory.<sup>13</sup> One NGO caring for rape survivors in parts of Lubero territory recorded 410 rapes requiring medical treatment in 2007, of which around 40% were perpetrated against girls aged under 18. One-fifth (20%) of these rape cases were attributed to FARDC soldiers, 16% to mayi-mayi fighters and 11% to FDLR fighters (the CNDP is not present to any large degree in Lubero territory). The remaining attacks were reportedly committed by civilians.<sup>14</sup> The Kayna hospital in Lubero territory received 93 rape cases between October 2007 and February 2008 but, as medical staff told Amnesty International, these were cases of women or girls with serious health complications requiring hospital intervention who were able to travel for treatment. Thus, this figure must be assumed to represent only a fraction of the individuals who have been subjected to rape in the region. Another NGO network active mainly in the Masisi and Goma areas recorded 224 new rape cases in the first three months of 2008, of which 30% were attributed to armed group fighters, 8% to FARDC soldiers and the rest to civilians.<sup>15</sup> Given the reluctance or inability of many women and girls to come forward to report rape or seek medical care, however, it can be assumed that the actual number of victims is much higher. Many women and girls living in areas still under armed group control are fearful of reprisals if they attempt to report or seek medical care for rape.

In addition to the trauma of rape, survivors’ rights are further violated in the aftermath of rape, deepening their suffering immeasurably. Because of the dilapidated and under-resourced state health care system, most women suffering injuries or illnesses caused by rape do not receive the medical and psychosocial care they need. Many female victims of sexual abuse and rape

are subsequently abandoned by their husbands and excluded by their communities, condemning them and their children to extreme poverty.

Because of entrenched impunity and an incapacitated judicial system, there is little prospect of victims obtaining justice or redress for the crimes they have endured.<sup>16</sup> A 2006 national law on sexual violence, which defines rape clearly and provides for accelerated judicial proceedings and greater protection for victims, while welcome, has to date been poorly implemented.<sup>17</sup> Judicial officials have, in any case, only very limited resources to conduct investigations and prosecutions, and are often poorly trained. For example, there are only four police officers serving the town of Kirumba and its environs, in Lubero territory, with a population of around 50,000, according to local security officials.<sup>18</sup> In some cases, informal measures are taken to punish alleged offenders, including whippings meted out by commanders or customary "*arrangements à l'aimiable*", in which perpetrators offer some form of compensation, in money or livestock, to the victim or her family, but very few perpetrators are brought before the courts. This impunity, combined with continuing insecurity, means that women and girls live in fear of further attacks or reprisals.

Rape is a violation of international humanitarian law. Common Article 3 of the Geneva Conventions prohibits "(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (...) (c) outrages upon personal dignity, in particular, humiliating and degrading treatment; (...)". Furthermore, Additional Protocol II to the Geneva Conventions prohibits: "violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; collective punishments; taking of hostages; acts of terrorism; outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault; slavery and the slave trade in all its forms; pillage; [and] threats to commit any of the foregoing acts" (Article 4).

The Rome Statute of the International Criminal Court (ICC), which has been ratified by the DRC but not yet enacted into national legislation, establishes that rape, sexual violence and sexual slavery are acts that constitute war crimes within the context of both international and non-international conflicts.<sup>19</sup> In addition, the Rome Statute sets out that rape, sexual violence and sexual slavery constitute crimes against humanity where they are "committed as part of a widespread or systematic attack directed against any civilian population".<sup>20</sup> Acts of rape, sexual violence and sexual slavery may also constitute genocide where such acts are committed with the intention of destroying in whole or in part a particular national, racial or religious group.

States parties to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) have specific obligations under Article 11 to protect women in armed conflicts "against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction."

The DRC is also party to the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children of the International Conference on the Great Lakes Region (30 November 2006).<sup>21</sup> The Protocol aims "to provide protection for women and children against the impunity of sexual violence in the specific context of the Great Lakes Region". Under the

Protocol, member states undertake, among other national and regional commitments, “to prosecute and punish the perpetrators of crimes of sexual violence” ; “agree to simplify the procedures for lodging complaints of sexual violence by women, children, and other interested parties”; “to establish legal and medical procedures for assisting the victims and survivors of sexual violence”; and “to assume responsibility for ensuring that the victims and survivors of sexual violence are compensated”. An accompanying Regional Programme of Action on Humanitarian and Social Issues (August 2006) identified *Prevention, fight against sexual exploitation, abuse and gender-based violence and assistance to the victims* as one of seven specific priority projects to be implemented within five years and established a budget for this project. Project activities are particularly “geared towards the assistance to the victims and towards sensitisation campaigns.”<sup>22</sup>

Most recently, the UN Security Council passed Resolution 1820 (19 June 2008) on sexual violence against women and girls, and expressed its “deep concern that, despite its repeated condemnation of violence against women and children in situations of armed conflict, including sexual violence in armed conflict, and despite its calls addressed to all parties to armed conflict for the cessation of such acts with immediate effect, such acts continue to occur, and in some situations have become systematic and widespread, reaching appalling levels of brutality”<sup>23</sup> and again demanded that all parties to conflict, including those within the DRC, cease such crimes immediately and protect civilians from all forms of sexual violence.<sup>24</sup>

Despite these multiple legal obligations that bind all parties to the conflict in the DRC to refrain from rape, other forms of sexual violence and sexual slavery and bring any suspected perpetrators to justice, women, girls and in some cases boys and men continue to be subjected to rape and other forms of sexual violence.

**Elise** is 16 years’ old. She told Amnesty International that on 12 February 2008 she was abducted by two junior army (FARDC) officers near Vurundo, in Beni territory. They forced her to a nearby military camp, threatening to kill her if she resisted. She was held at the camp for five days, where she was raped every night, always by the same officer. During the day she was forced to do domestic work. On the fourth day of her captivity, her mother arrived at the camp looking for her. Elise was distraught, however, when her mother was refused entry and turned away by the soldiers. It was only on the fifth day, when her mother returned with a local administrator [*chef de quartier*], that the soldiers agreed to let her go. Throughout her ordeal, Elise told Amnesty International: “*The other soldiers in the camp didn’t seem to care or be willing to take responsibility. Only when my mother came with the chef de quartier did they take any notice.*” Since the rape, Elise suffers persistent headaches and flashbacks. She is receiving medical and psychosocial care from a local non-governmental organization.

**Vénantie** is a 56-year-old widowed farmer from a village in Beni territory, who was raped at her home on 25 January 2008. She told Amnesty International:

*I was at home when a young FARDC soldier turned up at the house. He pushed me into the bedroom and started to hit me. He strangled me so that I could not cry out, then he raped me. When the rape was over, the soldier was so drunk that he stayed on the bed and didn’t move. I got up and started to scream. My neighbours went to the military camp to report the attack. The commander came to my house with three soldiers, and took the man away. I was told later that he was whipped as punishment, but the soldier is still at the camp and I see him*

*regularly. When I see him, he tries to joke with me. He frightens me. I feel very anxious and depressed. I would like to press charges, but what could I really do to a soldier?*

**Chantal** is a 20-year-old farmer from a village in Lubero territory. She told Amnesty International delegates that on the night of 5/6 January 2008, three mayi-mayi fighters forced their way into her aunts' house, where she was staying. The men threatened the three women with firearms and knives, told them to keep quiet and then raped them. When morning came, Chantal went home and told her husband what had happened. Five days' later, he abandoned her because of the rape, and has since refused to see or support her. When she was interviewed by Amnesty International, Chantal was frightened that she might be pregnant by the man who raped her. "*How can I bring a child into the world, alone?*" she asked.

**Marie** is a 13-year-old from a village near Bingi, Lubero territory. On 27 January 2008 she was returning home from a friend's house.

*I saw a man running towards me. He grabbed my hand and called another man over. They took me to the mayi-mayi camp. One of the men was dressed in military fatigues and the other in civilian clothes. They led me to a hut where the soldier in military clothing raped me. Once he had finished, he fell asleep. I stayed there all night, crouched on the floor. The following day, they let me go. When I arrived home, I told my mother. She took me to hospital. The nurses wrote a letter to the commanders at the camp. They also took me to the camp so that I could show them who the perpetrator was. As punishment, the soldier was whipped in front of me. He was then let go.*

Marie now experiences severe headaches, which she tries to alleviate by taking vitamin tablets. She has not seen the man who raped her since the attack, but lives in fear that he will return.

**Bernadette** is 31 years old from a village near Beni. She told Amnesty International that she was raped by mayi-mayi fighters twice in December 2007.

*The first time was on 17 December. I was staying in a little hut in the fields we work in. Mayi-mayi soldiers came that evening. They forced me out of the hut and away into the bush. My blind uncle stayed in the hut. The three men then raped me. They hit me and tore my clothes off with a knife. Afterwards, I remained on the ground, unable to move, for about two hours, before making my way back to the hut. That night, I washed myself. The following day I walked two hours to go to hospital.*

The second attack took place on 28 December 2007:

*Three mayi-mayi soldiers broke down the door of my house around midnight. I was again with my uncle. He managed to crawl out of the door and fled. I found myself alone again. First of all, they hit me and asked me for money. I did not have any, so they beat me all over my body with the face of their machetes. I collapsed and each of the men took their turn to rape me. After the rape, I was alone for a long time. No-one heard my cries.*



Bernadette said that she suffered severe headaches after the rape, anxiety and difficulty in sleeping. She told Amnesty International, “*I do not see that I have much of a future*”.

**Georgette**, aged 18, from a village near Butuhe, Beni territory, informed Amnesty International delegates that she was raped on 25 October 2007.

*It was three in the afternoon. I was preparing cassava flour in the fields, with my nine-month-old baby girl on my back. Three mayi-mayi soldiers approached me, armed with guns. They hit me and I started to scream. Then they tied me up, took some cloth and stuffed it into my mouth so no-one could hear my cries. The three of them then raped me. Once they had finished, they let me go and warned me not to tell anyone. I did not want to go for medical treatment and counselling at first, but then I started to have stomach cramps and to feel dizzy. Everyone around me was supportive because other people have also been raped by the mayi-mayi. There is anger in the community that nothing is done to punish the perpetrators. I have seen the same men since the attack and feel very frightened. They have passed through my village several times. I cannot bring myself to work in the fields far from the village and have to be close to where people are.*

**Miriam**, a 40-year-old farmer from Bingi, Lubero territory, told Amnesty International that she was raped on the night of 28 November 2007.

*I was at home when a man approached and shouted, “Come out, I need water for my soldiers.” I refused to open the door but he forced his way in. The soldier was a mayi-mayi, dressed in military fatigues. I shouted out but he hit me very hard with his fist. My nose started to bleed. He threw me on the bed and hit me again. Then he raped me. After he left, my neighbours took me to a health clinic. My face was swollen. I still have pain everywhere. My family went to the camp to complain to the commander, but he said the man was no longer there.*

**Bienvenue** is a six-year-old girl from a village near Bitonga in Masisi territory. On 16 January 2008, she was at home while her parents were working in fields nearby. When her parents came back to look for her, the neighbours said they had seen a fighter whom they believed to be from the CNDP taking her into the forest. Her parents found her crying on the path leading from the woods. Her father took her to an NGO hospital in Goma, where medical staff informed him that his daughter had been raped. Bienvenue developed a serious genital infection after the rape and severe psychological trauma. She was only able to speak to the nurses at the hospital after one month of care.

**Anita** is a 17-year old Hutu girl from a village near Mushaki, in Masisi territory. In October 2007 her village was attacked and overrun by CNDP forces. She told Amnesty International:

*They looted the houses and all the villagers fled. Two soldiers caught me and took me to an area beyond the village where they raped me. Once they had finished, they half-strangled me but then left. Other girls were also raped. After the rape, we all fled to Goma. We had to walk for two days and nights through the forest. I am living at the health centre here in Goma – other girls are in host families. Our village is abandoned now.*

**Constance**, a 27-year-old single mother from Rutshuru territory, informed Amnesty International delegates that she was raped by men she believed to be FDLR fighters on two occasions. The first rape was on 17 July 2007, at around one in the morning:

*I was at home with my four children when they forced down the door. There were two of them, holding sharpened pieces of wood. They were wearing military trousers but with civilian shirts, and spoke a mix of Swahili and Kinyarwanda. They beat me and my eldest daughter, who is 10. Then both of them raped me, in front of the children. When they'd finished, they warned me not to tell anyone. I was very afraid. I didn't dare leave the house for the next four days, but I had such terrible stomach pains and fever that I realized I had to get help, so I went to the hospital.*

The second attack was in September 2007, while Constance was visiting relatives in Nyamilima, Rutshuru territory.

*I was in the fields with five other women. My baby girl was on my back. Four interahamwe [FDLR] soldiers approached, wearing military fatigues and carrying grenades. They chose me and another woman and forced us with them into the forest. We walked for hours through the bush to reach their camp, which was like a village they'd organized in the middle of the forest. There were around 50 women there, like us, taken by force. The commander chose me as his woman and raped me every day. My baby was beside me when this took place. After, I was left bleeding and weak*

After a week of captivity, Constance escaped. Constance is now being given counselling and medical care by a local NGO. During her interview with Amnesty International in early March, she reported that the woman abducted with her was still held in the FDLR camp. “*I'm desperately afraid that one day [the FDLR] will come back*”.

A largely unreported aspect of sexual violence in eastern DRC is the number of men who are also victims of sexual violence. Because of the high level of prejudice associated with male rape, very few survivors come forward to report attacks. **Jean-Baptiste** is a 22-year-old from a village near the shores of Lake Edward in Lubero territory. He told Amnesty International that he was returning home from his field in late January 2008 when a female *mayi-mayi* fighter stopped him and held a knife to his chest. She then forced him off the path to an isolated place in the bush and demanded sex, telling him “*If you refuse, I will kill you*”. Still holding the knife against him, she then forced him to have intercourse with her.<sup>25</sup> The rape left Jean-Baptiste with a urinary tract infection, recurrent nightmares and a deep fear that he may have contracted HIV/AIDS. The rape has, according to his counsellor, profoundly affected his self-esteem, particularly since he wanted to remain chaste for his marriage. His mother has warned him to stay quiet about the rape and he believes that if others in his community learn of the rape, he will become an outcast.

### ***Violence against women human rights defenders***

Many women human rights defenders and their families have suffered threats, physical attack and in some cases rape by soldiers or armed group fighters. Activists travelling to and working in isolated rural communities are especially vulnerable to attack.

In the early evening of 18 September 2007, six armed men, reportedly FARDC soldiers, broke into the house in Goma, of Justine Masika Bihamba (real name), coordinator of the women's human rights NGO, *Synergie des femmes contre les violences sexuelles* (SFVS). The men reportedly asked for Justine Masika, who was absent, and began to search the house. One of the soldiers kicked Justine's eldest daughter, breaking her tooth, and then sexually assaulted her second daughter, aged 21. The alleged perpetrators were later identified as soldiers forming the personal guard of an FARDC colonel, but have never been arrested or brought to trial, despite the submission of a legal complaint against them. Justine Masika's daughters were later forced to flee abroad after threats by soldiers. The alleged perpetrators, whom Justine Masika regularly sees in her neighbourhood, remain at large. Amnesty International raised the continuing impunity in this case during interviews with the North Kivu Vice-Governor and Commander of the 8th (North Kivu) military region in February 2008. Both undertook to look into the matter. The Vice-Governor told Amnesty International that it was "unacceptable that those responsible should remain unpunished". To date, however, there has been no progress on the case.

**Christine** is a rape counsellor and human rights activist. She told Amnesty International that her husband was killed, and she was raped for the first time, by armed group fighters who broke into her house in September 2002. Two of Christine's daughters were also raped during this attack. Subsequently, she decided to become a counsellor to help other rape survivors.

In July 2007 Christine was accompanying a group of women rape survivors from Masisi territory to Goma for medical care. She left the road at one point and heard someone moaning softly. Parting the vegetation, she recounted to Amnesty International:

*I saw a girl tied up by her hands and feet. I started to untie her. She had been raped by soldiers who had pushed a piece of wood into her. She was telling me that she was going to be married on Saturday and had just returned from receiving marriage instructions. I freed her and started to carry her back to the road. Then a group of CNDP soldiers came out from the trees. They beat me and I let the girl fall to the ground. Then four of them then took turns to rape me, in front of the other women I was with. When they stopped, I was bleeding heavily and my arm and leg were badly swollen. We were about to leave to get help when we saw that the girl had died. We buried her there. My clothes were stained with blood, but we walked to a health centre. Then we continued to Goma, where I spent two weeks in hospital.*

Christine continues to work with rape survivors. With the assistance of a women's human rights and anti-rape network, she runs a small refuge from which she provides basic medical care, counselling and advice to the women. The centre has fields attached which the women cultivate to generate income. Despite her experiences, she continues with her work, travelling to rural communities to identify survivors and arrange for their care. At the time of Amnesty International's visit, she was caring for 28 women, including seven survivors aged from 12 to 50 who had arrived the previous day, some apparently suffering from fistulas or collapsed uteruses. She reported continued threats from armed groups, which now prevent her from working in certain locations. "I am trying to forget, but it is difficult," she says. "I have such anger".

Urgent measures are needed to protect Congolese women and girls from the continuing blight of rape and other forms of sexual violence. To date, the Kivu peace process and negotiations with the armed groups have failed to make headway in ending these crimes and bringing the suspected perpetrators to justice. If public confidence in these negotiations is to be sustained and a basic level of human security put in place, the Amani programme must address the issue of rape and other forms of sexual violence as well as other abuses and violations of international human rights and humanitarian law as one its core tasks. Amnesty International is urging that all parties to the conflict immediately honour their commitment to halt attacks against civilians, and by incorporating specific projects to deliver justice and adequate medical care to survivors of rape and other forms of sexual violence into its programmes for reconstruction and development.

The long-term engagement of national authorities and international donors will also be needed to tackle the medical, psychosocial and economic consequences of systematic and widespread sexual violence. Amnesty International therefore urges the international community to become more actively involved in ending the rape and other sexual violence emergency in eastern DRC, and to press and assist the DRC government to provide access to justice and emergency programmes of medical care for rape survivors. Local NGOs, which have been practically the only national agencies providing care and assistance to the survivors of rape and other forms of sexual violence need increased government and international support and protection from attack, intimidation and threats.

## **RECRUITMENT AND USE OF CHILDREN**

In the January Act of Engagement, the armed groups of North and South Kivu committed themselves to “a total and immediate halt ... of all new recruitment”, to an immediate “halt to acts of violence, extortion, discrimination and exclusion, of all forms, against civilian populations, particularly women and children, the elderly and disabled” and to a “prohibition of all recruitment and particular promotion of the rights of children in conflict (or post-conflict) zones”. The inclusion in the Act of specific commitments to protect children was as a result of intense lobbying during the negotiations by national and international child protection organizations.

At the height of the DRC conflict, around 30,000 children were estimated to be serving with the armed forces and non-state groups party to the conflict throughout the DRC. Under a government and international demobilisation programme, which began in 2005, the majority of these children were released into the care of UNICEF or specialist child protection NGOs and, where possible, reunited with their families. The regular army formally ended the recruitment and use of children in November 2004. Between 3,000 and 6,000 children, however, are estimated to still be serving with the armed groups according to the government<sup>26</sup> as well as, in a smaller number of cases, the FARDC. Programmes of education, vocational training and other community-based initiatives to support the children on return to their homes have been slow to materialise in many parts of the country, and large numbers of children, including especially girls, have yet to benefit from community support packages, but encouraging progress in ending the recruitment of children and in returning them to their communities had been made.<sup>27</sup>

This progress has been seriously undermined in North Kivu, however, with disastrous consequences for children. In North Kivu, armed groups continue to use children aged under 18 and the conflict has led to a resurgence in the recruitment of children into fighting groups. Although releases of children from the armed groups still take place in the province, these appear to have been outnumbered by new recruitments of children. One international child protection worker told Amnesty International, "For every two children released, five are taken". Particular targets for recruitment are children who had previously served with armed groups but who had been reunited with their families as part of the national DDR programme. According to one estimate, given to Amnesty International by an international source, of the former child soldiers who had previously been reunited with their families in North Kivu, as many as half may since have been re-recruited by the armed groups.

The work of national and international child protection agencies has also been badly disrupted by the fighting. Former child soldiers have had to be evacuated from NGO reception centres in conflict zones and reintegration and family reunification programmes have had to be suspended in many areas. Child protection workers have been threatened or ill-treated and in some cases abducted by fighters.

CNDP forces were responsible for large-scale child recruitments, mainly of boys, in Masisi and Rutshuru territories from late 2007, including forcible recruitments from schools. One local children's organization recorded 236 recruitments from schools during September 2007. Amnesty International has also received testimony indicating that the CNDP recruited from inside IDP camps in the areas it controlled. Recruited children underwent training during which many were beaten by their instructors. Children or youths who attempted to escape but were recaptured were allegedly killed or tortured, sometimes in the presence of other children, in order to discourage further escapes.

Government security forces detained and in some cases allegedly tortured and ill-treated children suspected of being armed group fighters. Thirty-one children, including children of Rwandan nationality, who had reportedly served with the CNDP, were transferred in December 2007 and January 2008 by military plane to Kinshasa and held in inhumane conditions in the CPRK central prison. Other children reported to Amnesty International that they had been tortured and ill-treated in military intelligence (T2) detention in Goma. The army also unlawfully used children to transport munitions and other items, including during the December 2007 FARDC offensive against the CNDP, placing them in considerable danger. When questioned on this point, General Vainqueur Mayala, FARDC Commander of the 8<sup>th</sup> (North Kivu) military region, told Amnesty International that soldiers had "accepted the voluntary help" of the children.

In addition to the various recent commitments made by parties to the conflict in the DRC including those found in the Act of Engagement to refrain from recruiting and using children, the DRC is a party to a number of international human rights and humanitarian law treaties that place all parties to the conflict under a legally binding obligation not to recruit or use children in the armed conflict.

The UN Convention on the Rights of the Child (CRC), Article 38(3), prohibits recruitment of children under the age of 15. This was supplemented by the Optional Protocol to the CRC on the involvement of Children in Armed Conflict, which entered into force on 12 February 2002 and which raised the minimum age for participation of children in hostilities for both

government forces and armed political groups from 15 to 18. The DRC has ratified the Optional Protocol and deposited a binding declaration setting the minimum age for voluntary recruitment at 18. Article 2 of the Optional Protocol prohibits absolutely any forced recruitment of children under 18 into the armed forces. Furthermore, Article 4 provides that 'armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.'

The DRC is also party to the International Labour Organisation's (ILO) Convention 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. This Convention includes the prohibition of forced or compulsory recruitment of children under 18 for use in armed conflict. It forbids forced recruitment of children for use in armed conflict, for sex work, and for any work which 'by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children' (Article 3 (d)). It obliges each state party to 'take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.' According to Article 2 of the Convention, the definition of a child is given as all persons under the age of 18. Article 3 states that the worst forms of child labour include 'forced or compulsory recruitment of children for use in armed conflict'. The ILO Convention 182 entered into force on 19 November 2000 and is the first specific legal recognition of child soldiering as a form of child labour.

The African Charter on the Rights and Welfare of the Child, which entered into force on 29 November 1999, specifically prohibits the recruitment and use of children under 18 in both international and internal armed conflicts. Its Article 22 (2) requires state parties to 'take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child.' The DRC has not ratified this Charter and Amnesty International urges it do so promptly.

The UN Guiding Principles on IDPs contain a specific principle regarding recruitment of children: "1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities. 2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances." (Principle 13)

In addition to the prohibition of the recruitment and use of children under the age of 18 in the treaties discussed above, the recruitment and the use of child soldiers in armed conflict under the age of 15 have been recognized as war crimes under international humanitarian law since 1977. Additional Protocol I, Article 8, and Additional Protocol II, Article 9, to the Geneva Conventions of 1949 both forbid the recruitment and use of children under 15. Both protocols emphasise children's special right to care, respect and protection. Most recently, the war crimes of recruiting and using child soldiers under the age of 15 in international and non-international armed conflict are included in Article 8 of the Rome Statute of the International Criminal Court.<sup>28</sup>

Article 7 of Congolese military law prohibits the recruitment of anyone below 18 into the armed forces.<sup>29</sup> Military law also does not apply to anyone aged under 18.<sup>30</sup> The national (February 2006) Constitution defines a child as anyone aged less than 18, outlaws all forms of

exploitation of children, lays an obligation on state authorities to protect children and to bring to justice anyone responsible for acts of violence against children (Article 41).

There has also been international movement to bring perpetrators of child recruitment and use in the DRC to justice. Three armed group leaders from the Ituri district of northeastern DRC, Thomas Lubanga Dyilo, Germain Katanga, and Mathieu Ngudjolo, are currently in International Criminal Court custody on charges of war crimes and crimes against humanity, including the recruitment, enlistment and use of child soldiers aged under 15. Trials of these individuals before the Court have not yet begun, however. A fourth armed group leader, Bosco Ntaganda, is also subject of an International Criminal Court (ICC) arrest warrant issued on 22 August 2006 and made public on 28 April 2008, for the alleged war crimes of enlistment and conscription of children under the age of 15 and of using them to participate in hostilities in Ituri between July 2002 and December 2003. Bosco Ntaganda is currently the military chief-of-staff of the CNDP in North Kivu and remains at large. Laurent Nkunda is himself the subject of a 2005 international arrest warrant for war crimes and crimes against humanity, issued by the DRC government in September 2005, in connection with his alleged role in killings committed in Kisangani in 2002 and Bukavu in 2004. He also features on a UN Sanctions List for alleged breaches of the UN arms embargo on the DRC.<sup>31</sup> Laurent Nkunda has denied these accusations.

#### ***Caught between two sides: state violations against children associated with armed groups***

**Rostin**, a 16-year-old Hutu boy from Masisi territory, suffered at the hands of both CNDP and government forces. In October 2007, he and other children from his village, warned that the CNDP was recruiting children by force from schools, had taken to hiding in the countryside. Rostin recalls: *"We built our own shelters in the brush. Our parents brought us food. We made sure that there were never more than five of us together. Sometimes we could creep back to the village, but cautiously. We spent two months like that."*

As the fighting drew closer, his family fled to an IDP camp at Kirokirwe, an area under CNDP control. In late December, *"A group of CNDP soldiers came to the camp. They ordered us: 'Those that are young and have strength, stand up!' About 20 stood up and followed the CNDP soldiers out. Those that didn't stand up were picked out and beaten."* Rostin was taken to a farm at Kabati, in Rutshuru, where he underwent one week of military training with around 40 other children before being sent to the frontline. Shortly afterwards, he made his escape and while trying to find his way out of the forest was picked up by FARDC soldiers who, he says, arrested him and beat him badly.

*The next day I was taken to T2 [FARDC military intelligence] in Goma and put in a cell. There were seven of us, including three children. We spent around three weeks there. We were fed a handful of haricot beans a day, and given only small amounts of water. They soldiers beat us regularly. When we were hit on one side of the face, we were ordered to offer the other cheek also. At night the CNDP detainees were made to hang from the bars of a small overhead window. When eventually we fell, we dropped on to other detainees sleeping on the floor below. They had been given orders to beat us when we fell.*

Rostin reported that one elderly man, who he believes was a Rwandan civilian, was beaten to death by other detainees in this way. In late January, after he believes around three weeks in

detention, the UN intervened and he was released into the care of a child protection agency. Another report received by Amnesty International indicates that one child in T2 detention was ordered to dig a pit, into which he was then thrown by soldiers who seemingly made to bury him alive before an officer intervened. According to General Mayala, Commander of the 8<sup>th</sup> (North Kivu) Military Region, in an interview with Amnesty International, the then commander of T2 has since been redeployed (“*permuté*”).

Thirty-one other children, including children of Rwandan nationality, aged between 12 and 15, were arrested by the army in North Kivu in late 2007, suspected of belonging to the CNDP. The children were initially detained at the T2 in Goma before being transferred, reportedly on high-level government orders<sup>32</sup>, to Kinshasa and held in inhumane conditions in the city's central CPRK prison, apparently on suspicion of “espionage”. The children were not charged and were released in March 2008 after concerted pressure by UN agencies and human rights organizations,

**Kakule Kahemu** (real name), aged 16, ran away from his *mayi-mayi* unit and surrendered to the authorities in November 2007. He believed that he would be accepted into the national demobilisation programme and reunited with his family. Instead he was charged by the local military prosecutor with "participation in an insurrectionary movement", an offence under the Military Penal Code which is punishable by up to 20 years' imprisonment. On 12 November he was remanded to Butembo central prison. When Amnesty International met him in prison in March 2008, he had not eaten for two days and was enduring inhumane and unsanitary prison conditions. After intervention by Amnesty International and local NGOs, he was released.<sup>33</sup>

### ***Recruitment, ill-treatment and unlawful killings by armed groups***

**Seraphin** told Amnesty International that he was in the 6th year of secondary school in Kitchanga when he was abducted by the CNDP in mid-2007. “*I was at school studying when CNDP soldiers turned up and gathered all the 6th year boys together. They took 12 of us in total aged from 16, and drove us to the training camp at Bwiza. There they put us in a pit in the ground. Some of us tried to get away but we were beaten. I was stabbed in the stomach and tied up.*” Christophe, who bears the scar of what appears to be a knife wound to his stomach, submitted to the training. Of the 250 people with him in the camp, he estimated that 60 were children, including a small number of girls. “*The training was hard. We were fed one plate of maize meal a day, shared between 12 people. Some people died because of a lack of food or because of illness. Other people were killed when they tried to escape, shot in public as an example to us. We were forced to dig holes and bury the bodies, right there beside where they had been killed.*”

Other adult CNDP recruits interviewed by Amnesty International bore witness to the large numbers of children in the CNDP forces and the punitive conditions in which they were held. Amnesty International interviewed one 25-year-old male farmer from Kibugu, in Masisi territory, who was forcibly recruited by the CNDP in September 2007 and underwent military training in a farm near Itebero belonging to a prominent Tutsi businessman. He reported that of around 200 people undergoing training with him, “*most were children*”, all boys, with the youngest aged around 12. Other children were younger still, “*but they were given the job of looking after the cattle*”. He reported that many children had been abducted from schools in Masisi, including his fourteen-year-old nephew, taken from Muheto School, whom he



eventually escaped with. *“Many were taken from Muheto School, teachers and children together. The soldiers barred the doors and took everyone inside”*. He reported that the trainees, including children, were beaten routinely and escape attempts were often punished with death. He witnessed CNDP fighters leading five recaptured men to a remote area of the camp. They did not return and he believes they were executed. He reported that the officers carried small metal hammers, attached to their uniforms, which he believed were used to kill with sharp blows to the head. He named several senior CNDP military officers and political officials present in the camp.

Another adult from Kitchanga, who was forcibly recruited by the CNDP and taken to a CNDP training centre in Bwiza, Rutshuru territory, in August 2007, estimated that there were 170 children, mainly aged 15 to 17 in the camp, only boys, and around 250 adults. *“We were burying 10 people a day,”* he reported. *“Some died from illness, others from beatings. Many couldn’t get used to the poor diet”*. After an unsuccessful escape attempt, he told Amnesty International that he was made to lie on the ground, beaten over the course of several hours and then left in a pit in the ground for four days. In the camp, he reported, two of their instructor officers were Ugandan, as well as some senior Congolese Tutsi and Hutu officers and indicated the involvement of one high-level CNDP commander in involvement in war crimes:

*It was a Thursday, around 4 pm. A heavy rain had just stopped. These boys had tried to escape but had got lost in the brush and had been recaptured. They were brought out of a pit in the ground and presented to the recruits during a training session, as a lesson to all of us not to try to escape. [The commander] gave a speech: “You see these two youths. They wanted to flee. They didn’t want to help us free the country. They must undergo their punishment in front of you. If you do the same, you will suffer the same punishment.” He then gave the orders to beat them.*

According to the witness, the two youths were then beaten in the presence of the recruits by two soldiers and a captain. *“They pushed them down into the mud. When they tired of kicking them through the mud they beat them with wooden sticks. The punishment lasted 90 minutes until they succumbed and died. The bodies were buried there, at Bwiza.”*

According to Amnesty International’s information, one child reportedly witnessed three executions of recaptured escapees within a 10-day period, at least one of which allegedly took place during a speech to the recruits by a high ranking commander. This child and others with him were then forced to bury the bodies. Several victims gave Amnesty International the names of CNDP personnel in charge of the military training in the CNDP camps, which included senior members of the military headquarters staff as well as senior CNDP political representatives.

Commanders of all armed groups will often deliberately brutalize children, forcing them to commit crimes, including murder and rape, against their will. Where children have committed crimes under duress, the responsibility for these crimes clearly lies with their adult commanders, but such crimes remain a major barrier to community reconciliation and the successful reintegration of demobilised children.<sup>34</sup> Some children are afraid to return to their homes because local people may have witnessed crimes committed by their unit. Communities and families often also fear the return of brutalised children, who are consequently shunned.

**Samuel**, aged 16, was re-recruited from his home by mayi-mayi forces in August 2007, having previously served with the mayi-mayi for nearly a year in 2006. Samuel told Amnesty International that his unit regularly raped women, killed and looted, often under the influence of alcohol and drugs. He reported that some commanders would withhold food from boys unless they raped a woman or girl. He continued:

*Once I killed a deserter. The major knew where this man lived and wanted his weapon back. We went to the man's house and caught him. The older soldiers called me over. They said I had a choice – either slit the man's throat or be killed. I killed the man because I had to save my own life. Afterwards I felt scared.*

On 9 February 2008, Samuel was captured by the FARDC. He was held in T2 military intelligence detention for two days before being taken into the care of a NGO protection centre. Facing an uncertain future, he said: *"I do not want to go back to the army. The most important thing for me now is to study and train. I feel ashamed for what I have done."*

A number of children have served with different armed groups. **Joseph** is a 15-year-old Nande boy who joined the mayi-mayi in November 2006. He escaped in February 2008 and is now living with a host family in the town of Rutshuru.

*The mayi-mayi took 12 girls and 10 boys from my village. I was 14. Some were younger, between 10 and 13. Everyone went to the front, even the little ones... It was terrible – you would be whipped if you did something wrong. Once, I'd been ordered to carry some bananas but they were too heavy so I left some behind. As a punishment, I was tied by my arms and feet and given 20 lashes with a rope.*

Joseph recalled that an 18-year-old girl, **Elisabeth Kahumbu**, was executed on the orders of his commander in mid-2007 for stealing. *"She was ordered to go into the forest and collect firewood. They killed her there. She had only been with the group for three weeks."* By November 2007, conditions had become so bad that Joseph and four others decided to escape, but as they made their way through the forest they ran into a group of FDLR. As they tried to flee, two of them, named as **Patrick** and **Héritier**, aged around 15, were shot dead by the FDLR. Joseph and the remaining two, an adult and a 17-year-old boy, were captured and, in turn, used as child fighters by the FDLR.

*We were beaten if we did something wrong. Once, a group of us went hunting in the [Virunga National] Park. We shot an elephant and had just slit its throat when the park rangers intervened and started shooting at us. So we fled back to camp, empty-handed. As a punishment I was tied up, with my back on the ground, from morning until night, staring at the sun. Now, at midday, I can't see clearly anymore.*

North Kivu armed groups have continued to recruit after the Act of Engagement. **Joel** is a 15-year-old school boy, Hutu, from Masisi, who had been recruited by the CNDP. He escaped the group in early March 2008. He told Amnesty International that the CNDP were still recruiting at the time of his escape, going from house to house in villages or positioning

themselves on paths leading to and from schools. In his unit, he reported that large numbers were children.

**Nicolas**, now aged 17, from a village near Nyamilima in Rutshuru, joined the mayi-mayi at the age of 15 after he witnessed his elder brother being shot dead by Nkunda loyalists. He told Amnesty International that there were many children in his mayi-mayi unit. The youngest, whom he named, was aged just eight.

*He is still in the forest, still carrying his gun. For the little ones like him, they give “invisibility gris-gris”<sup>35</sup> which makes you disappear from the view of the enemy. They make a small cut in the tongue and put the potion on. Then they make a talisman. The gris-gris is prepared by the kadogo dawa, the younger children in the group who take care of the medicine.*

Nicolas reported that two children in his group, **Mumbere** (aged 15) and **Ogu** (aged 12) were killed in battles with the CNDP near Ishasha in late 2007, “because they didn’t respect the gris-gris”. He was also wounded in the back of his foot because, he explained, he also didn’t show sufficient respect. Nicolas described how one child who had tried to escape was tied up, held in a pit for four days, and whipped five times each morning and night. Others were taken into the forest for execution. He gave the names of some of these victims as **Edmond** (whom he believed was aged 12), **Jurias** (17) and **Lambert** (22), all of whom had been accused of ill-treating civilians.

Convinced that he would die unless he escaped, Nicolas wandered off into the forest one day in February 2008, and made his way to a MONUC base at Nyamilima. Since then he has been staying with a host family. On the day he left the group, he recalled that 15 children from three villages near the Ugandan border had been recruited into his unit. He thought half of them looked around 8 years of age, the others older. “Recruitments of children were taking place all the time. We would march through the villages, to impress the children. We would say we have meat, that we are proud of the gris gris, that we are soldiers for the government.”

Amnesty International fears that the fate of children serving with the armed groups in the Kivus will be bound up with protracted negotiations over the demobilization of the armed groups themselves. The organization is calling on all armed groups, the government and international mediators to ensure that these children are immediately released, without precondition, to the care of appropriate child protection agencies.

## **PROTECTING WOMEN AND CHILDREN IS ESSENTIAL TO REVIVING THE PEACE PROCESS**

The Congolese people can have little faith in a peace process in which the belligerents continue systematically to kill civilians, rape women and girls, and abduct children. If confidence in the Kivu peace process is to be restored and consolidated, respect for human rights and international humanitarian law is the first basic measure of progress. Until there is a basic level of human security where people can go about their daily lives without fear of sexual violence and abduction there will be no peace in the DRC. This needs to be accompanied by the effective delivery of justice for the untold number of civilians who have suffered abuse and violations of international human rights and humanitarian law at the hands

of armed groups and government forces in eastern DRC. Without this, the aspirations for security, reconciliation, reconstruction and development will remain beyond reach.

The prime movers of the insecurity in the Kivus, on both government and armed group sides, are aware of their obligations under international humanitarian law, drawn unceasingly to their attention by the UN as well as international and national human rights and humanitarian organizations. Amnesty International believes that no further amount of mediation or facilitation will significantly advance the cause of peace in North Kivu unless, first, there is an immediate and unequivocal halt to violations and abuses of international human rights and humanitarian law. The priority of the international community must therefore be to convince all armed forces present in the Kivus to abide immediately by international human rights standards or face justice.

The DRC government, with support and assistance of the international community, must for its part make justice a living and convincing reality. This involves the rehabilitation of the civilian court and policing services so that they are capable of properly investigating and prosecuting human rights violations, including especially crimes of sexual violence and crimes against children. It involves the rehabilitation of the judicial and policing systems, with clear priority given to the elimination of sexual violence, the provision of support and protection to victims and witnesses, and sufficient financial, material and training resources to ensure that police, prosecutors and judges are able to perform their roles capably and independently. Amnesty International believes that the Amani Programme should make this one of its core objectives in the search for peace and reconciliation in the Kivus, and that this should be complemented by clear national strategies to address violence against women and children and to tackle impunity. Women's and child protection NGOs and agencies, national and international, should have a central role in the design and implementation of such strategies.

MONUC, too, has a key role to play in protecting women and children and in bringing an end to systematic sexual violence and child recruitment. Ensuring that women and children are a priority in MONUC peacekeeping and civilian protection operation, particularly by patrolling in locations where women and children are most exposed to risk of human rights abuse and through regular consultations between peacekeepers and women's and children's NGOs, will help. But MONUC must also ensure that a clear priority and focus is put on ending impunity for human rights abuse against women and children in its crucial programmes of support to the rehabilitation and reform of the DRC's justice and security sectors. Initiatives such as recent MONUC human rights training to Congolese police in North-Kivu on laws on sexual violence procedures for helping rape survivors and the protection of victims and witnesses are essential and should continue and be expanded. At the political level, too, MONUC should press the government to ensure that women and children's civil society organizations are included at all levels of the Kivu peace process and in the design and implementation of national strategies to end violence against women and children.

It is also essential for all parties with the support of the international community to protect and encourage the DRC's human rights and civil society activists. These human rights defenders, with limited resources and often under situations of physical threat, work on behalf of the survivors of human rights and humanitarian law abuses and violations with an exceptional and lonely courage. They are usually the first refuge for survivors of rape and other forms of sexual violence and for children in distress, including those who have been forced to take part in the conflict. Amnesty International calls on the DRC government and international

community to recognize and support the work of these individuals and organizations, and to provide them with greater protection.

## **RECOMMENDATIONS**

### **TO FOREIGN AND CONGOLESE ARMED GROUPS**

- Immediately end crimes under international law against the civilian population, including killing, torture, rape, the recruitment and use of children.
- Immediately and unconditionally release all children associated with armed group forces into the care of the appropriate child protection agencies.
- Surrender to national and international justice any armed group member alleged to have committed crimes under international law, or who is already indicted for or charged with such crimes.

### **TO THE DRC GOVERNMENT**

#### ***On ending sexual violence***

- Meet and fulfil the DRC state's obligations under international and regional treaties and standards to eliminate sexual violence, bring perpetrators to justice, and to assure legal and medical assistance as well as compensation and redress to survivors of sexual violence.
- Immediately investigate all allegations of rape and other forms of sexual violence promptly, thoroughly and independently, ensuring that those responsible for carrying out or ordering rape and other forms of sexual violence are brought to justice.
- Ensure that all victims of sexual violence, particularly women and girls, enjoy equal and effective protection under the law and have equal access to justice.
- Establish, with international support, emergency programmes of appropriate medical and psychosocial care for rape survivors, which should be free of charge.
- Consult with women and women-led organizations to develop effective mechanisms for providing protection from violence, facilitating prosecution of perpetrators and supplying full reparation for victims and survivors, in line with UN Security Council Resolution 1820.
- Ensure the effective participation and full involvement of women and women's organizations in efforts to resolve conflict and prevent sexual violence in eastern DRC.
- Maintain and make public official statistics on complaints of and investigations, prosecutions and convictions for rape at provincial and national level.
- Ensure that all state security force members are trained in and uphold the government's obligations under international human rights and humanitarian law, particularly on the categorical prohibition of all forms of sexual violence and those obligations relating to the protection of women from rape and other forms of sexual violence.
- Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

#### ***On ending recruitment and use of children and associated abuses***

- Release all children still serving in the FARDC into the care of an appropriate child protection agency. Make this a priority of the Amani peace programme.
- Ensure that MONUC and other relevant UN agencies and NGOs have unrestricted access to all military installations to identify child soldiers.

- Release immediately any and all children held unlawfully under military jurisdictions or in military detention, or transfer them to civilian juvenile justice facilities on recognizably criminal charges for which admissible supporting evidence exists.
- Thoroughly investigate cases of abduction, recruitment and use, torture and other ill-treatment of children in order to identify, apprehend and bring the perpetrators to justice.
- Ensure that children released or escaping from the armed groups and forces are protected and that DDR programmes cater adequately for their long-term support and reintegration into the community, including by providing appropriate and gender-sensitive psychosocial rehabilitation, educational and vocational opportunities.
- Promulgate and implement the Child Protection Code (*Code de Protection de l'Enfant*).

***On ending impunity for crimes of sexual violence and child recruitment***

- Ensure that any members of the FARDC who have committed crimes under international law, including rape and other forms of sexual violence and the recruitment and use of children, are brought to justice in fair trials without recourse to the death penalty.
- Establish an independent and effective vetting process for members of the security forces to ensure that those reasonably suspected of crimes under international law or other human rights abuses are excluded or suspended from these forces, pending independent and impartial investigation.
- Ensure that the 2006 national laws against sexual violence are effectively implemented by all branches of the judiciary.
- Ensure official policy prohibiting the use of children in the armed forces and police is rigorously implemented.
- Incorporate the provisions of the Rome Statute of the International Criminal Court promptly into national law.
- Prioritize rehabilitation and reform of the national civilian justice system, to make it capable of independently and effectively investigating and trying cases of human rights violations, including past violations.
- Support and protect local and national human rights and humanitarian organisations working to help the victims of human rights abuse.

**TO MONUC**

- Continue to prioritize civilian protection in all MONUC operations, paying particular regard to the safety of women and children in areas or situations where they are most vulnerable to sexual violence and abduction.
- In any joint military operations with the FARDC against armed groups, ensure that civilians not participating in hostilities but who find themselves in the area of operations are at all times protected, and that effective humanitarian plans accompany military plans to cater for fleeing or trapped civilians.
- Consult regularly with civil society, especially women's and children's organizations, especially at the local level, in order to develop and maintain effective strategies for protecting women and children in peacekeeping activities.
- Prioritize the elimination of violence against women and children in MONUC programmes of support to security sector and judicial reform in the DRC.
- Press and assist the government to ensure the effective participation of women's and children's civil society organizations in the Kivu peace programme and in the design and implementation of country level strategies to address violence against women and children.

## **TO THE INTERNATIONAL COMMUNITY (including especially US, European Union and African Union facilitators to the Kivu peace process)**

- Exert maximum pressure on the armed groups and the DRC government to respect their obligations under international humanitarian law and to honour without further delay the commitments they made in the Act of Engagement, by immediately halting all acts of rape and other sexual violence, recruitment and use of children, and other human rights violations.
- Insist that all armed forces immediately and unconditionally release all children associated with those forces and that they accept unrestricted access to all military positions by MONUC and other relevant UN agencies and NGOs to identify children.
- Ensure that MONUC has the resources it needs to fulfil its mandate to protect civilians and that adequate support and resources are made available to MONUC human rights, child protection, gender affairs and rule of law units to enable them to monitor and report on rights violations.
- Press and assist the DRC government to develop clear national strategies to eliminate violence against women and children and to end impunity for such crimes. This should involve the introduction of an effective vetting process for members of the security forces to ensure that those reasonably suspected of crimes under international law or human rights abuses are excluded or suspended from these forces, pending investigation.
- Press the DRC government to ensure the effective participation of women's and children's civil society organizations in the Kivu peace programme and in the design and implementation of country level strategies to address violence against women and children.
- Ensure that UN agencies and other humanitarian organizations have sufficient funds and other resources to adequately assist vulnerable populations.
- Prioritize the rehabilitation of the civilian justice system in the DRC, to make it capable of independently and effectively investigating and trying cases of human rights violations, including past violations, with a particular emphasis on sexual violence and violence against children.
- Ensure and assist the DRC government to provide assistance to survivors of rape and other sexual violence and former child soldiers through programmes of medical and psychosocial care, community reintegration and social welfare, and access to justice.
- Support and protect local and national human rights and humanitarian organisations working to help the victims of the conflict.

## **ENDNOTES**

<sup>1</sup> CNDP Communiqué, 6 December 2007, [www.cndp-congo.org/communique\\_officiel\\_mvt061207.doc](http://www.cndp-congo.org/communique_officiel_mvt061207.doc).

<sup>2</sup> "La patience a ses limites, la RDC ne va pas continuer à subir la loi des hommes sans foi". Statement by Minister of Defence, Chikez Diemu, *Agence France Presse*, 30 August 2007.

<sup>3</sup> Déclaration politique de la coalition de résistants patriotes congolais, January 2008, [www.amanileo.org](http://www.amanileo.org).

<sup>4</sup> See also Report on Mission to the Democratic Republic of the Congo submitted by the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin (A/HCR/8/6/Add.3), 16 May 2008.

<sup>5</sup> Text of the communiqué available at <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DRC%20S2007%20679.pdf>.

<sup>6</sup> Twenty-sixth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo, 3 July 2008, para. 27.

<sup>7</sup> There are an estimated 850,000 internally displaced persons in North Kivu, including approximately 550,000 who have fled the recent violence.

<sup>8</sup> For more information, see Amnesty International 2005 report *North Kivu: Civilians pay the price for political and military rivalry* (AFR 62/013/2005).

<sup>9</sup> Under UN Security Council Resolutions 1565, 1592 and 1756.

<sup>10</sup> Available at [www.amanileo.org](http://www.amanileo.org) (French).

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- <sup>11</sup> « ...la voix de la femme n'a pas toujours été entendue et prise à sa juste valeur. Pourtant ensemble avec les enfants, elle est la principale victime des violences diverses. » Déclaration des Femmes. Conférence pour la Paix, la Sécurité et le Développement dans les provinces du Nord-Kivu et du Sud-Kivu, January 2008. [www.amanileo.org](http://www.amanileo.org).
- <sup>12</sup> République Démocratique du Congo : Plan d'Action Humanitaire 2008. UN OCHA December 2007, p.89. <http://ochaonline.un.org/cap2005/webpage.asp?Page=1628>
- <sup>13</sup> Radio Okapi, 29 May 2008. <http://www.radiookapi.net/index.php?i=53&a=18843>
- <sup>14</sup> Congolese NGOs all voice concern about the steady rise in the number of rapes committed by civilians, which they consider a direct consequence of persistent conflict and impunity in the province.
- <sup>15</sup> The same network has received 6,729 rape survivors into its care in the last four years.
- <sup>16</sup> For further information see Amnesty International report, *DRC: Mass rape – time for remedies* (AFR 62/018/2004, October 2004).
- <sup>17</sup> *Loi n° 06/018 du 20 juillet 2006*
- <sup>18</sup> Interview with Kirumba mayor and chief of police
- <sup>19</sup> Article 8(b) xxxii and article 8(e) vi.
- <sup>20</sup> Article 7 and Article 7(1)(g).
- <sup>21</sup> The Protocol is one of 10 Protocols and four Programmes of Action of binding legal character under the Pact on Security, Stability and Development in the Great Lakes Region which deal with priority areas of concern. The Pact evolved from the Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region (2004), and establishes the International Conference on the Great Lakes Region (IC/GLR) as a regional organization with an implementation mechanism.
- <sup>22</sup> See [www.icglr.org](http://www.icglr.org) for further information.
- <sup>23</sup> Security Council Resolution 1820, preambular paragraph 8.
- <sup>24</sup> Security Council Resolution 1820, paragraphs 2 and 3.
- <sup>25</sup> Rape by women of men is recognized as a crime of rape under the definitions of the Elements of Crimes of the International Criminal Court.
- <sup>26</sup> Alphonse Tumba Luaba, director the National Disarmament, Demobilization and Reinsertion Programme (PNDDR), during an address delivered on the Day of the African Child, 16 June 2008.
- <sup>27</sup> See Amnesty International reports, *DRC: Children at war – creating hope for their future* (AFR 62/017/2006, October 2006) and *DRC: Children at War* (AFR 62/034/2003, September 2003).
- <sup>28</sup> Article 8(b)xxvi and Article 8(e) vii.
- <sup>29</sup> *Loi No 04/023 portant organisation générale de la Défense et des Forces Armées.*
- <sup>30</sup> Article 114 of the 2002 Military Judicial Code.
- <sup>31</sup> [http://www.un.org/sc/committees/1533/pdf/1533\\_list.pdf](http://www.un.org/sc/committees/1533/pdf/1533_list.pdf)
- <sup>32</sup> General Mayala told Amnesty International that the children had been transferred “under instruction” from Kinshasa. AI interview, 21 February 2008.
- <sup>33</sup> Amnesty International issued an Urgent Action seeking Kakule Kaheme's immediate release from prison on 20 March 2008. See UA 75/08, AFR 61/001/08.
- <sup>34</sup> If a child is suspected of being responsible for crimes which he or she has willingly committed, subject to the age of criminal responsibility, Amnesty International believes that the child should be investigated and, if there is sufficient admissible evidence, prosecuted in a manner fully consistent with international fair trial standards for a person under 18. This should be done in line with the principles of international law relating to juvenile justice, which places the best interests of the child first and lays emphasis on the rehabilitation of the child into society, rather than on punishment.
- <sup>35</sup> Gris-gris is a supposedly magic potion, made from material gathered from the forest, used by the mayi-mayi to protect fighters from injury.