

# DEMOCRATIC REPUBLIC OF CONGO

## EASTERN CONGO RAVAGED

### KILLING CIVILIANS AND SILENCING PROTEST

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## I. INTRODUCTION

IN THE COMPLEX CONFLICT IN EASTERN CONGO, ALL THE MANY COMBATANT FORCES HAVE ATTACKED CIVILIANS, KILLING, INJURING AND RAPING THOUSANDS OF PERSONS AND CAUSING MORE THAN HALF A MILLION OTHERS TO FLEE THEIR HOMES. DURING INVESTIGATIONS CARRIED OUT IN MARCH 2000 IN AREAS CONTROLLED BY THE GOMA-BASED CONGOLESE RALLY FOR DEMOCRACY (RASSEMBLEMENT CONGOLAIS POUR LA DÉMOCRATIE, RCD) AND ITS ALLIES, HUMAN RIGHTS WATCH RESEARCHERS DOCUMENTED CASES OF MURDER, RAPE, AND PILLAGE CARRIED OUT BY ALL OF THE ARMED GROUPS NOW FIGHTING IN THE REGION.

THE RCD LAUNCHED A REBELLION AGAINST THE GOVERNMENT HEADED BY LAURENT KABILA IN AUGUST 1998. THEY VOWED TO RESTORE DEMOCRACY AND RESPECT FOR HUMAN RIGHTS WITHIN THE DEMOCRATIC REPUBLIC OF CONGO (DRC) BUT THE RCD-GOMA AND ITS RWANDESE ALLIES HAVE REGULARLY SLAUGHTERED CIVILIANS IN MASSACRES AND EXTRAJUDICIAL EXECUTIONS. IN CASES WHERE THE RCD OR ITS ALLIES ADMIT THAT THE KILLINGS TOOK PLACE, THEY OFTEN SEEK TO JUSTIFY THEM AS UNINTENDED CONSEQUENCES OF COMBAT WITH ARMED GROUPS, BUT THEY SEEM IN MANY CASES TO HAVE COMMITTED THE ABUSES DELIBERATELY TO PUNISH CIVILIANS FOR THEIR SUPPOSED SUPPORT OF ENEMIES OF THE RCD. THEY HAVE ILLEGALLY DETAINED HUNDREDS OF OTHERS, OFTEN ILL-TREATING OR TORTURING THEM. ALTHOUGH CLAIMING TO BE THE LEGITIMATE LOCAL AUTHORITIES, THE RCD HAS FAILED TO PREVENT OR PUNISH COMMON CRIMES COMMITTED BY ITS SOLDIERS OR OTHER PERSONS.

ARMED GROUPS, KNOWN GENERALLY AS MAÏ-MAÏ OR INTERAHAMWE, FIGHT AGAINST THE RCD, SOMETIMES WITH APPARENT SUPPORT FROM THE KABILA GOVERNMENT. THESE ARMED GROUPS HAVE TARGETED CIVILIANS IN MASSACRES AND EXTRAJUDICIAL EXECUTIONS AND HAVE ENGAGED IN WIDESPREAD PILLAGE AND RAPE. IN MANY CASES, THEY PERPETRATE ABUSES AGAINST THOSE WHOM THEY BELIEVE ARE SUPPORTING THE RCD OR ITS ALLIES.

FOURTEEN MONTHS AFTER KABILA OVERTHREW PRESIDENT MOBUTU SESE-SEKOU, A COALITION OF GROUPS FORMED THE RCD AND REBELLED AGAINST HIM. THE NEW MOVEMENT INCLUDED SOME FORMER SUPPORTERS OF KABILA, PARTICULARLY CONGOLESE MEMBERS OF THE TUTSI ETHNIC GROUP, FORMER POLITICAL AND MILITARY SUPPORTERS OF MOBUTU, AND A NUMBER OF INTELLECTUALS. THE RCD RECEIVED SUPPORT FROM THE GOVERNMENTS OF RWANDA AND UGANDA AS IT MOVED WESTWARD, ATTEMPTING TO REPLICATE THE RAPID SUCCESS OF THE FORCES THAT HAD INSTALLED KABILA IN POWER. BUT THE GOVERNMENTS OF ANGOLA, ZIMBABWE, NAMIBIA, AND CHAD CAME TO KABILA'S AID AND SLOWED THEIR ADVANCE.

AS PEACE NEGOTIATIONS BETWEEN THE TWO SIDES TOOK PLACE, THE RCD SPLIT. JEAN-PIERRE BEMBA LEFT TO FOUND THE MOVEMENT FOR THE LIBERATION OF CONGO (MOUVEMENT DE LIBÉRATION DU CONGO, MLC), WHICH TOOK CONTROL OF MUCH OF ÉQUATEUR PROVINCE. THE RCD OUSTED ITS PRESIDENT WAMBA-DIA-WAMBA WHO, WITH A SMALL PART OF THE RCD, MOVED NORTH TO BUNIA WHERE HIS GROUP CLAIMS TO CONTROL PARTS OF NORTH KIVU AND ORIENTALE PROVINCES. THE MAIN PART OF THE RCD, BASED IN GOMA UNDER ÉMILE ILUNGA, EXERCISES ITS CONTROL OVER PARTS OF SOUTH KIVU, MANIEMA, NORTH KIVU, ORIENTALE, AND KATANGA. RCD-GOMA HAS CREATED AN ADMINISTRATION, DIVIDED INTO A SERIES OF "DEPARTMENTS," EACH WITH A "HEAD," AND HAS NAMED GOVERNORS AND OTHER OFFICIALS. IT DOES NOT CALL ITSELF A GOVERNMENT BUT CLAIMS TO ADMINISTER THIS AREA ACCORDING TO CONGOLESE LAW.<sup>1</sup>

RWANDA, UGANDA, AND BURUNDI ALL HAVE TROOPS IN EASTERN CONGO, BOTH TO AID LOCAL ALLIES AND TO ACHIEVE THEIR OWN OBJECTIVES. THE UGANDANS BACK BOTH BEMBA AND WAMBA. THE RWANDANS BACK THE RCD-GOMA AND EXERCISE CONSIDERABLE INFLUENCE OVER ITS POLITICAL AND MILITARY DECISIONS. BURUNDI OPERATES IN THE SOUTHERN PART OF THE RCD-GOMA ZONE BUT HAS NOT BEEN SO CLOSELY LINKED WITH THIS GROUP AS HAVE THE RWANDANS.

THE ARMED GROUPS OPPOSED TO THE RCD FALL GENERALLY INTO TWO CATEGORIES: THE MAÏ-MAÏ—WHO ARE CONGOLESE—AND THE INTERAHAMWE—WHO ARE MOSTLY RWANDAN HUTU. IN THE PAST FREQUENTLY JOINED IN OPPOSITION TO THE RCD, IT APPEARS THAT THE MAÏ-MAÏ HAVE INCREASINGLY DISTANCED THEMSELVES FROM THE OTHER GROUP IN THE LAST MONTHS.

DURING THE REBELLIONS OF THE 1960S, THE TERM MAÏ-MAÏ DESCRIBED FIGHTERS WHO USED TRADITIONAL RITUALS AND CHARMS WHICH WERE SUPPOSED TO PROTECT THEM IN BATTLE. THE NAME NOW REFERS TO A RANGE OF IRREGULAR FORCES FROM DIFFERENT ETHNIC GROUPS, INCLUDING LOCAL PEOPLE WITH NO PREVIOUS MILITARY EXPERIENCE AND SOLDIERS WHO ONCE SERVED EITHER WITH MOBUTU OR KABILA.

THE INTERAHAMWE, ORIGINALLY A RWANDAN HUTU MILITIA WHICH HELPED LEAD THE 1994 GENOCIDE IN RWANDA, NOW INCLUDE THE REMNANTS OF THAT GROUP PLUS OTHERS, BOTH RWANDAN AND CONGOLESE HUTU, WHO HAVE JOINED WITH THEM IN FIGHTING THE CURRENT GOVERNMENT OF RWANDA. ALTHOUGH RWANDAN AUTHORITIES AND MANY OTHERS SPEAK OF THE GROUP AS IF IT WERE COMPOSED EXCLUSIVELY OF PERSONS GUILTY OF GENOCIDE, IT IS IMPOSSIBLE TO KNOW HOW MANY OF PRESENT-DAY INTERAHAMWE WERE PART OF THE FORCE IN 1994. SOME ARE CERTAINLY FORMER SOLDIERS OF THE

Rwandan army (Forces Armées Rwandaises, FAR) and of the original Interahamwe militias, while others are former civilians with no previous military experience. To make clear that these bands include persons who likely did not participate in the genocide, this report will not use the term Interahamwe, except in direct quotations, but instead will speak of predominantly Hutu armed groups.

For some time, these predominantly Hutu groups and the Mai-Mai have reportedly been receiving assistance from Kabila. In September 1999, Kabila named a Mai-Mai commander, Sylvestre Ntuyahaga, as head of the army general staff, lending substance to this report. In parts of South Kivu, Congolese and predominantly Hutu armed groups also cooperate with rebel groups from Burundi, particularly the Forces for the Defense of Democracy (Forces pour la Défense de la Démocratie, FDD).

The Kabila government, the rebel groups opposed to it, and the foreign governments allied to these parties signed a peace accord in Lusaka in July and August 1999, but they have failed to implement it. They signed a new cease-fire in mid-April 2000, which appears to be more generally observed. The Mai-Mai, the predominantly Hutu combatants, and the Burundian FDD were not invited to participate in either the first or the second agreement.

## II. RECOMMENDATIONS

Human Rights Watch condemns in the strongest terms the conduct of the Government of Rwanda and the Rassemblement Congolais pour la Démocratie (RCD) and the Mai-Mai and Hutu armed groups operating in Eastern Congo described in this report, and calls upon all parties to respect international humanitarian law. In particular, all parties to the conflict must desist from targeting civilians for attack.

### To the Government of Rwanda and the Rassemblement Congolais pour la Démocratie (RCD):

- Immediately cease all attacks on civilians; investigate reports of killing, torture, rape of civilians, and looting of civilian property by RCD and Rwandan forces and their allies; and hold those responsible accountable. In particular, abuses by Rwandan troops should be prosecuted in Rwanda. RCD authorities should establish internal investigations to look into violations of international humanitarian law by its forces.
- Guarantee the rights of members of civil society, and in particular human rights groups, to operate freely; in particular cease harassment and threats of prosecution of civil society activists.
- Ensure that civil society actors are free to exercise their freedom of association and expression, consult among themselves as well as with their counterparts in other areas of the country, and to send their chosen representatives to the inter-Congolese dialogue national in Kinshasa, in accordance with the Lusaka peace accord.
- Grant full access to detention centers to the International Committee of the Red Cross (ICRC) and other humanitarian organizations. Publish lists of all prisoners, including their gender, ages, where they were captured, where they are detained, and other relevant details.
- Allow unfettered access and safe passage for humanitarian agencies trying to reach needy populations.
- Permit full, unhampered international investigations of serious abuses of international human rights and humanitarian law by nongovernmental organizations and independent journalists.

### To the Mai-Mai and Hutu armed groups operating in Eastern Congo:

- Immediately cease all attacks on civilians, including killing, rape, looting and other violations of international humanitarian law.
- Establish internal investigations into violations of international humanitarian law as described in this report.

- ALLOW UNFETTERED ACCESS AND SAFE PASSAGE FOR HUMANITARIAN AGENCIES TRYING TO REACH NEEDY POPULATIONS.

#### TO THE UNITED NATIONS:

- BASED ON INVESTIGATIONS BY THE U.N. SPECIAL RAPPORTEUR ON THE DEMOCRATIC REPUBLIC OF CONGO AND OTHER INFORMATION AVAILABLE FROM OTHER CREDIBLE SOURCES CONCERNING VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW BY ALL PARTIES TO THE CONFLICT, THE SECURITY COUNCIL SHOULD CREATE A SEPARATE CHAMBER FOR THE DRC OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA TO PROSECUTE SUCH CRIMES.
- THE SECURITY COUNCIL SHOULD ENSURE A STRONG HUMAN RIGHTS COMPONENT FOR **United Nations Observer Mission in the DRC (MONUC)**, INCLUDING CREDIBLE PROTECTION FOR THE CIVILIAN POPULATION, AND DEPLOYMENT OF HUMAN RIGHTS MONITORS AND CHILD PROTECTION OFFICERS.
- MEMBER STATES SHOULD REINFORCE THE CAPACITY OF THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS FIELD OFFICE IN CONGO BY INCREASING HUMAN AND FINANCIAL RESOURCES FOR THE OPERATION.

#### To the International Community, including the United States, the European Union and its member states, and the OAU:

- Energetically denounce violations of human rights and humanitarian law by all parties involved in the DRC war and insist upon accountability for the perpetrators. Strong and constant pressure should be exerted on all foreign countries involved in the war in the Congo as well as the Congolese government to observe their obligations under international human rights and humanitarian law.
- Insist that the U.N. complete a prompt and thorough investigation of charges of violations of international humanitarian law against all parties, and support the creation of a separate chamber for the DRC of the International Criminal Tribunal for Rwanda to prosecute such crimes.
- Support local human rights groups and other civil society groups, both financially and politically. Give particular assistance to groups focusing on the RCD justice system, human rights research, advocacy, assistance for victims and human rights awareness.
- Scrutinize economic assistance to all the states involved in the conflict to ensure that funds earmarked for social and economic development programs do not end up financing abusive conduct by any party to the conflict.
- Extend technical and financial assistance to the process of inter-Congolese dialogue to ensure that the unarmed opposition and civil society are free to consult with each other and to send their chosen representatives.

### III. INDISCRIMINATE ATTACKS AND EXTRAJUDICIAL EXECUTIONS OF CIVILIANS

The civilians of eastern Congo are trapped between the armed contenders for power in the region. Both the RCD-Goma and its Rwandan and Burundian allies, on one hand, and the Mai-Mai and predominantly Hutu combatants on the other, kill civilians whom they accuse of supporting their enemies. They have systematically violated international humanitarian law through indiscriminate attacks on civilians, summary executions, torture including rape, other kinds of cruel treatment, pillage and the destruction of civilian property.

The war in the DRC has an international dimension as well as an internal dimension. All parties involved in the armed conflict in eastern Congo are obliged to respect the most fundamental guarantees established by international humanitarian law. As a minimum legal standard, Common Article 3 of the 1949 Geneva Conventions lays down provisions that apply to government forces and armed groups that are combating each other in an internal armed conflict. Common Article 3 prohibits attacks on civilians, e.g. persons taking no active part in the hostilities. In

particular, it prohibits violence to life and person, cruel treatment and torture, taking of hostages, outrages upon personal dignity, and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court.<sup>2</sup>

In order to ensure respect for the civilian population and civilian property, all parties to the conflict must distinguish at all times between civilians and combatants, and between civilian property and military objectives. International humanitarian law also prohibits acts or threats of violence with the primary purpose to spread terror among the civilian population, in particular murder, physical or mental torture, rape, mutilation, enforced prostitution, pillage, collective punishments, or taking of hostages. It also prohibits starving civilian populations, destruction or removal of objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for food production, crops, livestock, drinking water installations and supplies and irrigation works. Methods of warfare that are likely to cause damage to the environment and can put in danger the health or survival of the population are also prohibited.<sup>3</sup>

Additionally, Rwanda and Burundi, the two foreign powers involved in the conflict in eastern Congo, are bound by the full regime under the Geneva Conventions of August 12, 1949 and Protocol I of the Geneva Conventions. To a large extent, these fundamental guarantees overlap with those afforded to civilians in internal armed conflict, and are relevant legal obligations for Rwanda and Burundi in the context of eastern Congo.

Although eastern Congo is occupied by authorities opposed to the government of the DRC, the Congolese laws continue to apply according to international humanitarian law. Under international humanitarian law, those exercising authority have a responsibility for maintaining public order and to ensure that justice is observed. The courts of the occupied territory must continue to function for all crimes covered by the national legislation. The courts shall apply only those provisions of law which were applicable prior to the offence, and in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence. Court proceedings must be regular and respect the rights of detainees.

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<sup>2</sup> Geneva Conventions of 12 August 1949. The DRC has signed and ratified the Geneva Conventions and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. Rwanda and Burundi have signed and ratified the Geneva Conventions as well as Protocol I and Protocol II of the Geneva Conventions (Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non- International Armed Conflicts), 8 June 1977).

<sup>3</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non- International Armed Conflicts (Protocol II), 8 June 1977. Although the DRC has not yet ratified Protocol II, it offers further guidance for the protection of civilians, and many of its provisions are regarded as

DURING THE RECENT HUMAN RIGHTS WATCH VISIT TO EASTERN CONGO, WITNESSES TOLD RESEARCHERS OF ATTACKS ON CIVILIANS BY THE RCD AND ITS ALLIES AND BY ARMED OPPOSITION GROUPS IN MUSHABAGWE, TONGO, BINJA, AND KIRUMBA IN RUTSHURU; NGUNGU, KIBIRANGIRO, BUFAMANDO, KINIGI, AND MAHANGA IN MASISI; MUTERO, KIBATI AND KASHEMBERI IN WALIKALE; CHABWINEMWAMI, CIHARANO, AND CITENGA IN KABARE; MWENGA CENTER IN MWENGA; KALONGE IN BUNYAKIRI; AND MUGOGO IN WALUNGU. THEIR NAMES HAVE BEEN WITHHELD FOR THEIR SECURITY. CONGOLESE HUMAN RIGHTS GROUPS HAVE INDEPENDENTLY COLLECTED REPORTS CONFIRMING THESE AND SIMILAR VIOLATIONS. THEY HAVE ALSO DOCUMENTED SIMILAR VIOLATIONS BY BURUNDIAN ARMED FORCES AND FDD REBELS IN UVIRA AND FIZI.<sup>4</sup> BELOW WE DOCUMENT A NUMBER OF CASES FROM NORTH AND SOUTH KIVU.

A man from Masisi told Human Rights Watch researchers:

The soldiers come looking for Interahamwe and the Presidential Guard.<sup>5</sup> When they come looking for the Interahamwe, they come to the village and ask, "Why do you support those people?" But the Interahamwe have guns. They come through and force us to give up food. When the Tutsi [RCD troops] come through, they kill us and burn our villages. When the Interahamwe come, they attack us and they burn our villages.<sup>6</sup>

An eleven-year-old child who had fled from Kiribangiro in Masisi told a similar tale: "The Interahamwe and Mai-Mai came and said that we were friends of the soldiers. When the RCD came, they said that we were friends of the Interahamwe and Mai-Mai."<sup>7</sup>

Because of the number of different forces operating in eastern Congo, victims and witnesses of attacks sometimes had difficulty identifying the perpetrators. Some distinguished between RPA and Congolese RCD troops, but many simply referred to "Tutsi" or to "RCD" soldiers without distinction. Similarly witnesses sometimes used the terms "Mai-Mai" and "Interahamwe" interchangeably, although most identified those who spoke Congolese languages as "Mai-Mai" and those who spoke Kinyarwanda and looked stereotypically Hutu as "Interahamwe." In recent months the RPA has sent Hutu Rwandans soldiers to the Congo, which has further complicated the identification of perpetrators of abuses. Some witnesses reported an informal complicity between Hutu RPA troops and predominantly Hutu armed groups, with the RPA soldiers refusing to fire on the Hutu armed groups that were attacking people in such places as Kalonge and Bunyakiri.<sup>8</sup>

## ATTACKS IN NORTH KIVU

### KILAMBO, MASISI TERRITORY

IN RECENT MONTHS, THE PEOPLE OF KILAMBO AND ITS NEIGHBORING VILLAGES NORTH OF MASISI TOWN HAVE SUFFERED ATTACKS BY BOTH SIDES IN THE WAR, ILLUSTRATING THE VULNERABILITY OF THE CIVILIAN POPULATION. WITNESSES TOLD HUMAN RIGHTS WATCH THAT THE RCD AND ALLIED RPA TROOPS LAUNCHED A CAMPAIGN IN THE AREA AROUND KILAMBO IN NOVEMBER 1999, OSTENSIBLY SEEKING HUTU MILITIA. DURING THE WEEK THAT THESE TROOPS WERE CAMPED AT KIHUMA AND KILAMBO, THEY INDISCRIMINATELY ATTACKED CIVILIANS AND BURNED HOUSES IN KIBIRANGIRO, BUABO, MAFUO, KIHUMA, KILAMBO, CHAMARAMBO, BUSHUWI, KANII, LWANGUBA, AND BUSEKERI. THE INFORMATION FROM THESE WITNESSES WAS CONFIRMED BY ACTIVISTS FROM SEVERAL CONGOLESE HUMAN RIGHTS GROUPS.<sup>9</sup>

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<sup>4</sup>Congolese human rights organizations provided Human Rights Watch with evidence of many attacks in Masisi, Walikale, Bunyakiri, Kalehe, Katana, Mwenga, Fizi, and Uvira. Because of the risks involved in publishing such information, most groups do not issue public reports, but several still do so. See Heritiers de la Justice, "Situation des droits de l'homme en République Démocratique du Congo (RDC), cas du Sud-Kivu, Rapport du 2ème semestre 1999," Bukavu, January 12, 2000 and Cojeski, *La Voix de la Jeunesse*, no. 18, February 28, 2000.

<sup>5</sup>Elite troops of the former Rwandan army, the Presidential Guard initiated and directed the genocide.

<sup>6</sup>Human Rights Watch interview, Goma, March 10, 2000.

<sup>7</sup>Human Rights Watch interview, Goma, March 9, 2000.

<sup>8</sup>Human Rights Watch interviews, KAVUMU AND BUKAVU, MARCH 16, 2000.

<sup>9</sup>Human Rights Watch interviews, Goma, March 9 and 10, 2000.



ONE MAN REPORTED THAT HE WAS AT HIS HOME IN BUABO WHEN HE SAW HOMES BURNING ON THE NEIGHBORING HILL. HE HEARD GUNSHOTS AND THEN PEOPLE CAME RUNNING SAYING THAT THE RCD WAS BURNING THE VILLAGE. HE FLED INTO THE BUSH.<sup>10</sup> RETURNING TO THE VILLAGE LATER, THIS WITNESS FOUND A SIXTY-YEAR-OLD WOMAN, PAUNI, DEAD FROM A GUNSHOT WOUND BEHIND HER RIGHT EAR. SHE HAD BEEN SHOT BESIDE HER HOME, APPARENTLY AS SHE WAS ATTEMPTING TO FLEE. HE ALSO FOUND KATECI, SEVENTY-SEVEN, WITH HIS THROAT CUT AND LAZARO AND HIS WIFE AND TWO CHILDREN SHOT DEAD IN THEIR HOME. AMONG OTHERS KILLED WERE KAURWA, A SECONDARY SCHOOL STUDENT AND MARINA, AN ELDERLY WOMAN. THE WITNESS HELPED TO BURY APPROXIMATELY FIFTY PEOPLE IN HIS VILLAGE AND SEVERAL NEIGHBORING VILLAGES. THE RCD SOLDIERS REMAINED IN THE AREA FOR ABOUT TWO WEEKS AFTER THE ATTACK THEN LEFT THE AREA.<sup>11</sup>

IN LATE DECEMBER 1999, A GROUP OF HUTU COMBATANTS MOVED BACK INTO THE DISTRICT AND BEGAN IN TURN TO TERRORIZE THE POPULATION. AS ONE WITNESS TESTIFIED, "THEY CAME TO PILLAGE AND ANYONE WHO RESISTED THEM WAS KILLED." THEY SHOT AND KILLED KASONGO, A SEVENTEEN-YEAR-OLD BOY FROM MAFUO, AROUND CHRISTMAS AND ON JANUARY 1, 2000, THEY KILLED FIVE HUTU IN NEARBY MUHEMBA.<sup>12</sup> ANOTHER WITNESS TOLD HUMAN RIGHTS WATCH THAT HUTU FIGHTERS WHOM HE CALLED INTERAHAMWE ATTACKED HIS VILLAGE, LWIBO, JUST BEYOND KILAMBO, DURING THE LAST WEEK OF JANUARY. THEY RAPED A NUMBER OF WOMEN, INCLUDING THE WITNESS'S WIFE, AND PILLAGED MOST OF THE HOMES, STEALING LIVESTOCK, FOOD, CLOTHING, AND OTHER ITEMS.<sup>13</sup>

ON FEBRUARY 5, 2000, A GROUP OF RCD AND RPA SOLDIERS LAUNCHED ANOTHER OPERATION IN THE AREA, AGAIN OSTENSIBLY IN PURSUIT OF HUTU MILITIA. AS DURING THE NOVEMBER OPERATION, THE TROOPS FIRED INDISCRIMINATELY AT ANYONE THEY ENCOUNTERED. ONE ELDERLY MAN REPORTED, "VERY EARLY IN THE MORNING, I WENT OUT AND FOUND SOLDIERS. THERE WERE MANY, MANY. FOUR TRUCKS FULL. THERE WERE MANY, MANY DEAD. WHEN I WENT OUT, I SAW MANY CADAVERS."<sup>14</sup> AS THE WITNESS STEPPED OUT OF HIS HOUSE, SOLDIERS OPENED FIRE AT HIM AND HE FLED INTO THE FOREST. IN THE WOODS, HE ENCOUNTERED OTHER HUTU COMBATANTS WHO BEAT HIM AND HELD HIM FOR FOUR HOURS BEFORE RELEASING HIM.<sup>15</sup>

ANOTHER WITNESS LIVING JUST BEYOND KILAMBO REPORTED THAT HE FLED UP A HILL AND INTO THE WOODS WHEN HE HEARD GUNFIRE. AS HE FLED, HE SAW A LARGE NUMBER OF RCD AND RPA SOLDIERS ARRIVING IN HIS VILLAGE AND SHOOTING AT THE POPULATION. A SHORT TIME LATER, SOLDIERS WENT THROUGH THE VILLAGE AND CALLED OUT TO PEOPLE IN HIDING THAT IT WAS SAFE TO COME OUT, BECAUSE THE FIGHTING WAS OVER. THE WITNESS WAS AMONG THOSE WHO THEN CAME DOWN OUT OF THE WOODS. WHEN HE WENT TO CHECK ON HIS FAMILY, HE FOUND HIS MOTHER DEAD ON HER DOORSTEP WHERE SHE HAD BEEN SHOT AS SHE FLED THE HOUSE. AS HE WAS TENDING TO HER BODY, THE WITNESS HEARD GUNFIRE AGAIN. ONCE AGAIN HE FLED UP THE HILL AND INTO THE FOREST. HE CLIMBED A TREE AT THE EDGE OF THE FOREST. FROM THERE HE COULD SEE RCD TROOPS AS THEY ROUNDED PEOPLE UP AND EXECUTED THEM. HE REPORTED:

THE SOLDIERS WENT INTO PEOPLE'S HOMES AND KILLED SOME THERE. OTHERS THEY TOOK AND TIED UP. THEY TOOK THE MEN AND TIED THEM UP, THEN THEY RAPED THE WOMEN IN FRONT OF THEIR HUSBANDS. THEN THEY STARTED TO MASSACRE PEOPLE. THEY SHOT PEOPLE AND STABBED THEM.<sup>16</sup>

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<sup>10</sup>Human Rights Watch interview, Goma, March 9, 2000.

<sup>11</sup>Ibid.

<sup>12</sup>Human Rights Watch interview, Goma, March 10, 2000.

<sup>13</sup>Human Rights Watch interview, Goma, March 10, 2000.

<sup>14</sup>Human Rights Watch interview, Goma, March 9, 2000.

<sup>15</sup>Ibid.

<sup>16</sup>Human Rights Watch interview, Goma, March 10, 2000.

Those killed in this attack included Kumulia, a forty-four-year-old woman; Mutsindu, a thirty-year-old woman; Luteerwa, a teacher in his twenties; Sifa, an adult woman; and Kashiki, an elderly man.<sup>17</sup> Local human rights groups provided Human Rights Watch with the names of an additional twenty-five people killed in this attack.<sup>18</sup> According to witnesses and local human rights activists, the RCD had previously attacked Kilambo in August 1999 and killed almost thirty persons.<sup>19</sup>

#### *Nyabiondo, Masisi Territory*

Armed groups apart from the RCD and its allies have killed and otherwise abused civilians in North Kivu. On October 18, 1999, an armed group attacked a community near Nyabiondo. A Red Cross volunteer who helped to collect bodies after the attack told Human Rights Watch researchers, "We took at least seven children out of the Loash River and two mothers out of the Mbizi. One of the mothers had a baby on her back that was still alive. The mother was shot dead, but the baby was still alive."<sup>20</sup> The Red Cross volunteers directed people fleeing the violence toward Bukombo. But after a large crowd had gathered at Bukombo, Hutu combatants arrived, followed shortly after by RCD troops coming from Nyabiondo. As these two forces began fighting, civilians again ran for cover. The Red Cross volunteer reported, "Around 9 p.m., there was a little calm, so we crept back to the village to see what had happened. We found many dead, so we went back into the bush and told people to stay there."<sup>21</sup>

In the morning, twelve Red Cross volunteers came to Bukombo and found seven RCD soldiers dead. They also saw four Hutu combatants and six civilians, four young boys and two small girls, who had been shot dead with their arms tied behind their backs and one elderly man who had been tied up and thrown into a home that had been set afire. RPA soldiers present in the village called on the Red Cross workers to bury the dead. While the volunteers, clearly identified by Red Cross vests, were burying the dead, the soldiers pillaged homes in the village and then, around mid-day, they began burning them. One of the Red Cross volunteers had a camera and began to photograph the burning homes, but soldiers saw him and gave chase. Before being caught, he hid the camera. According to the witness, the RCD soldiers tied up the twelve Red Cross volunteers and interrogated them. He reported,

They demanded to know what we were doing there and who had taken the photos. They interrogated us from 1:30 in the afternoon until 4 p.m.. They took everyone down to the river and lined us up. They said that they were going to kill us one by one until we told them where the photos were. Jean-Pierre Muimo Luendo was first. They shot him, but he didn't fall down, so they stabbed him in the neck. He fell into the river, but he was tied to a tree, so he floated there. After this one man was killed, an officer arrived and stopped the soldiers. "He said, we don't kill Red Cross."<sup>22</sup>

As the officer questioned the soldiers about what had happened, there were shots from the direction of Nyanga. RCD soldiers were fighting a much larger group of Mai-Mai, who soon routed them. The Mai-Mai, who spoke Nyanga and Tembo, came and released the Red Cross workers. The volunteers buried Luendo and returned to Masisi. The volunteer concluded, "Arriving in Masisi, we heard that the commandant had come looking for those who had seen the Red Cross member killed, so each of us managed to find our own way to flee."<sup>23</sup>

#### *Walikale Territory*

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<sup>17</sup>Human Rights Watch interviews, Goma, March 9 and 10, 2000.

<sup>18</sup>Three local human rights organizations reported the attack at Kilambo. One recorded the names of twenty-eight victims, another of twenty-three, with considerable duplication between the lists.

<sup>19</sup>Human Rights Watch, interviews, Goma, March 9, 2000 and reports by human rights organizations in Goma and Masisi. Four separate reports discuss the August attack. One lists twenty-five victims killed, another twenty-seven, a third, twenty-eight and the fourth, fifteen. There is some duplication among these lists.

<sup>20</sup>Human Rights Watch interview, Goma, March 10, 2000.

<sup>21</sup>Ibid.

<sup>22</sup>Ibid.

<sup>23</sup>Human Rights Watch interview, Goma, March 10, 2000. Human rights organization confirmed this account.

PEOPLE IN WALIKALE TERRITORY HAVE SIMILARLY SUFFERED FROM SUCCESSIVE ATTACKS BY BOTH SIDES. ACCORDING TO ONE WITNESS, HUTU COMBATANTS REPEATEDLY PILLAGED THE VILLAGE OF MWITWA. WHEN RCD AND RPA TROOPS ARRIVED AT THE VILLAGE ON SEPTEMBER 23, 1999, THEY SURPRISED SOME HUTU COMBATANTS THERE AND SHOT TWO OF THEM BEFORE TURNING THEIR GUNS ON THE POPULATION. THE SOLDIERS SHOT DEAD LUANDA, AN EIGHTEEN-YEAR-OLD YOUTH; TAMARI, A MOTHER; MATATA, A BOY IN THE SIXTH YEAR OF PRIMARY SCHOOL; AND LANI SUKUMA, A MAN OF THIRTY-SIX. THE SOLDIERS RAPED TWO WOMEN AND BURNED A NUMBER OF HOMES.<sup>24</sup>

THREE DAYS LATER HUTU COMBATANTS RETURNED TO ACCUSE LOCAL PEOPLE OF BEFRIENDING THE TUTSI, BECAUSE THEIR TWO COMRADES WERE KILLED IN THE VILLAGE. THEY RAPED THREE WOMEN, PILLAGED, AND BURNED MORE HOMES. ACCORDING TO THE WITNESS, THIRTY-SIX OF THE 300 HOMES OF MWITWA WERE BURNED IN THESE TWO ATTACKS. AFTER THE SECOND ATTACK, MANY PEOPLE HID IN THE NEARBY WOODS, REMAINING CLOSE ENOUGH TO THEIR HOMES TO HARVEST THEIR CROPS.

HUTU COMBATANTS ATTACKED NGENCE, WALO WA YUNGU, ABOUT TWELVE MILES FROM MWITWA, ON NOVEMBER 21, 1999 AND PILLAGED FORTY CATTLE. TWO DAYS LATER, AS THE MEAT FROM CATTLE KILLED IN THE RAID WAS BEING SOLD AT MARKET, RCD TROOPS ARRIVED AND, WITHOUT WARNING, LAUNCHED A BOMB INTO NGENCE WHICH LANDED ON THE GRADE SCHOOL. HERE AND IN THE NEIGHBORING VILLAGES OF KANGATI AND KALIKI THE SOLDIERS SHOT AT LOCAL PEOPLE, DRIVING THEM INTO THE WOODS.

THE NEXT DAY, THE SOLDIERS CALLED TO PEOPLE TO COME BACK FROM THE WOODS. DISTRUSTING THE SOLDIERS, A DELEGATION OF VILLAGERS CAME TO SEE IF IT WAS SAFE TO RETURN. WHEN THEY ARRIVED IN THE VILLAGE, THE SOLDIERS SEIZED THEM AND THE FEW OTHERS WHO HAD COME OUT OF THE WOODS, TIED THEIR ARMS BEHIND THEIR BACKS, AND BEGAN BEATING THEM. THE ONLY ONE TO SURVIVE THE ATTACK SHOWED HUMAN RIGHTS WATCH RESEARCHERS SCARS ON HIS HEAD AND CHEST AND RELATED, "I WAS THE FIRST. THERE WAS ONE MAN IN FRONT OF ME, ONE BEHIND, AND ONE TO THE SIDE. THEY BEAT ME WITH A BRANCH FROM A TREE, AND THEY CUT ME WITH KNIVES ACROSS THE CHEST."<sup>25</sup> THE SOLDIERS LEFT HIM UNCONSCIOUS AND BLEEDING, ASSUMING THAT HE WAS DEAD, AND WENT ON TO BEAT TWENTY-SIX OTHERS TO DEATH. THE WITNESS REGAINED CONSCIOUSNESS SEVERAL HOURS LATER WHEN IT BEGAN TO RAIN AND FOUND HIMSELF IN A PILE OF CORPSES. HE DRAGGED HIMSELF INTO THE WOODS, WHERE HE WAS FOUND AND ASSISTED BY OTHERS.<sup>26</sup>

ACCORDING TO THIS WITNESS AND TO LOCAL HUMAN RIGHTS GROUPS, THOSE KILLED IN NGENCE INCLUDED PETERO BULENDA, THE CHIEF OF THE VILLAGE; REVEREND MAFULUKO LUENDO OF THE NEO-APOSTOLIC CHURCH; JEAN-PIERRE LULEMBA; MARTHA CEPHANIE, A MOTHER OF ELEVEN CHILDREN; NAMARTHA; MIRIMO BITASIMWA, FATHER OF TWO CHILDREN; LEWIS SHEKIBUYA, FATHER OF SIX; ERNEST LUENDO, FATHER OF THREE; BATUNDI MUISA NDAYE; MULOLO, FATHER OF TWO. SEVERAL ELDERLY RESIDENTS OF THE NEIGHBORING VILLAGE OF KANGATI WERE ALSO KILLED, INCLUDING NAPOLINA KAHINDO; MUNGATI, AND HIS WIFE, NYAMATESO; AND KARUBANDIKA, A WIDOWER. WHILE SOME SOLDIERS WERE KILLING THE CAPTIVES, OTHERS SPREAD INTO THE WOODS TO HUNT DOWN THOSE IN HIDING. THE SOLDIERS RAPED SEVERAL WOMEN AND KILLED OTHERS. SOME PEOPLE REMAIN MISSING. THE SOLDIERS ALSO BURNED APPROXIMATELY 200 HOMES.<sup>27</sup>

SURVIVORS OF THE NGENCE ATTACK PASSED THROUGH MWITWA AS THEY FLED THE AREA. THEIR REPORTS OF THE BRUTALITY OF THE ATTACK CAUSED MANY THE RESIDENTS OF MWITWA TO LEAVE THE AREA. AS ONE WITNESS SAID, "WHEN WE HEARD ABOUT NGENCE, WE FLED."<sup>28</sup>

IN BOTH ATTACKS, RCD SOLDIERS AND HUTU COMBATANTS TREATED UNARMED CIVILIANS AS PROXIES FOR THEIR ARMED OPPONENTS AND TARGETED THEM FOR INDISCRIMINATE ATTACK, AS WELL AS ENGAGING IN RAPE, PILLAGE, AND DESTRUCTION OF PROPERTY.

## Attacks in South Kivu

### BUNYAKIRI TERRITORY, NORTHERN AREA

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<sup>24</sup>Human Rights Watch interview, Goma, March 10, 2000.

<sup>25</sup>Human Rights Watch interview, Goma, March 9, 2000.

<sup>26</sup>Ibid.

<sup>27</sup>HUMAN RIGHTS WATCH INTERVIEW, MARCH 9, 2000. TWO LOCAL HUMAN RIGHTS ORGANIZATIONS IN GOMA AND ONE IN BUKAVU CONFIRM THIS ACCOUNT AND PROVIDE SIMILAR NAMES OF THOSE KILLED IN NGENCE, KANGATI AND KALIKI.

Here, as elsewhere in eastern Congo, all parties to the war have killed and otherwise abused civilians. Bunyakiri territory, in South Kivu, adjacent to Walikale territory in North Kivu Province, had been occupied by Mai-Mai and Hutu combatants since September 1998 when the Congolese army had fled the region. On February 19, 1999, two columns of RCD troops converged on Bulambika, one passing through Bitale and Miowe, the other passing through Katana, Mushunguti, and Maibano. Both columns killed civilians and burned homes as they advanced. Those killed included Semi, his wife, and nine children; Baguma, a nurse; Kaluku, his wife, and three children; and Chiza in Bitale; Faustin Mulongo in Miowe; Muzungu, with his son Amukuni and his older brother Mukaba; Bombo; Mushika; and Safari. After the attack, the RCD troops returned to their base at Kavumu.<sup>29</sup>

A week later, the RCD returned with their allies and set up a camp at Bunyakiri Center. They searched out people hiding in the forests, killed some—particularly young men—and forced the others back to the villages. By the end of April, over half of the population had returned to their homes with the rest still hiding in the forests. The RCD recruited and trained civilians as a civil self-defense group to monitor the population and prevent infiltration by armed groups. From this base in Bunyakiri, RCD troops and their allies attacked combatants in southern Walikale, in the process killing some twenty-five civilians in Hombo in August 1999 and many others in a major offensive in October on Otobora and Hombo. Among the victims were Chalondwa and Kimabo in Otobora, Pastor Mbilika in Hombo and Lutula in Museenge.<sup>30</sup>

Armed combatants, who were Hutu according to local people, began raiding and plundering in Bunyakiri again in September 1999. By early 2000 they were killing villagers whom they accused of supporting the RCD because they participated in the civil self-defense force and because they lived next to a military post. On February 19, 2000, Hutu combatants killed Mirindi Kashaganyi, and on February 20, they killed eleven people at Chigoma, including Mulimbi, his wife, and three children and Paluku Ndalembwa. One man told Human Rights Watch that he had fled Bunyakiri in October 1999 because RCD troops killed five members of his family, saying they were part of an armed opposition group. He came back in February, but two weeks later Hutu combatants attacked and killed his father, who had just come back from the woods to get supplies. After cutting the father down with machetes, they pillaged the house.<sup>31</sup>

#### ***Bunyakiri Territory, Kalonge***

In March 1999, RCD troops attacked Kalonge in the southern part of Bunyakiri territory where Mai-Mai, Hutu combatants, and former soldiers of Mobutu's army had been present for several months. The soldiers killed civilians and drove others from their homes. The RCD established camps at Cifunzi and Butwashenge in late April but Hutu combatants continued to control the area around nearby Chaminunu. Local people called Cifunzi "Kigali" and Chaminunu "Kinshasa." After the RCD established their camps, some who had fled returned to their homes, but they continued to suffer both pillage by the armed opposition groups and subsequent reprisal killings by RCD soldiers. In June, for example, RCD soldiers stopped a man named Mahano near Chaminunu. They accused him of having stolen the sheep he had at his home, and they stabbed him to death in front of his wife.<sup>32</sup>

<sup>29</sup>Human Rights Watch, interviews, Kavumu, March 16, 2000.

<sup>30</sup>Ibid.

<sup>31</sup>Human Rights Watch interview, Kavumu, March 16, 2000.

<sup>32</sup>Human Rights Watch interview, Bukavu, March 13, 2000.

On July 10 armed groups attacked the RCD at Cifunzi and soon after the soldiers began training young men there for a civil self-defense force.<sup>33</sup> The armed combatants renewed their attacks on local people whom they accused of complicity with the RCD with more brutality. They committed crimes of sexual violence more often and they burned the homes that they once just raided for food or other goods. In an attack on the RCD position at Cifunzi on October 19, 1999, armed men injured two civilians and pillaged and burned several homes. On November 22, they staged a more extensive attack, with one group attacking Cifunzi and another pillaging in Rambo, the site of Kalonge Catholic parish. The parish priest, George Kakuja, was killed during this attack, some say by armed opposition forces. Others, citing his friendship with both Hutu combatants and Mai-Mai, say he was more likely slain by RCD soldiers who arrived after the others retreated.<sup>34</sup>

The opposition combatants then camped at Mule and Chaminunu and began nightly raids, raping and pillaging, and killing any who resisted their demands. They murdered Kifundera, for example, when he tried to prevent them from raping his wife. One man told Human Rights Watch that he was at home on January 9, 2000, when he heard someone shouting, "The enemies are here!" He fled into the woods and came back a short time later to find all seven buildings at his compound burned. Twenty-five other compounds were attacked and eighty-three houses burned. The assailants shot and killed Banyurhe Kucuhire, a thirty-four-year-old man; Mwanabebe Zalasha, a fifty-four-year-old woman; and Mwakabumbu, a forty-three-year-old woman.<sup>35</sup> The assailants kidnapped Bavurhe Mwachukanya on January 23, forced him to lead them to a herd of cattle, then killed him with machetes.<sup>36</sup> A woman from Cifunzi reported that a few weeks before this incident, an armed Hutu group had captured her neighbor, Mwanabokonjo, and her twelve-year-old daughter and ordered them to lead them to cattle. The daughter was released but the woman was found dead in the woods the next day, blindfolded and with her arms tied behind her.<sup>37</sup> One man told Human Rights Watch that he was at the market in Fendula in December when a group of about fifty armed Hutu combatants opened fire, killing at least two women and eight men. They then pillaged the goods at the market.<sup>38</sup>

The RCD troops responded to the increased number of attacks by stepping up their own attacks on civilians. At Mamba on December 3, 1999, they killed Bisimwa and Jean Marie Kalolo and their five children, Nyamushushu, and Nyalembe Mukabuta and they burned fifty-five homes. On January 19, 2000, RCD soldiers on patrol shot Deo Mufita Nyangaka, an unarmed civilian, who lived near their camp.<sup>39</sup> On February 29, 2000, RCD soldiers supposedly chasing armed opponents at Chaminunu captured three women who had been hiding in the fields: Mwantuboba; Mwachigoti, a mother of five; and Silene, a seventeen-year-old girl. They made the three kneel down, then shot them. The soldiers then found Mulashe, the sixty-year-old husband of Mwantuboba, and slit his throat. Surviving family members speculated that Mwantuboba and Mulashe had been executed because one of their sons belonged to an armed opposition group, to which he was recruited forcibly in 1998.<sup>40</sup>

### *SHABUNDA TERRITORY*

One resident of Shabunda, the western region of South Kivu bordering on Maniema, told Human Rights Watch researchers that in his area too civilians bore the worst of violence from all contenders. He remarked, "The war in Shabunda has been against the population."<sup>41</sup>

<sup>33</sup> Witnesses from Kalonge told Human Rights Watch that there were thirty-eight men in the self-defense program, divided into three groups by collectivity.

<sup>34</sup> Human Rights Watch interviews, Bukavu, March 13-16; Kavumu, March 16, 2000.

<sup>35</sup> Human Rights Watch interview, Bukavu, March 16, 2000.

<sup>36</sup> Human Rights Watch interview, Bukavu, March 13, 2000.

<sup>37</sup> Human Rights Watch interview, Kavumu, March 16, 2000.

<sup>38</sup> Human Rights Watch interview, Bukavu, March 13, 2000.

<sup>39</sup> Human Rights Watch interviews, Bukavu, March 12 and 16; Kavumu, March 16, 2000; reports from three human rights groups in Bukavu.

<sup>40</sup> Human Rights Watch interviews, Kavumu, March 16, 2000.

<sup>41</sup> Human Rights Watch interview, Bukavu, March 13, 2000.

Mai-Mai, identified by local people as such because they speak Congolese languages, came to Shabunda in May 1999, apparently displaced from Bunyakiri and Kalonge by RCD operations. The Mai-Mai at first pillaged primarily in rural areas but in January 2000 they began raiding closer to Shabunda town. Local people, particularly women and children, fled into the surrounding bush. On January 23, 2000, Mai-Mai attacked Shabunda town and after two and one half hours of combat, drove out the RCD. At dawn on January 25, 2000, Congolese RCD troops counterattacked. They killed at least one civilian as well as several combatants. The armed combatants fled and the troops pillaged the town thoroughly and sent off the booty by the plane, according to witnesses.<sup>42</sup>

Following this January confrontation, the Congolese RCD troops were reinforced with RPA troops and they jointly launched a campaign to take control of the population. Just after the attack, RCD officers held a public meeting in which they told those remaining in Shabunda to bring their families out of the forest. They warned that civilians who remained in the forests would be considered enemies and subject to attack.

Yet residents of Shabunda hesitated to come home because they feared insecurity in the town. They told Human Rights Watch that many people were arrested following the attack and many others "disappeared." They said the bodies of some of these have been found in town, including those of two decapitated men found in early February. Large areas of the territory, including Katungu, Lulingu, and Kigulube remain under Mai-Mai control and so are cut off from the center. Meanwhile, as witnesses told Human Rights Watch, "authorities forbid people from going into their fields to work, because they are accused of complicity with the Mai-Mai. You have to get special permission to go, and if you are allowed, you have to check in before and after, and there is no time to work."<sup>43</sup> As a result, markets are not functioning and prices are extremely high. Commented one witness, "The population is now held hostage in town. We were forced to come back, but we have no food, no work, no health services. . . ."<sup>44</sup>

#### Sexual Violence

Rape and other forms of sexual violence have become widespread as the war in eastern Congo has grown increasingly bitter.<sup>45</sup> One Congolese women's rights group registered 115 rapes between April and July 1999 in just the two regions of Katana and Kalehe of South Kivu, with thirty in just one April 5 attack on Bulindi and Matitu. Groups of ten or more men sometimes gang rape one woman. Assailants sometimes take women hostage to be used as sexual slaves.<sup>46</sup> Both soldiers and armed opposition groups have engaged in such abuses, but Hutu armed groups are reported to have perpetrated rapes more often than other groups. They use sexual violence to terrorize civilians, especially those thought to be RCD supporters and most especially those who participate in civil self-defense forces.<sup>47</sup>

Many of the survivors of attacks told Human Rights Watch researchers that rape had been used systematically against their communities. Despite the stigma attached to being a rape victim by Congolese society, several women were willing to speak about the sexual violence used against them. One woman from Chabwinemwami in Kabale told Human Rights Watch researchers how Hutu combatants raped her during a June 17, 1999, attack. The assailants arrived around community 9:00 p.m. and shot in the air, causing most people to flee their homes. The witness related, "They took what they wanted. First they looted, then they raped." Assailants pillaged her house, then beat her with clubs, and raped her while her four young sons were present. She was badly injured and had to be hospitalized for one and a half months. She still limps from the injuries suffered in the attack and her husband has rejected her, even refusing to pay her hospital costs, because he feels so humiliated by her rape.<sup>48</sup>

Another twenty-one-year-old woman from Cizenga in Katana, Kabare, was raped by Hutu combatants on July 5, 1999. The assailants, armed with firearms and machetes, broke into her house around 10 p.m. They tied up her husband and forced her to leave the house. They demanded dollars and clothes, but the family had been robbed before, so they had little to offer. The men held a flashlight in her eyes, beat her, and threatened her with a gun, so she gave them what little money she had and gave them her goats as well. The assailants, whom the witness said were many and who all spoke Kinyarwanda, went on to the next house, that of her brother-in-law, where they again beat the residents and apparently tried to abduct his wife. In the meantime, the witness had freed her husband and they went to

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<sup>42</sup>Human Rights Watch interviews, Bukavu, March 13, 2000.

<sup>43</sup>Ibid.

<sup>44</sup>Ibid.

<sup>45</sup>Whether treated as an internal or as an international conflict, rape and other forms of sexual violence constitute serious violations of international humanitarian law.

<sup>46</sup>Human Rights Watch interview, Bukavu, March 13, 2000, and other interviews in Bukavu and Goma.

<sup>47</sup>Human Rights Watch interview, Bukavu, March 12, 2000.

<sup>48</sup>Human Rights Watch interview, Bukavu, March 14, 2000.

warn the older brother in the family, but some of the assailants had already arrived there. The witness told Human Rights Watch researchers,

SOMEONE CALLED ME. I STILL HAD MY CHILD ON MY BACK. THE ONE WHO CALLED TOLD ME TO TAKE THE CHILD OFF MY BACK AND TO LIE DOWN. I REFUSED. I WAS FORCED TO BEG, TO KNEEL DOWN AND BEG, AND THE MAN LEFT ME. BUT THE ONE WHO CAME AFTER WAS LESS UNDERSTANDING. HE RAPED ME. HE WAS A BARBARIAN. IT WAS NOT HUMAN. HE THREW THE BABY ON THE GROUND. I CRIED OUT, AND THE MAN STRANGLED ME. HE THREATENED TO KILL THE BABY WITH HIS GUN. I STRUGGLED, BUT I HAD NO FORCE LEFT TO RESIST. MY THREE-YEAR-OLD WAS THERE AT MY SIDE. AFTER AN HOUR, HE LEFT. I COULDN'T GET UP. I WAS ASHAMED FOR MY WHOLE FAMILY.<sup>49</sup>

AFTER HER ATTACKER LEFT, SHE CRAWLED BACK INTO THE HOUSE. SHE TOLD HER HUSBAND AND HE TOOK HER TO THE HEALTH CENTER THE NEXT DAY. "THAT NIGHT MANY WOMEN WERE RAPED. IN EVERY HOUSE, EVERY WOMAN. MAYBE 200 WOMEN ALTOGETHER. BUT MANY ARE TOO ASHAMED TO SAY ANYTHING."<sup>50</sup>

WOMEN IN NORTH KIVU HAVE ALSO SUFFERED FROM RAPE. A WOMAN FROM KASHEBERE, NEAR MASISI CENTER, EXPLAINED THAT HUTU COMBATANTS ATTACKED HER VILLAGE ON OCTOBER 7, 1999. "ON A WEDNESDAY MORNING, WE WOKE UP AND THE VILLAGE WAS ALREADY SURROUNDED. THEY CAME AND FIRED IN THE AIR AND PEOPLE FLED. WE WERE THREE WHO FELL INTO AN AMBUSH. THEY CAPTURED US AND WE WERE IMMEDIATELY RAPED. THERE WERE MORE THAN FIFTY MEN AND TEN MEN TOOK EACH WOMAN." THE MILITIA MEMBERS BEAT THE THREE WOMEN, THEN TOOK THEM INTO THE FOREST WITH THEM. "AFTER TWO DAYS, MY FAMILY CAME AND FOUND ME IN THE WOODS AND TOOK ME BACK HOME, BECAUSE I DIDN'T HAVE THE STRENGTH TO WALK." ONE BOY AND TWO SMALL CHILDREN WERE KILLED DURING THE ATTACK, AND THE COMMUNITY WAS LOOTED.<sup>51</sup>

THOUGH SEEMINGLY LESS FREQUENTLY AND SYSTEMATICALLY THAN THE HUTU MILITIA, RCD AND RPA TROOPS HAVE ALSO ENGAGED IN SEXUAL VIOLENCE, AS IN THE ATTACKS ON KILAMBO DESCRIBED ABOVE. TWO WOMEN FROM MWENGA TOWN DESCRIBED TO HUMAN RIGHTS WATCH RESEARCHERS A PARTICULARLY EGREGIOUS USE OF SEXUAL ASSAULT IN TORTURING WOMEN PRISONERS THERE. ACCORDING TO THEIR TESTIMONY, RCD TROOPS UNDER THE COMMAND OF COMMANDER FRANK KASEREKA REGULARLY BEAT AND RAPED WOMEN IN THEIR CUSTODY, SOMETIMES INSERTING STICKS AND HOT PEPPER IN THEIR VAGINAS. ACCORDING TO ONE WOMAN, WHO HERSELF SAID SHE WAS DETAINED AND TORTURED BY KASEREKA'S TROOPS BUT WHO ESCAPED THEIR CUSTODY, "ALL THE WOMEN WERE RAPED EVERY DAY AND BEATEN IN THE MORNING, IN THE EARLY AFTERNOON, AND AT NIGHT."<sup>52</sup>

BOTH WOMEN DESCRIBED AN INCIDENT IN EARLY SEPTEMBER IN WHICH SOLDIERS PUBLICLY TORTURED FIVE WOMEN WHO HAD BEEN ARRESTED, SUPPOSEDLY AFTER A SOLDIER'S WIFE ACCUSED THEM OF SORCERY. THEY SAID SOLDIERS TOOK THE WOMEN TO A FIELD BESIDE A GOVERNMENT OFFICE, AN AREA USED BY THE TROOPS FOR DETAINING PRISONERS. THERE THEY BEAT THEM, STRIPPED THEM, AND RAPED THEM. THEY SAID SOLDIERS PUT HOT PEPPER IN THE WOMEN'S VAGINAS, THEN PLACED THE WOMEN IN SEVERAL HOLES THAT WERE DUG IN THE GROUND AND THAT WERE FILLED WITH SALT WATER THAT CAME UP TO THE WOMEN'S CHESTS. THIS ATTACK TOOK PLACE IN FRONT OF A CROWD OF PEOPLE WHO HAD GATHERED, AS ONE WOMAN SAID, "TO SEE THAT IT WAS NOT YOUR MOTHER OR YOUR SISTER."<sup>53</sup>

ONE WOMAN TOLD HUMAN RIGHTS WATCH RESEARCHERS,

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<sup>49</sup>Ibid.

<sup>50</sup>Ibid.

<sup>51</sup>Human Rights Watch interview, Goma, March 9, 2000.

<sup>52</sup>Human Rights Watch interview, March 16, 2000.

THE NEXT DAY WE HEARD GUNSHOTS COMING FROM WHERE THE WOMEN WERE. MY HUSBAND, WHO WAS A [RCD] SOLDIER, SAID, 'I AM GOING TO GO SEE IF THEY ARE KILLING THOSE WOMEN.' I WENT ALONG, SO I SAW WHAT HAPPENED. THEY HAD TAKEN THE WOMEN OUT OF THE HOLE, AND AFTER THEY HAD BEATEN THEM BADLY, THEY STRIPPED THE WOMEN. THEN THEY TOOK FIVE STICKS AND THEY RAPED THE WOMEN WITH THE STICKS. THEN THEY PUT THEM IN TWO HOLES AND BURIED THEM. THEY PUT TWO IN ONE HOLE AND THREE IN ANOTHER AND COVERED THEM WITH DIRT, BUT THEY WERE STILL ALIVE.<sup>54</sup>

ACCORDING TO CONGOLESE HUMAN RIGHTS GROUPS AND TO THE TWO WOMEN FROM MWENGA, THE TORTURE, SEXUAL ASSAULT, AND EXECUTION BY BURIAL ALIVE OF WOMEN WAS COMMON PRACTICE IN AREAS UNDER COMMANDANT KASEREKA'S COMMAND.<sup>55</sup> SUCH ABUSES WERE APPARENTLY USED BOTH TO TERRORIZE THE POPULATION AND TO EXTORT MONEY, SINCE FAMILIES COULD SAVE MEMBERS FROM THIS FATE BY PAYING LARGE BRIBES TO THE SOLDIERS. ONE OF THE WITNESSES WAS HERSELF ARRESTED ON OCTOBER 17, 1999. SHE SAID SHE WAS PLACED IN A HOLE FILLED WITH SALT WATER ALONG WITH ANOTHER WOMAN, WHOSE HUSBAND WAS THOUGHT TO BE A MAI-MAI. "THE WATER WAS UP TO MY CHEST. YOU COULD NOT EVEN SIT DOWN. THE OTHER WOMAN TOLD ME TO WATCH OUT, BECAUSE THERE WAS A STILL-BORN BABY IN THE WATER. A WOMAN IMPRISONED EARLIER HAD MISCARRIED." WHEN THE WITNESS OVERHEARD SOLDIERS SAYING THAT THEY WERE GOING TO DIG A HOLE TO BURY THE TWO, SHE AND THE OTHER WOMAN PLEADED WITH THE SOLDIERS TO RELEASE THEM AND PROMISED TO PAY THEM WELL. THE TWO WERE RELEASED, AND THEY ESCAPED.<sup>56</sup>

### Stealing

IN ADDITION TO THE ATTACKS TO PUNISH SUPPOSED COMPLICITY WITH THEIR ENEMIES, THE RCD AND ITS ALLIES, AND THE MAI-MAI AND HUTU MILITIAS HAVE ALL ATTACKED CIVILIANS TO PILLOAGE THEIR GOODS. THEY ROB THE POOR TO GET THEIR CROPS OR ANIMALS. AS ONE WITNESS REMARKED,

THEY HAVE SENT CONGOLESE SOLDIERS WITHOUT ANY MEANS TO PAY THEM, SO TO FEED THEMSELVES, THESE SOLDIERS HAVE TO GO THROUGH THE VILLAGES AND TAKE THE HARVEST. THE SOLDIERS PASS FROM TOWN TO TOWN STEALING FROM THE POPULATION.<sup>57</sup>

THEY ROB THE RICH TO GET THEIR MONEY OR OTHER GOODS. ON FEBRUARY 1, 2000, FOR EXAMPLE, A GROUP OF MORE THAN TWENTY CONGOLESE RCD SOLDIERS ARRIVED AT THE HOME OF VALENTIN MAKUTA, A PROSPEROUS MERCHANT WHO LIVES IN THE KADUTU AREA OF BUKAVU. ACCORDING TO WITNESSES, SOME SOLDIERS ENTERED THE HOUSE, WHILE OTHERS ROUNDED UP THE CHILDREN WHO WERE IN THE COMPOUND AND FORCED THEM INTO THE HOUSE, BEATING ONE GIRL. THE SOLDIERS, WHO SPOKE LINGALA AND SWAHILI, TOLD THE FAMILY THAT THEY WERE LOOKING FOR MAI-MAI, BUT THEIR PRIMARY INTEREST SEEMS TO HAVE BEEN THEFT. THE SOLDIERS DEMANDED MONEY AND BEAT MEMBERS OF THE FAMILY WITH THE BUTTS OF THEIR GUNS. THEY THREATENED ONE DAUGHTER WITH A KNIFE AND CUT HER IN THE FACE. HER FATHER WENT TO GET MONEY FOR THEM, BUT AT LEAST ONE OF THE SOLDIERS OPENED FIRE, AND THE FAMILY SCATTERED. ONE DAUGHTER WAS HIT BY FOUR BULLETS—ONCE IN THE LEG, TWICE IN THE RIGHT ARM, AND ONCE IN THE CHEST. WHEN THE FATHER GAVE MONEY TO THE SOLDIERS, ONE CUT HIM WITH A MACHETE. THE ASSAILANTS DISCUSSED KILLING HIM BUT DECIDED TO SPARE HIS LIFE BECAUSE HE HAD GIVEN THEM WHAT THEY WANTED. A NEIGHBOR WHO HAD GONE TO HELP THE WOUNDED GIRL WAS HERSELF SHOT IN THE FOOT AS SHE TRIED TO CARRY THE GIRL TO SAFETY.<sup>58</sup>

AS IS OFTEN THE CASE IN SUCH CIRCUMSTANCES IN THE MAJOR CITIES OF GOMA AND BUKAVU, MILITARY AUTHORITIES UNDERTOOK ONLY A LIMITED INVESTIGATION FOLLOWING THIS ROBBERY AND HAVE MADE NO ARRESTS. THE UNPROVOKED USE OF VIOLENCE IN THE CRIME IS TYPICAL: EVEN WHEN PEOPLE GIVE THEIR MONEY OR OTHER GOODS WITHOUT RESISTANCE AND FOLLOW THE ORDERS OF THEIR ASSAILANTS, THEY MAY STILL BE SHOT, STABBED, BEATEN, OR RAPED, ADDING TO THE TERROR OF SUCH ATTACKS.

### RCD Official Explanation

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<sup>54</sup>Ibid.

<sup>55</sup>HERITIERS DE LA JUSTICE, "SITUATION DES DROITS DE L'HOMME EN RÉPUBLIQUE DÉMOCRATIQUE DU CONGO (RCD) CAS DU SUD-KIVU, RAPPORT DU 2ÈME SEMESTRE 1999," BUKAVU, JANUARY 12, 2000, PP. 6-7, AND UNPUBLISHED REPORTS BY SEVERAL OTHER HUMAN RIGHTS GROUPS.

<sup>56</sup>Ibid. SEE ALSO HERITIERS DE LA JUSTICE, *NOTA BENE*, NOS. 47 AND 50, BUKAVU: DECEMBER 15, 1999, AND FEBRUARY 5, 2000. ANOTHER HUMAN RIGHTS GROUP FROM BUKAVU REPORTS THAT ON DECEMBER 15, 1999, KASEREKA SENT SEVENTEEN SOLDIERS FROM MWENGA TO KITAMBA IN BASILE GROUPEMENT OF MWENGA, WHERE THEY ARRESTED AND BURIED ALIVE FOUR WOMEN.

<sup>57</sup>Human Rights Watch interview, Bukavu, March 13, 2000.

<sup>58</sup>Human Rights Watch interview, Bukavu, March 14, 2000.



When questioned about civilians killings, RCD officials in Goma told Human Rights Watch researchers that their troops killed civilians only if they mistook them for combatants. But the details of many of the attacks described above belie this explanation. In the attack in Walikale, for example, RCD soldiers and their allies tied up civilians before killing them. In other cases, they lured civilians out of hiding before executing them, clearly showing an intent to do them harm.<sup>59</sup> The use of rape, beatings, and the destruction of property also indicate an intent to terrorize the population.

#### **RCD Response to Attacks on Civilians by Armed Opposition Groups**

The RCD claim to be legitimate authorities in the region. They and their RPA allies have said they are seeking to protect the local population from Mai-Mai and bands of Hutu combatants. Yet in a number of cases, local people have appealed in vain for this protection. Numerous people displaced from Bunyakiri told Human Rights Watch researchers that their repeated calls for help had gone unanswered by RCD troops. As one witness reported, "We go to tell the RCD where the Interahamwe are camped, and they tell us, 'It is your affair. They are your family.'"<sup>60</sup>

Displaced persons from Kalonge too reported that the RCD have refused to confront armed combatants.<sup>61</sup> On January 23, 2000, James Ntwana was shot dead by militia just beside the RCD camp at Cifunzi. One man told Human Rights Watch, "When I saw that they could kill people even right there next to the camp and the soldiers would not respond, I realized that I had to flee."<sup>62</sup>

When Hutu combatants attacked Cizenga in November and abducted a number of people to carry pillaged goods to their base in the woods, others sought help from RCD soldiers stationed about three kilometers away. The soldiers refused to intervene, reportedly saying, "The Interahamwe are your brothers."<sup>63</sup> The next day villagers saw RCD soldiers with some of the looted goods and concluded that there was complicity between the attackers and the soldiers. It is equally possible that the soldiers in turn raided and seized the goods from the Hutu combatants. But that local people presume collusion between the two sides suggests the extent to which they have been disappointed in efforts to secure RCD protection from the combatants.

#### **The Internally Displaced and Humanitarian Consequences of Attacks on Civilians**

The repeated attacks on the civilian population of eastern Congo have caused more than half a million persons to flee their homes and created a growing humanitarian crisis in the region. According to the director of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in eastern Congo, Charles Petrie, the crisis has grown substantially in recent months with about half the more than 500,000 persons displaced having taken flight since the first of the year.<sup>64</sup> After Hutu combatants increased attacks on Kalonge in January, for example, some 10,000 took flight in the first week of February.<sup>65</sup>

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<sup>59</sup>Human Rights Watch interviews, Goma, March 7 and 17, 2000.

<sup>60</sup>Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>61</sup>Human Rights Watch interviews, Bukavu, March 12 and 16; Kavumu, March 16, 2000; reports from three human rights groups in Bukavu.

<sup>62</sup>Human Rights Watch interview, Kavumu, March 16, 2000.

<sup>63</sup>Human Rights Watch, Bukavu, March 14, 2000.

<sup>64</sup>Quoted in "Thousands Flee Congo Fighting," *New Vision* (Kampala), March 17, 2000.

<sup>65</sup>IRIN, "Democratic Republic of Congo: Heavy Displacements Continue in South Kivu," Nairobi, February 9, 2000. See also, IRIN, "Democratic Republic of Congo: Thousands Flee Interahamwe Attacks," Nairobi, March 7, 2000.

THE LARGEST GROUPS OF DISPLACED ARE IN GOMA AND BUKAVU. ONE CHURCH WORKER TOLD HUMAN RIGHTS WATCH THAT AT LEAST A QUARTER OF THE POPULATION OF GOMA IS NOW COMPRISED OF PEOPLE DISPLACED FROM THE INTERIOR. BUT EVEN IN THE SMALL COMMUNITY OF KAVUMU IN SOUTH Kivu THERE ARE MORE THAN 4,000 DISPLACED PERSONS, SOME 1,200 FROM BUNYAKIRI AND WALIKALE AND NEARLY 3,000 FROM KALONGE.<sup>66</sup> THESE ARE THE NUMBERS OF THOSE OFFICIALLY REGISTERED AND THE ACTUAL NUMBER MAY BE FAR HIGHER. THERE ARE NO CAMPS FOR THE DISPLACED SO THEY MOVE IN WITH FAMILY AND FRIENDS, THEMSELVES ALREADY IMPOVERISHED, OR THEY SQUAT WHEREVER THEY CAN IN THE TOWNS. AS ONE CHURCH WORKER COMMENTED, "THEY HAVE NO WORK, NO HOME, THEY'RE NOT ACCUSTOMED TO THE CITY. THEY BECOME BEGGARS, ARE EXPOSED TO ILLNESSES. THEY ARE THE MOST AFFECTED BY CHOLERA, AIDS, AND OTHER DISEASES."<sup>67</sup> RECENTLY DISPLACED PERSONS TOLD HUMAN RIGHTS WATCH RESEARCHERS THAT MANY OF THOSE WHO REMAINED IN THEIR COMMUNITIES ARE TOO AFRAID OF ATTACK TO SPEND THEIR NIGHTS AT HOME AND SLEEP OUTSIDE THE HOUSE WHERE THEY ARE EXPOSED TO INCLEMENT WEATHER AND TO ILLNESSES SUCH AS MALARIA.

ACCORDING TO PETRIE, MALNUTRITION AMONG THE DISPLACED IS ENORMOUS.<sup>68</sup> BUT THE PROBLEMS OF FOOD SUPPLY ARE BECOMING SERIOUS FOR THE REST OF THE POPULATION AS WELL. INSECURITY KEEPS FARMERS FROM THEIR FIELDS, REDUCING CROP YIELDS AND DRIVING PRICES BEYOND THE REACH OF MOST PEOPLE.<sup>69</sup>

#### IV. THE FAILURE OF THE JUDICIAL SYSTEM

##### ARBITRARY ARREST, ILLEGAL DETENTION AND TORTURE

THE RCD AND ITS RWANDAN ALLIES HAVE USED ARBITRARY ARREST, ILLEGAL DETENTION, TORTURE, AND ILL-TREATMENT TO HARASS AND INTIMIDATE MEMBERS OF HUMAN RIGHTS GROUPS, WOMEN'S ASSOCIATIONS, AND OTHER NONGOVERNMENTAL ORGANIZATIONS (NGOs), AS DESCRIBED BELOW. THEY HAVE ALSO ARRESTED SOLDIERS AND POLICE THOUGHT TO HAVE SYMPATHIZED WITH RECENT STRIKES IN GOMA AND BUKAVU. AUTHORITIES HAVE ALSO TORTURED AND ILL-TREATED PERSONS ARRESTED FOR CRIMINAL OFFENSES AND HAVE DISREGARDED JUDICIAL DUE PROCESS.

THE RCD AUTHORITIES ARE CLAIMING THAT THEY ARE APPLYING CONGOLESE NATIONAL LAW.<sup>70</sup> ACCORDING TO CONGOLESE LAW, AUTHORITIES MAY DETAIN A PERSON FOR FORTY-EIGHT HOURS WITHOUT CHARGE AND, ONCE CHARGES ARE FILED, MAY HOLD THE ACCUSED FOR ANOTHER TWO WEEKS IN A JAIL BEFORE TRANSFER TO THE CENTRAL PRISON.<sup>71</sup> THOSE EXERCISING AUTHORITY MAY CARRY OUT ARRESTS FOR REASONS RELATED TO THE ARMED CONFLICT BUT THEY ARE BOUND BY THE PROVISIONS LAID DOWN IN INTERNATIONAL HUMANITARIAN LAW. IN PARTICULAR, COURT PROCEEDINGS MUST BE REGULAR AND RESPECT THE RIGHT OF THE ACCUSED TO BE INFORMED WITHOUT DELAY OF THE OFFENCE HE IS ALLEGED TO HAVE COMMITTED, THE RIGHT TO BE PRESUMED INNOCENT UNTIL PROVEN GUILTY, THE RIGHT TO CHOOSE HIS OWN DEFENSE LAWYER, THE PRINCIPLE THAT A CONFESSION CAN NEVER BE OBTAINED THROUGH COERCION, AND THAT THERE CANNOT BE DOUBLE JEOPARDY.

DETAINEES ARE OFTEN NOT INFORMED OF THE REASONS FOR THEIR ARREST AND HELD FOR WEEKS OR MONTHS WITHOUT BEING CHARGED. LOCAL HUMAN RIGHTS WORKERS RECOUNTED THE CASE OF ALPHONSE KARIBU, FOR EXAMPLE, WHO WAS ARRESTED ON JUNE 9, 1999 AND DETAINED UNTIL AUGUST 29. HE WAS ARRESTED AGAIN ON OCTOBER 10 AND HELD UNTIL DECEMBER. AFTER HIS SECOND RELEASE, HE WENT INTO HIDING.<sup>72</sup>

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<sup>66</sup>HUMAN RIGHTS WATCH INTERVIEWS IN KAVUMU, MARCH 16, 2000. WITNESSES REPORTED THAT THE ACTUAL NUMBER OF DISPLACED IN THE COMMUNITY IS MUCH HIGHER, SINCE MANY PEOPLE ARE AFRAID TO REGISTER.

<sup>67</sup>HUMAN RIGHTS WATCH INTERVIEW IN GOMA, MARCH 9, 2000.

<sup>68</sup>"THOUSANDS FLEE CONGO FIGHTING."

<sup>69</sup>HUMAN RIGHTS WATCH INTERVIEWS IN GOMA AND BUKAVU, MARCH 2000.

<sup>70</sup>Human Rights watch in Goma, March 17, 2000.

<sup>71</sup>Information provided by APRODEPED, a legal aid organization in Bukavu. Human Rights Watch interview, Bukavu, Bukavu, March 16, 2000.

<sup>72</sup>Human Rights Watch interview, Goma, March 17, 2000

SOLDIERS DETAIN BOTH CIVILIANS AND SOLDIERS IN A NUMBER OF DETENTION CENTERS; WHILE THEIR EXISTENCE IS NOT ILLEGAL, THEIR SHEER NUMBER IS VERY CONFUSING FOR ANY RELATIVES WHO ARE TRYING TO FIND AN ARRESTED FAMILY MEMBER. IN GOMA, THE NATIONAL INFORMATION AGENCY (AGENCE NATIONALE DE RENSEIGNEMENTS, ANR) USES THE KITCHEN OF A FORMER RESIDENCE AS A JAIL; IT IS KNOWN UNIVERSALLY AS "CHIEN MÉCHANT" (VICIOUS DOG), BECAUSE OF A SIGN ON THE FRONT GATE. SOLDIERS CONFINED BOTH CIVILIANS AND OTHER SOLDIERS IN A MILITARY LOCKUP KNOWN AS BUREAU II, ONCE A PRIVATE HOUSE. OF SIX PERSONS HELD THERE ON THE DAY OF A VISIT BY HUMAN RIGHTS WATCH RESEARCHERS, THREE WERE CIVILIANS.<sup>73</sup> AUTHORITIES DETAIN CIVILIANS ALSO AT THE DIRECTION GÉNÉRALE DE MIGRATION IN GOMA, AT THE AUDITORAT MILITAIRE IN GOMA AND BUKAVU, AND AT THE AGENCE NATIONALE DE RENSEIGNEMENTS IN BUKAVU.<sup>74</sup> IN SOME CASES, MILITARY AUTHORITIES HAVE TRANSFERRED DETAINEES ACROSS THE BORDER TO LOCKUPS IN RWANDA, FURTHER COMPLICATING THE TASK OF LOCATING THEM.<sup>75</sup>

LOCAL HUMAN RIGHTS ORGANIZATIONS HAVE ALSO REPORTED IRREGULAR PLACES OF DETENTION, MANY OF THEM IN THE HOMES OF MILITARY OFFICERS. ACCORDING TO THE STAFF OF ONE CONGOLESE NGO, PRIVATE SECURITY GUARDS FROM THE CENTER FOR NATURAL SCIENCE RESEARCH IN LWIRO AND THE FORMULAC HOSPITAL HAVE SET UP PRIVATE JAILS AS A WAY TO EXTRACT MONEY FROM LOCAL PEOPLE. ALTHOUGH THEY OBVIOUSLY HAVE NO RIGHT TO ARREST OTHERS, AUTHORITIES HAVE NOT INTERVENED TO HALT THIS PRACTICE.<sup>76</sup>

HUMAN RIGHTS WATCH RESEARCHERS VISITED SEVERAL CENTERS OF DETENTION. CONDITIONS AT THE CENTRAL PRISON IN GOMA ARE RELATIVELY GOOD, BUT THOSE IN OTHER CENTERS OF DETENTION, ARE MUCH WORSE. THERE WAS ONLY ONE PRISONER IN "CHIEN MÉCHANT" WHEN HUMAN RIGHTS WATCH RESEARCHERS VISITED, BUT FORMER DETAINEES TESTIFIED THAT IN THE PAST THERE HAD BEEN MANY MORE PERSONS HELD IN THIS SMALL SPACE.<sup>77</sup> AT BUREAU II, HUMAN RIGHTS WATCH RESEARCHERS FOUND SIX MEN CONFINED IN A SMALL PART OF THE BASEMENT. THE DETAINEES SAID THAT TWENTY OTHERS HAD BEEN TRANSFERRED THAT MORNING JUST HOURS BEFORE THE SCHEDULED VISIT.<sup>78</sup> ACCORDING TO WITNESSES, THE NUMBER OF PERSONS HELD AT BUREAU II OFTEN EXCEEDED THIRTY. IN BUKAVU, THREE NGO ACTIVISTS WERE ARRESTED ON JANUARY 29, 2000 AND HELD FOR A DAY AT THE AGENCE NATIONALE DE RENSEIGNEMENT DETENTION CENTER IN A CABINET MEASURING LESS THAN ONE METER SQUARE. THEY HAD NO SPACE TO SIT AND, FOR VENTILATION, HAD ONLY ONE SMALL VENT WHICH OPENED ON THE TOILET.<sup>79</sup> ACCORDING TO A REPORT BY A LOCAL HUMAN RIGHTS NGO, BAHARAME BUHENDWA SUFFOCATED TO DEATH IN A SIMILAR CABINET, ITSELF USED AS A TOILET, AT THE CENTRAL PRISON OF BUKAVU IN JUNE 1999.<sup>80</sup> METAL CONTAINERS ORDINARILY USED TO TRANSPORT GOODS ARE REPORTEDLY BEING USED AS DETENTION CELLS IN BURALE CENTER IN WALUNGU, IN MINOVA IN KALEHE, AND AT PANZI.<sup>81</sup> BRIGIT BILHAKABULIRWA IS SAID TO HAVE DIED IN SUCH A CONTAINER IN IRHUNDWE, WALUNGU, AFTER SHE WAS ARRESTED AND TORTURED ON JULY 25, 1999.<sup>82</sup>

PRISONERS ARE FREQUENTLY SUBJECTED TO BEATINGS, TORTURE, AND OTHER FORMS OF ILL-TREATMENT. DURING A VISIT TO "CHIEN MÉCHANT," HUMAN RIGHTS WATCH SAW BLOOD CLEARLY VISIBLE ON THE WALL OF THE CELL WHERE FORMER PRISONERS SAID THEY HAD BEEN BEATEN. SOME PERSONS ARE BEATEN OR TORTURED AT THE TIME OF THEIR ARREST. ONE WOMAN TOLD HUMAN RIGHTS WATCH RESEARCHERS THAT WHEN SHE WAS ARRESTED IN MATANDA, MOSISI, ACCUSED OF "POISONING," SOLDIERS CUT HER WITH A KNIFE ON HER FEET AND LEGS AND BEAT HER, PARTICULARLY ON THE SOLES OF HER FEET, BEFORE TRANSFERRING HER TO THE CENTRAL PRISON IN GOMA.<sup>83</sup> TWO PERSONS DETAINED IN GOMA, ONE A PRISONER IN CHIEN MÉCHANT, SAID THAT SOLDIERS HAD BEAT THEM THE DAY OF THEIR ARRESTS.<sup>84</sup>

<sup>73</sup>Human Rights Watch interviews, Bureau II, Goma, March 9, 2000.

<sup>74</sup>Human Rights Watch interviews, Goma and Bukavu, March 9, 12 and 15, 2000.

<sup>75</sup>Human Rights Watch, "Rwanda: The Search for Security and Human Rights Abuse," April 2000.

<sup>76</sup>Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>77</sup>Human Rights Watch interviews, Goma, March 9, 2000.

<sup>78</sup>ONE HUMAN RIGHTS ACTIVIST TOLD HUMAN RIGHTS WATCH RESEARCHERS THAT HE HAD SEEN SOLDIERS MOVING PRISONERS OUT OF BUREAU II THAT MORNING.

<sup>79</sup>Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>80</sup>HUMAN RIGHTS WATCH INTERVIEW WITH STAFF OF A LOCAL NON-GOVERNMENTAL ORGANIZATION, BUKAVU, MARCH 16, 2000.

<sup>81</sup>Human Rights Watch interviews, Bukavu, March 2000.

<sup>82</sup>Human Rights Watch interview, March 16, 2000.

<sup>83</sup>Human Rights Watch interview, Goma Central Prison, March 8, 2000.

<sup>84</sup>HUMAN RIGHTS WATCH INTERVIEWS, GOMA, MARCH 9 AND 17, 2000. ONE OF THESE PERSONS BEARS SCARS, APPARENTLY FROM THE BEATING, ON HIS ARMS AND

LESS FORTUNATE PERSONS SUFFERED REGULAR BEATINGS AND TORTURE THROUGHOUT THEIR PERIOD OF DETENTION. A MAN ARRESTED IN GOMA FOR ARMED ROBBERY, TOLD HUMAN RIGHTS WATCH RESEARCHERS THAT HE WAS DETAINED AT BUREAU II FOR ONE AND A HALF MONTHS, WHERE HE WAS REGULARLY WHIPPED AND WAS BURNED WITH LIGHTERS ON HIS LEGS. HE WAS SAID TO HAVE BEEN TORTURED EVERY NIGHT FROM MIDNIGHT TO 3 A.M. AND WAS ACCUSED OF BEING AN INTERAHAMWE. HIS WOUNDS WERE NEVER TREATED. HE SPENT TWO MONTHS IN ANOTHER MILITARY PRISON BEFORE BEING TRANSFERRED TO THE CENTRAL PRISON.<sup>85</sup> A FORMER DETAINEE REPORTED THAT DURING THE WEEK HE SPENT AT "CHIEN MÉCHANT," DETAINEES WERE BEATEN EVERY MORNING.<sup>86</sup> NDELEMA, WHO WAS RELEASED FROM "CHIEN MÉCHANT" IN AUGUST 1999 AFTER FIVE MONTHS OF DETENTION, HAS LOST MOST OF THE USE OF HIS LEFT ARM AND HAS PROBLEMS WITH HIS RIGHT KNEE WHICH HE ATTRIBUTES TO NUMEROUS BEATINGS HE RECEIVED WHILE IN THE LOCKUP.<sup>87</sup> PERSONS DETAINED AT THE ANR LOCKUP IN BUKAVU ARE ALSO BEATEN. ONE YOUNG MAN FROM UVIRA NAMED MIZUMBI SAID HE WAS BEATEN THERE EVERY DAY FOR A MONTH. ANOTHER, ACCUSED OF SUPPORTING THE MAI-MAI, WAS ALSO SAID TO HAVE REGULARLY BEATEN WITH AN IRON ROD.<sup>88</sup>

WOMEN HAVE REPORTED BEING RAPED AND OTHERWISE SEXUALLY ABUSED DURING DETENTION IN URBAN AREAS UNDER RCD AND RWANDAN ARMY CONTROL. ACCORDING TO STAFF OF A LOCAL NON-GOVERNMENTAL ORGANIZATION, SOLDIERS ARRESTED A SEVENTEEN-YEAR-OLD GIRL ON JUNE 2, 1999 WHEN LOOKING FOR SUPPORTERS OF HUTU COMBATANTS IN GOMA. THEY TOOK HER TO A CONTAINER AT THE AIRPORT AND THREE SOLDIERS RAPED HER THERE BEFORE RELEASING HER THE NEXT MORNING. LOCAL ACTIVISTS ALSO REPORTED THAT TWO RWANDAN WOMEN WERE ARRESTED ON CHARGES OF SUPPORTING THE ENEMY AND HELD FROM MAY TO DECEMBER 1999. DURING THAT TIME, BOTH WERE SEXUALLY ABUSED.<sup>89</sup>

### Lack of Due Process

THE RCD HAS TAKEN OVER THE EXISTING JUDICIAL INSTITUTIONS AND RETAINED MOST OF THEIR PERSONNEL. MANY GOVERNMENT EMPLOYEES, INCLUDING MAGISTRATES, PRISON GUARDS, AND OTHERS HAVE BEEN PAID ONLY TWICE SINCE THE BEGINNING OF THE CURRENT WAR.<sup>90</sup> IN AN INCREASINGLY DESPERATE ECONOMIC SITUATION, JUDICIAL PERSONNEL FREQUENTLY DEMAND BRIBES TO DO THEIR WORK AND CITIZENS ARE FORCED TO PAY TO OBTAIN JUSTICE. MAGISTRATES AND OTHER JUDICIAL PERSONNEL CURRENTLY SERVING IN NORTH AND SOUTH KIVU WHO WERE SUPPOSED TO HAVE BEEN REMOVED FOR CORRUPTION AFTER KABILA TOOK OFFICE HAVE RETAINED THEIR POSTS UNDER THE RCD. AS ONE CIVIL SOCIETY ACTIVIST TOLD HUMAN RIGHTS WATCH RESEARCHERS, "NOW THAT MAGISTRATES ARE NOT PAID, YOU HAVE TO BUY SERVICES. THOSE WHO BRING CASES HAVE TO PAY FOR THE LEGAL PAPERS, FOR SUBPOENAS, FOR THE TRANSPORT OF AGENTS WHO CARRY OUT INVESTIGATIONS. PEOPLE WHO RECEIVE SUMMONSES USUALLY HAVE TO PAY."<sup>91</sup>

ANOTHER ACTIVIST ADDED, "IN COURT CASES TODAY, WHOEVER HAS THE MOST MONEY WINS."<sup>92</sup> ACCORDING TO MANY DETAINEES, FAMILY MEMBERS HAD TO PAY BRIBES IN ORDER TO BE ALLOWED TO VISIT OR TO BRING THEM FOOD AND PRISONERS HAD TO PAY BRIBES IN ORDER TO RECEIVE BETTER TREATMENT. FOR EXAMPLE, THE THREE NGO ACTIVISTS ARRESTED IN BUKAVU ON FEBRUARY 29 HAD TO PAY A BRIBE TO BE REMOVED FROM THE CABINET WHERE THEY WERE HELD THE FIRST NIGHT.<sup>93</sup> GUARDS ARE REPORTEDLY SOMETIMES RELUCTANT TO RELEASE PRISONERS BECAUSE THEY WILL THEN LOSE PART OF THEIR INCOME.

MANY PEOPLE DEPLORE THE RELUCTANCE OF AUTHORITIES TO ACT ON CRIMINAL COMPLAINTS, PARTICULARLY WHEN CRIMES INVOLVE RCD OR RWANDAN SOLDIERS OR POLICE. SEVERAL VICTIMS OF CRIME TOLD HUMAN RIGHTS WATCH THAT THEIR COMPLAINTS TO AUTHORITIES HAD NEVER RESULTED IN SERIOUS INVESTIGATIONS OR ARRESTS. IN CASES WHERE SOLDIERS HAVE BEEN ARRESTED FOR COMMITTING CRIMES, THEY HAVE OFTEN BEEN RELEASED SHORTLY THEREAFTER. AFTER THE TORTURE AND KILLINGS OF WOMEN IN MWENGA GAINED WIDE PUBLICITY, MILITARY AUTHORITIES ARRESTED COMMANDER FRANCK KASEREKA, BUT HE WAS FREE TWO WEEKS LATER. AUTHORITIES CLAIMED THAT HE HAD ESCAPED, BUT OTHERS ASSERT THAT HE WAS QUIETLY LIBERATED. OTHER OFFICERS IDENTIFIED BY WITNESSES AS INVOLVED IN THE MWENGA ATROCITIES WERE NEVER ARRESTED.<sup>94</sup>

SOME CITIZENS HESITATE TO REPORT CRIMES COMMITTED BY SOLDIERS BECAUSE OF FEAR OF POSSIBLE RETRIBUTION. THE CASE OF SÉBASTIEN BALOLEBWAMI, PRESIDENT OF THE BUKAVU MONEY CHANGERS' ASSOCIATION, SUGGESTS THAT SUCH FEARS ARE WELL-FOUNDED. THREE MEN "WEARING NINJA MASKS" CAME TO HIS HOUSE IN THE KADUTU SECTION OF BUKAVU ON DECEMBER 27, 1999, AROUND 9 P.M. AND THREATENED TO KILL BALOLEBWAMI IF HE DID NOT HAND OVER HIS MONEY. AFTER TAKING NEARLY U.S. \$500, THEY LEFT. BECAUSE THE MASK OF ONE OF THE ROBBERS' CAME OFF DURING THE ATTACK, A FAMILY MEMBER WAS ABLE TO IDENTIFY HIM AS A RCD SOLDIER. THE FAMILY REGISTERED A COMPLAINT WITH COMMANDANT SERGE RUTAHAZI.

<sup>85</sup> Human Rights Watch interview, Goma, March 9, 2000. THE WITNESS BEARS SCARS ON HIS LEGS FROM THE BURNS.

<sup>86</sup> Human Rights Watch interview, Goma, March 10, 2000.

<sup>87</sup> Human Rights Watch interview, Goma, March 17, 2000.

<sup>88</sup> Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>89</sup> Human Rights Watch interview, Goma, March 18, 2000.

<sup>90</sup> Human Rights Watch interviews, Goma and Bukavu, March 2000.

<sup>91</sup> Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>92</sup> Human Rights Watch interview, Goma, March 17, 2000.

<sup>93</sup> Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>94</sup> Human Rights Watch interviews, Bukavu, March 13 and 15, 2000.

THE SOLDIER IN QUESTION WAS ARRESTED AND INTERROGATED AND PROVIDED THE NAMES OF TWO OTHERS REPORTEDLY INVOLVED, ONE OF WHOM WAS ARRESTED. TWO WEEKS LATER, HOWEVER, BOTH WERE RELEASED.

ON FEBRUARY 10, 2000, THERE WAS A KNOCK ON THE DOOR OF BALOLEBWAMI'S HOME. A FAMILY MEMBER WHO LOOKED OUT SAW FIVE RCD SOLDIERS ON THE FRONT STOOP UNSCREWING THE LIGHT BULB THAT HUNG OVER THE STOOP. HE CRIED OUT THAT IT WAS SOLDIERS, AND THE OTHERS WENT INTO THE KITCHEN AND BEGAN TO BANG POTS TO SOUND AN ALARM TO THE NEIGHBORHOOD. THE SOLDIERS FORCED OPEN THE FRONT DOOR. NEIGHBORS WHO WENT TO HELP SAID THAT THERE WERE SOLDIERS POSTED IN FRONT OF THEIR DOORS WHO TOLD THEM TO GO BACK INSIDE, BECAUSE THEY HAD COME TO KILL THE CHIEF OF THE MONEYLENDERS. BALOLEBWAMI'S WIFE FLED OUT THE KITCHEN DOOR AND RAN TO THE NEARBY POLICE STATION, WHERE SHE SUCCEEDED IN GETTING A FEW POLICE TO RESPOND. AS SHE ARRIVED WITH THEM AT THE HOUSE, SHE HEARD A SINGLE GUNSHOT FROM WITHIN. THE POLICE FIRED IN THE AIR, AND THE SOLDIERS RAN OUT, FIRING BACK AT THE POLICE. DURING THE ATTACK, A SOLDIER SHOT BALOLEBWAMI, PIERCING HIS INTESTINE SEVEN TIMES. HE DIED A SHORT TIME LATER. WITNESSES SAID THE SOLDIER WHO HAD BEEN RECOGNIZED AND ARRESTED AFTER THE FIRST ATTACK WAS PRESENT AND URGED THE OTHERS TO KILL BALOLEBWAMI'S YOUNG BROTHER-IN-LAW, WHOM HE SUSPECTED OF HAVING IDENTIFIED HIM. WHEN THE OTHERS IN THE GROUP REFUSED, HE STRUCK THE BROTHER-IN-LAW IN THE HEAD WITH HIS BAYONET, CUTTING HIM BADLY.<sup>95</sup>

GIVEN THE CURRENT STATE OF THE JUSTICE SYSTEM, MANY RCD AND RWANDAN SOLDIERS AND OTHERS FEEL THAT THEY CAN ACT WITH IMPUNITY, EVEN IN CITIES. THEY EXPECT THAT EVEN IF THEY ARE ARRESTED, THEY WILL BE QUICKLY RELEASED. THE ABSENCE OF A STATE OF LAW HAS ENCOURAGED GROWING CRIMINALITY BOTH IN AREAS OF COMBAT AND ELSEWHERE: LOCAL HUMAN RIGHTS NGOs RECORD HUNDREDS OF ATTACKS BY ARMED MEN, SOMETIMES IN UNIFORM, SOMETIMES NOT.

THE FAILURE OF THE JUSTICE SYSTEM ALSO ENCOURAGES PEOPLE TO TAKE JUSTICE INTO THEIR OWN HANDS. IN JANUARY, AN RCD OFFICIAL SENT A SOLDIER TO RETAKE A HOUSE FROM A MAN NAMED BAHATI TO WHOM HE HAD SOLD IT. BY MISTAKE, THE SOLDIER ENTERED THE WRONG HOME, THAT OF A MAN NAMED BAHIZIRE. FRIGHTENED BY THE APPEARANCE OF THE SOLDIER, BAHIZIRE CALLED FOR HELP. NEIGHBORS CAME AND STONED THE SOLDIER TO DEATH. OTHER SOLDIERS CAME LOOKING FOR BAHIZIRE ON JANUARY 19, 2000, SEEKING REVENGE. NOW BOTH BAHATI AND BAHIZIRE FEAR RETRIBUTION FROM SOLDIERS.<sup>96</sup>

## V. CIVIL SOCIETY UNDER ATTACK

### FROM HARASSMENT TO OPEN ATTACK

SINCE TAKING POWER IN NORTH AND SOUTH KIVU, THE RCD AUTHORITIES HAVE DISTRUSTED AND SOUGHT TO LIMIT THE MANY AND LIVELY ACTORS OF EASTERN CONGOLESE CIVIL SOCIETY. AS LOCAL ACTORS HAVE STRUGGLED TO MAINTAIN THEIR RIGHTS TO FREE EXPRESSION AND ASSOCIATION, AS THEY HAVE PURSUED NEW INITIATIVES FOR DIALOGUE WITH THE CONGOLESE GOVERNMENT AND CIVIL SOCIETY BASED IN KINSHASA, AND AS THEY HAVE SERVED AS A CHANNEL FOR CRITICIZING THE RCD AND ITS RWANDAN ALLIES, THE RCD HAS CRACKED DOWN INCREASINGLY SEVERELY ON CIVIL SOCIETY.

Civil society in eastern Congo comprises many different actors. There are dozens of human rights associations; human rights groups such as Heritiers de la Justice, Commission Justice et Paix and Groupe Jeremie have close links with the church, others have developed out of youth and students groups. There is a range of women's organizations such as Promotion et Appui aux Initiatives Feminines and Cadre de Concertation des Femmes oeuvrant a la base (PAIF). There are uncounted development and humanitarian non-governmental groups who work in such different fields as agriculture, food assistance, health care, education and small-scale enterprises. Among the most important actors are the churches, which take an active part in public life. Many schools, social services, health care services, and intellectual centers are institutionally linked to the church. Journalists are another important voice of civil society. Although the media landscape is poor, several independent journalists try to continue their work in the written press, radio, or television.

IN AN EFFORT TO INTIMIDATE AND CONTROL MEMBERS OF CIVIL SOCIETY, AUTHORITIES ARBITRARILY AND REGULARLY DETAIN THEM, CALL THEM IN FOR INTERROGATION, MONITOR THEIR ACTIVITIES, AND SEARCH THEIR HOMES AND OFFICES. THEY COMMONLY ACCUSE THEM OF SUPPORTING ARMED GROUPS OPPOSING THEIR RULE, CONSPIRING WITH THE KABILA REGIME, INCITING REBELLION AGAINST THE RCD, ENCOURAGING PUBLIC DISORDER, OR FOSTERING ETHNIC HATRED, BUT THEY RARELY FILE FORMAL CHARGES TO THIS EFFECT. ALTHOUGH THEY USUALLY RELEASE MOST ACTIVISTS AFTER ONLY A FEW DAYS, THEY REQUIRE SOME TO REPORT TO THEM EVERY WEEK. SOLDIERS AND GUARDS HAVE SOMETIMES BEATEN LEADERS OF NONGOVERNMENTAL ORGANIZATIONS

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<sup>95</sup>Human Rights Watch interview, Bukavu, March 14, 2000.

<sup>96</sup>Human Rights Watch interview, Goma, March 17, 2000

WHILE THEY ARE DETAINED OR HAVE SUBJECTED THEM TO OTHER FORMS OF ILL-TREATMENT. AUTHORITIES HAVE PUBLICLY AND PRIVATELY CRITICIZED AND THREATENED CIVIL SOCIETY. THE GOVERNOR OF SOUTH KIVU, FOR EXAMPLE, ACCUSED SEVERAL ORGANIZATIONS OF WORKING FOR KABILA IN A CHRISTMAS 1999 SPEECH. AUTHORITIES HAVE RESTRICTED THE TRAVEL OF REPRESENTATIVES OF CIVIL SOCIETY AND HAVE SOUGHT TO LIMIT INFORMATION THEY COMMUNICATE TO OTHERS, PARTICULARLY TO PERSONS OUTSIDE THE REGION.

#### **National Consultations in Kinshasa: "Working with the Enemy"?**

THE RCD HAS USED TRAVEL RESTRICTIONS TO TRY TO CRIPPLE LEADERS OF CIVIL SOCIETY, HAMPERING THEIR CONTACTS WITH COLLEAGUES IN OTHER PARTS OF THE CONGO AND ABROAD. NOT ONLY DO THEY MAKE IT MORE DIFFICULT FOR ACTIVISTS TO BUILD COALITIONS WITH OTHER CONGOLESE, THEY ALSO HINDER THEIR FUNDRAISING AND ADVOCACY ACTIVITIES IN THE INTERNATIONAL ARENA.

BORDER GUARDS HAVE STOPPED CIVIL SOCIETY ACTIVISTS AS THEY HAVE TRIED TO LEAVE THE COUNTRY AND AUTHORITIES HAVE NOTIFIED MANY CHURCH AND NGO LEADERS, EITHER FORMALLY OR INFORMALLY, THAT THEY WERE NOT FREE TO LEAVE THE COUNTRY. RCD OFFICIALS, WHO IMPOSED SUCH RESTRICTIONS AS EARLY AS DECEMBER 1998, PREVENTED CHURCH LEADERS AND OTHERS, INCLUDING KUYE NDOONDO, PRESIDENT OF THE CHURCH OF CHRIST IN CONGO (EGLISE DU CHRIST AU CONGO, ECC) OF SOUTH KIVU; THE UNITED PROTESTANT GROUP, OKPA; THE ANGLICAN BISHOP OF BUKAVU, REV. MUSHUNGANYA; AND REV. BULAMBO FROM TRAVELING TO NAIROBI FOR A MEETING IN SEPTEMBER 1999.<sup>97</sup> RCD OFFICIALS AND SOLDIERS HAVE USED TRAVEL RESTRICTIONS INCREASINGLY TO PREVENT EASTERN CONGOLESE LEADERS FROM PARTICIPATING IN THE CONSULTATIVE POLITICAL PROCESSES MEANT TO HELP END THE WAR, SUCH AS THAT ORGANIZED BY THE ALL-AFRICAN CONFERENCE OF CHURCHES IN KINSHASA IN SEPTEMBER 1999. AT THAT TIME, THEY KEPT THE PRESIDENT OF PROMOTION OF DEMOCRACY AND PROTECTION OF HUMAN RIGHTS (PROMOTION DE LA DEMOCRATIE ET PROTECTION DES DROITS HUMAINS, PDH) IN GOMA, JOSEPH DUNIA RUYENZI, FROM LEAVING FOR BUJUMBURA, APPARENTLY BECAUSE THEY BELIEVED HE WOULD GO ON TO KINSHASA FOR THE MEETING.<sup>98</sup>

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<sup>97</sup>Letter of Theodore Ruganzu, Deputy Administrator, Direction Générale des Migrations, December 1, 1998; Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>98</sup>Human Rights Watch interview, Goma, March 8, 200022

Activists who managed to get to Kinshasa for this or other meetings have subsequently been detained or otherwise harassed. Jeannine Mukaniwa, vice-president of the important women's organization Promotion and Support for Feminine Initiatives (Promotion et Appui aux Initiatives Féminines and Cadre de Concertation des Femmes œuvrant à la base, PAIF) attended the Kinshasa meeting and while there denounced the human rights record of the RCD authorities. After her return to Goma, on January 16, 2000, she was arrested and detained for several days at Bureau II. Immaculée Birhaheka, President of PAIF, was also detained for a day.<sup>99</sup> Security forces also looked for Charlotte Kangwesi, another women's rights activist from an NGO called Uwaki, several weeks after her return from the Kinshasa meeting.<sup>100</sup> The president of a development association, the Comité Anti-Bwaki, Patient Bagenda Balagizi, was stopped at the airport in Goma and had his passport seized on his return. Two members of the Goma branch of the umbrella organization CRONG, Regional Council of Nongovernmental Organizations of Development (Conseil régional des organisations non-gouvernementales de développement, CRONG), Negura Bari and Muchango, were summoned to the DGM (Direction Générale des Migrations) after participating in a meeting of the national bureau of CRONG in Kinshasa. Negura Bari was released after several hours but Muchango was detained for one night.<sup>101</sup>

Some Bukavu activists who went to Kinshasa to participate in consultations have been afraid to return because of threats from the RCD authorities. Kuye Nondo, president of the Church of Christ in Congo of South Kivu; the United Protestant group, Okpa; Madame Mitumwa, president of the Protestant women's group in South Kivu; and Jean-Baptiste Mugisho, vice-president of the Pentecostal Church were among those who left for Kinshasa in early January and then decided not to come home after the governor of South Kivu issued a letter threatening retribution.<sup>102</sup>

A second round of civil society meetings, intended to lead up to the Inter-Congolese National Dialogue stipulated in the Lusaka Peace Accords, started in March 2000. Shortly before, the vice-president of the RCD, Jean Pierre Ondekane, announced on television that some people would not be allowed to travel to Kinshasa. Later the governor of South Kivu also declared that he would authorize travel by NGO representatives only on a case-by-case basis.<sup>103</sup> Bruno Bahati, member of the Bureau de Coordination de la Société Civile, was arrested on his return from Kinshasa in late April 2000 at the Ugandan-Rwandan border by Rwandan authorities. He is currently detained at the Gikondo Brigade in Kigali.<sup>104</sup>

The RCD authorities also hindered preparations for a political dialogue by banning a preparatory meeting planned by the Coordination of Civil Society in North Kivu for September 9, 1999. In a letter to the Coordination, the mayor of Goma stated that "such political meetings as the one you are planning to have on 9 September 1999... are strictly forbidden..."<sup>105</sup>

RCD officials seek to limit the work of NGOs even within their own zone of control. In order to leave Goma and work with local groups in the rural parts of North Kivu, Goma-based NGOs must get permission from RCD authorities and must inform them in detail about the work they plan to be doing.

### Strikes in Bukavu and Goma, January-February 2000: An Excuse to Attack Civil Society

Following a call by a "Commandant Mbayo" and the previously unknown "Forces armées populaires," most of the inhabitants of Bukavu observed a week-long general strike to protest against taxes imposed by Rwandan authorities and the presence of foreign troops in Kivu. From January 31 to February 4, Bukavu was a *ville morte*, or "dead city," with stores, markets, businesses, schools and offices empty. On February 14, people in Goma followed the example of Bukavu and observed a general strike for one day. Similar strikes took place in Walungu and other urban centers.

<sup>99</sup> Human Rights Watch interview, Goma, March 10, 2000.

<sup>100</sup> Human Rights Watch interview, Goma, March 8, 2000.

<sup>101</sup> Ibid.

<sup>102</sup> Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>103</sup> Human Rights Watch interview, Goma, March 8, 2000; Bukavu, March 15, 2000.

<sup>104</sup> Communication by electronic mail to Human Rights Watch, April 27, 2000.

<sup>105</sup> Letter by the Mayor of Goma, F.X. Nzabara Masetza, to the President of the Civil Society of North Kivu, September 7, 1999 ("... de telles rencontres politiques que vous comptez entamer ce 8 septembre 1999... sont strictement interdites...").

THE ORGANIZERS OF THE STRIKE HAVE NOT BEEN IDENTIFIED, BUT RCD OFFICIALS BLAMED MANY NGO LEADERS AND INTELLECTUALS AND ARRESTED THEM. THE COMMANDER OF THE "CHIEN MÉCHANT" DETENTION CENTER IN GOMA TOLD HUMAN RIGHTS WATCH OPENLY THAT THE ARRESTS WERE MEANT TO INTIMIDATE CIVIL SOCIETY:

WE ARRESTED ALL OF THESE PEOPLE, AND EVERYONE WAS AFRAID BECAUSE THEY DID NOT KNOW WHAT WOULD HAPPEN TO THEM, WHETHER WE WOULD KILL THEM OR BEAT THEM. BUT THEY WERE FINE, AND WE RELEASED THEM THE NEXT DAY. REALLY THIS WAS ONLY INTENDED TO INTIMIDATE THE POPULATION.<sup>106</sup>

IN GOMA, SECURITY FORCES PARTICULARLY TARGETED PEOPLE FROM SOUTH KIVU BECAUSE THEY WERE SUSPECTED OF HAVING "IMPORTED" THE IDEA OF THE STRIKE FROM BUKAVU.



On January 29, after the strike had been called but had not yet begun, three leading members of civil society were arrested at different places in Bukavu: Patient Bagenda Balagizi, the president of the Comité Anti-Bwaki, Ramazani Musombo from an NGO providing credit in rural areas, and Gustave Lunjwire, secretary general of the Yaverian Movement, a large Catholic lay organization. As noted above, the three were taken to the ANR detention center where they were crammed into a small cabinet-like cell without windows. One of the detainees estimated that the cell, ordinarily reserved for punishing prisoners, measured less than one meter square. Because there was no space to sit, they three men spent the night standing. As there was no ventilation, they had to take turns breathing at a hole in the door. The next day, they paid the guards money to be freed from the cell.<sup>107</sup>

Ramazani Musombo, accused of photocopying pamphlets calling for the strike, was released on 31 January. Patient Bagenda, charged with paying for the pamphlets, acting as "political leader of the Mai-Mai," and getting support from Kabila, and inciting ethnic hatred, was detained until February 2 along with Gustave Lunjwire. When ANR officials released them, they apologized, and said that they were also tired of the war. They urged the two to cooperate with the authorities. Bagenda has since been told by an immigration official that he is not allowed to leave the country.<sup>108</sup>

On 14 February, the day of the strike in Goma, a highly respected doctor at Goma hospital, Dr Paluku, was arrested at the Hotel Ishango together with his colleague, Jules Songe, the administrator at the hospital, and a friend, Sumaili. Six Congolese policemen who were sitting at the next table were arrested at the same time. All nine were taken to the ANR detention center and then to the Direction Générale des Migrations (DGM). An ANR official accused them plotting to overthrow the regime. Later that day, they were told that the ANR had made a mistake but they remained in detention. When they were interrogated the next day, they were accused of having meetings with members of the Bashi ethnic group of South Kivu; Paluku had served as a doctor in Bukavu for a number of years. Later in the week, an adviser to the RCD Head of Security, Mr. Musafiri, told them that the Congolese were in favor of their release, but that Rwandan military officials wanted to detain them longer to teach a lesson to the intellectuals of Goma. They were provisionally released on 19 February.<sup>109</sup>

On 15 February, Charles Cikomola, the head of Amikivu, a medical NGO, was arrested in Goma at his workplace. He had not participated in the strike on the previous day but he was taken to the Chièn Méchant detention center anyway. There he was forced to lie down and was whipped on the back. In interrogations, soldiers accused him of having brought the pamphlet calling for strike from Bukavu to Goma. He was released on 19 February.<sup>110</sup>

Also detained were four employees of the Regional Association for the Provision of Essential Medicines in North Kivu (Association régionale d'approvisionnement en médicaments essentiels au Nord Kivu, ASRAMES). They were detained from 21 to 25 February at the Chièn Méchant and beaten. They were accused of sending messages abroad and during their detention the security forces came to the ASRAMES office and searched their computer.<sup>111</sup>

### Attacks on Human Rights Activists

The authorities accuse human rights organizations of spreading rumors, opposing the regime, encouraging insecurity, and inciting ethnic hatred and genocide. As one human rights activist told Human Rights Watch, "Every time that someone tries to criticize the RCD, it accuses the critic of genocide." Authorities use such accusations to justify questioning, arresting, and otherwise harassing activists, searching and looting their offices and homes, and seizing or censoring their publications. Given these hostile conditions, many human rights groups do not publish the results of their investigations; those that do face serious harassment.

### APREDECI

<sup>107</sup>Human Rights Watch interview, Bukavu, March 15, 2000.

<sup>108</sup>Ibid.

<sup>109</sup>Human Rights Watch interview, Goma, March 9, 2000.

<sup>110</sup>Human Rights Watch interview, Goma, March 10, 2000.

APREDECI is a Goma-based NGO doing development work and human rights education. JEAN PIERRE MASUBUKO, HEAD OF ITS ADMINISTRATIVE COUNCIL, HAD ALREADY BEEN QUESTIONED IN JUNE 1998 ABOUT CONTACTS WITH INTERNATIONAL HUMAN RIGHTS GROUPS LIKE "AMNESTY, HUMAN RIGHTS WATCH, LAWYERS GROUP."<sup>112</sup> ON FEBRUARY 2, 2000, AT ABOUT 2 P.M., AS MASUBUKO WAS WALKING BY THE TRANSPORT COMPANY TMK IN DOWNTOWN GOMA, A TOYOTA HILUX WITH SIX CONGOLESE RCD SOLDIERS PULLED UP. A SOLDIER CALLED HIM BY NAME AND TOLD HIM TO GET INTO THE CAB OF THE TRUCK. HE HESITATED, BUT GOT IN AFTER ONE OF THE SOLDIERS POINTED A GUN AT HIM. THE SOLDIERS BEAT HIM AND PRODDED HIM WITH KNIVES, THREATENING TO CUT HIM. THEY TOOK HIM TO CHIEN MÉCHANT, WHERE A NUMBER OF SOLDIERS TOOK TURNS BEATING HIM. HE HEARD ONE SOLDIERS TELLING ANOTHER, "HIT THIS ONE HARD, BECAUSE HE'S THE ONE WHO'S CAUSING OUR FAILURE." THE NEXT MORNING, AN INVESTIGATOR INTERROGATED HIM AND ACCUSED HIM ONCE AGAIN OF HAVING CONTACTED INTERNATIONAL HUMAN RIGHTS GROUPS. HE WAS TOLD, "IT IS YOU WHO SUPPORT THE INTERAHAMWE, OUR ENEMIES. IT IS YOU WHO TRANSMIT INFORMATION OUTSIDE THE COUNTRY." THEY ACCUSED HIM OF HAVING A CAMERA AND OF SENDING PICTURES TO AMNESTY INTERNATIONAL.<sup>113</sup> HE WAS RELEASED CONDITIONALLY ON FEBRUARY 5 AFTER GIVING A BRIBE, BUT HE WAS REQUIRED TO PRESENT HIMSELF AT CHIEN MÉCHANT EACH DAY FOR A WEEK.<sup>114</sup>

### **HERITIERS DE LA JUSTICE**

POLICE AND SECURITY FORCES HAVE REPEATEDLY QUESTIONED MEMBERS OF HERITIERS DE LA JUSTICE (HEIRS OF JUSTICE), A BUKAVU-BASED HUMAN RIGHTS GROUP SPONSORED BY A COALITION OF PROTESTANT CHURCHES IN SOUTH KIVU. IT PUBLISHES REGULAR HUMAN RIGHTS REPORTS, INCLUDING A NEWSLETTER *NOTA BENE*, AND A BIENNIAL SURVEY OF THE HUMAN RIGHTS SITUATION IN SOUTH KIVU, WHICH HAS DENOUNCED HUMAN RIGHTS ABUSES BY THE RCD AND RPA. ONE OF THEIR STAFF MEMBERS, RAFAEL WAKENGE, WAS ARRESTED IN AUGUST 1999 FOR DAYS; A COLLEAGUE, PASCAL KABUNGULU, WAS SUMMONED AT THE SAME TIME (SEE BELOW).

RCD AUTHORITIES HAVE FREQUENTLY TRIED TO DISCREDIT HUMAN RIGHTS GROUPS BY ACCUSING THEM OF SPREADING FALSE RUMORS. HERITIERS DE LA JUSTICE REPORTED THE TORTURE AND KILLING OF WOMEN IN MWENGA IN A DECEMBER 15, 1999 EDITION OF *NOTA BENE*<sup>115</sup> WHICH RECEIVED CONSIDERABLE INTERNATIONAL ATTENTION. RCD AUTHORITIES THEN SUMMONED SEVERAL MEMBERS OF HERITIERS FOR QUESTIONING AND PRESSURED THEM TO REVEAL THE SOURCES OF THEIR INFORMATION. WHEN THE ACTIVISTS REFUSED TO DO SO, THE RCD ACCUSED THEM OF MERELY SPREADING RUMORS. IN MARCH 2000, THE HEAD OF THE DEPARTMENT OF JUSTICE AND SETTLEMENT OF CONFLICTS, JEAN MARIE EMUNGU EHUMBA, WROTE THE U.N. SPECIAL RAPPORTEUR ON THE DEMOCRATIC REPUBLIC OF CONGO, ROBERTO GARRETON, CASTING DOUBT ON THE REPORT:

A PRELIMINARY ENQUIRY OF THE AUTHORS OF THIS ARTICLE REVEALS THAT NO ONE HAS SEEN SOLDIERS BURYING PEOPLE ALIVE. THIS IS JUST INFORMATION THAT THEY RECEIVED FROM RUMORS FROM PEOPLE WHO ARE IN GRIEF. THE INFORMANTS ARE NOT ABLE TO GIVE THE IDENTITY OF THOSE WHO DENOUNCED OR SPREAD THESE RUMORS. . . . SPREADING OF FALSE RUMORS THAT ALERTS PUBLIC OPINION UNNECESSARILY IS AN INFRACTION WHICH IS PUNISHABLE UNDER THE CONGOLESE PENAL LAW.<sup>116</sup>

<sup>112</sup>Human Rights Watch interview in Goma, March 17, 2000.

<sup>113</sup>Ibid.

<sup>114</sup>Ibid. This account was confirmed by conversations with several other activists.

<sup>115</sup>Heritiers de la Justice, *Nota Bene*, no. 47, Bukavu: December 15, 1999.

<sup>116</sup>Mémoire en réponse à la copie préliminaire du rapport E/CN/2000/42 de Monsieur Roberto Garreton, Rapporteur Special des Nations Unies pour les Droits de l'Homme en Republique Democratique du Congo, 2 Mars 2000. (*"L'enquête préliminaire menée auprès des rédacteurs de cet article révèle que personne n'a vu les militaires enterrer les personnes vivantes, c'est seulement des informations, disent-ils, qu'ils auraient reçues des rumueurs des personnes qui auraient été en deuil. Les informateurs ne sont pas en mesure de donner l'identité des dénonciateurs ou des coplorteurs des ces rumeurs... Le colportage des faux bruits de nature à alarmer inutilement l'opinion publique est une infraction prévue et punie par la loi*

EMUNGU AND OTHER DEPARTMENT OF JUSTICE OFFICIALS REITERATED THESE ACCUSATIONS DURING INTERVIEWS WITH HUMAN RIGHTS WATCH RESEARCHERS AND SUGGESTED THAT FAILURE TO PRODUCE WITNESSES COULD BECOME GROUNDS FOR PROSECUTING HERITIERS DE LA JUSTICE.<sup>117</sup>

### **GROUPE JEREMIE**

GROUPE JEREMIE, a human rights association in BUKAVU LINKED WITH THE CATHOLIC CHURCH, PRODUCED A BOOKLET IN JUNE 1999 ON THE RIGHTS OF THE CHILD. ONE DAY BEFORE PUBLICATION, ON JUNE 15, RCD SOLDIERS BROKE INTO THEIR OFFICE WHILE IT WAS CLOSED FOR LUNCH. THEY SEARCHED THE PLACE AND LOOTED COMPUTERS AND OTHER EQUIPMENT AS WELL AS COPIES OF THE REPORT AND OTHER PUBLICATIONS. CALLED IN FOR QUESTIONING, THE ORGANIZERS OF GROUPE JEREMIE WERE CHARGED WITH "ENDANGERING STATE SECURITY," WITH HAVING PRODUCED PRO-MAI-MAI PAMPHLETS, WITH "PREPARING A GENOCIDE," AND WITH ENCOURAGING ETHNIC HATRED. THE CHARGES HAVE APPARENTLY SINCE BEEN DROPPED. THE GOVERNOR OF SOUTH KIVU AND THE HEAD OF THE DEPARTMENT OF TERRITORIAL ADMINISTRATION, JOSEPH MUDUMBI, ALSO ACCUSED GROUPE JEREMIE ON THE RADIO OF PRODUCING SUBVERSIVE PAMPHLETS.<sup>118</sup>

IN FEBRUARY 2000, GROUPE JEREMIE PRODUCED A SHORT RADIO PROGRAMME, CALLED "FLASH," ON THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. THE AUTHORITIES CENSORED THE TEXT AND SENT IT BACK FOR CORRECTION. WHEN GROUPE JEREMIE RE-SUBMITTED THE TEXT, THE AUTHORITIES ASKED THEM TO TAKE OUT REFERENCES TO THE WAR. AT THAT POINT THE ORGANIZATION DECIDED NOT TO PUBLISH THE "FLASH."<sup>119</sup>

### **CENTER POUR L'EDUCATION, ANIMATION ET DEFENSE DES DROITS DE L'HOMME**

RCD AUTHORITIES ALSO HARASS SMALLER AND LESS WELL-KNOWN ORGANIZATIONS, SUCH AS THE CENTER POUR L'EDUCATION, ANIMATION ET DEFENSE DES DROITS DE L'HOMME WHICH WORKS IN UVIRA AND IN FIZI TERRITORY, SOUTH KIVU. ON 14 NOVEMBER 1999, JERRY DUNIA KASHINDI, ONE OF ITS LEADING MEMBERS, WAS ARRESTED BY SEVERAL SOLDIERS AT HIS HOME IN KIZIMIA, FIZI TERRITORY AND TAKEN TO A MILITARY POST WHERE HE WAS TIED UP AND BEATEN. HE WAS THEN TRANSFERRED TO THE PRISON OF FIZI TOWN WHERE HE WAS DETAINED UNTIL NOVEMBER 22. ON FEBRUARY 1, 2000, DURING THE STRIKE IN BUKAVU, KASHINDI WAS ARRESTED THERE AND HELD AT THE DGM FOR FOUR DAYS.<sup>120</sup>

### **COJESKI**

THE COLLECTIVE OF YOUTH ORGANIZATIONS OF SOUTH KIVU (COLLECTIF DES ORGANIZATIONS DES JEUNES DU SUD-KIVU, COJESKI), A COALITION OF 190 YOUTH ASSOCIATIONS FROM THROUGHOUT SOUTH KIVU, PUBLISHES *LA VOIX DE LA JEUNESSE*, A JOURNAL THAT HAS INCREASINGLY FOCUSED ON DOCUMENTING HUMAN RIGHTS ABUSES. BECAUSE OF THIS HUMAN RIGHTS WORK AND COJESKI'S SPONSORSHIP OF TRAINING SESSION FOR NONVIOLENT ACTION AND FOR HUMAN RIGHTS INVESTIGATIONS, RCD OFFICIALS HAVE TARGETED COJESKI AS A THREAT TO THEIR AUTHORITY.<sup>121</sup> IN HIS DECEMBER 24, 1999, CHRISTMAS MESSAGE BROADCAST ON RTNC-BUKAVU, THE GOVERNOR OF SOUTH KIVU ACCUSED COJESKI OF COOPERATING WITH KABILA AND THE MAI-MAI AND OF FOSTERING ETHNIC HATRED. DIEUDONNÉ MUSHAGALUSA, A COJESKI COORDINATOR, WAS SUMMONED TO THE DIVISION OF JUSTICE FOR QUESTIONING ON JANUARY 6, 2000. THE OFFICIALS WHO INTERROGATED HIM ACCUSED COJESKI OF ENGAGING IN POLITICS AND USING MONEY INTENDED FOR ECONOMIC DEVELOPMENT TO SUPPORT PUBLIC DISORDER. A COJESKI ORGANIZER IN WALUNGU WAS ARRESTED ON FEBRUARY 15, 2000, ONE DAY AFTER A GENERAL STRIKE THERE, AND HELD FOR THREE DAYS.<sup>122</sup>

### **Attacks on the Media**

IN AN EFFORT TO CONTROL INFORMATION BOTH WITHIN THEIR ZONE AND THAT DISSEMINATED TO THE WORLD OUTSIDE, RCD AUTHORITIES HAVE CENSORED OR BANNED PUBLICATIONS AND RADIO PROGRAMS. THEY HAVE THREATENED, DETAINED, AND HARASSED JOURNALISTS AND SACKED THEIR PLACES OF WORK, SOMETIMES CONFISCATING COMMUNICATION MATERIALS AND DOCUMENTS.

### **RADIO MAENDELEO**

<sup>117</sup>Human Rights Watch interviews, Goma, March 7 and 17, 2000.

<sup>118</sup>Human Rights Watch interview, March 11, 2000.

<sup>119</sup>Ibid.

<sup>120</sup>Human Rights Watch Interview, Bujumbura, April 5, 2000.

<sup>121</sup>Human Rights Watch interview, Bukavu, March 15, 2000.

Radio Maendeleo is an independent, nonprofit radio station in South Kivu that produced news as well as programs on development, human rights, and other subjects, much of it provided by local NGOs.<sup>123</sup> On July 7, 1999, representatives of the RCD Department of Information, Press, and Cultural Affairs ordered Radio Maendeleo to stop producing its own political news and debates and to use instead those provided by the official Radio Télévision Nationale Congolaise (RTNC). Radio Maendeleo disregarded the order. On July 20, 1999, the radio broadcast live a public meeting about the Lusaka accords during which the crowd screamed insults at RCD Vice-President Jean Pierre Ondekane. The following day, reportedly on Ondekane's order, authorities seized its equipment and Radio Maendeleo stopped broadcasting. On July 30, 1999, the head of the Department of Information, Press and Cultural Affairs officially suspended the radio station.<sup>124</sup>

On August 25, 1999, the director of Radio Maendeleo, Kizito Mushizi Neundiko, and its head of program and information, Kamengele Omba, together with six members of other nongovernmental organizations were stopped by RCD soldiers when they were leaving a meeting of CRONGD in Radio Maendeleo's vehicle. The soldiers had a list of names of people, including Kizito and Kamengele, accused of participating in a "secret subversive meeting." They arrested all the occupants of the vehicle and took them to the Agence National de Renseignements (ANR). The six other persons were released later the same day but the two journalists were held at the ANR detention center where they were accused of listening to military secrets on their walkie-talkies.<sup>125</sup>

Two days later, the authorities also arrested Rafael Wakenge Ngimbi, staff member of Heritiers de la Justice, and summoned one of his colleagues, Pascal Kabungulu. They accused Wakenge of helping the journalists listen to military secrets and took him to a detention center at the military prosecutor's office. Wakenge, Kizito, and Kamengele were transferred to the Central Prison of Bukavu on 28 August where they remained until September 9, 1999, when they were provisionally released. They were required to appear at the prison each Friday for several months. The authorities and Radio Maendeleo are currently negotiating the conditions for re-opening the radio.<sup>126</sup>

#### Other Journalists

Nsasse Ramazani Seraphin, a civil servant and journalist, was taken to court by government official twice in 1999 on charges of libel and found innocent both times. On July 21, 1999, he was arrested again after a RTNC broadcast about corruption surrounding the sale of a damaged Air Congo plane by the RCD authorities. He was accused of endangering state security and of being anti-Tutsi and anti-RCD. He was taken to "Chien Méchant" detention center where he remained for three days. Since that time, he is often followed.<sup>127</sup>

On 23 July 1999, four journalists from RTNC were summoned following a program they had produced speculating on the extension of the Rwandese border into Congolese territory. Two of them, Primo Rudakigwa and Delion Kimburumbu, were detained for several days in Goma. The two others, Robert Dunia and Viki Makambo, were temporarily suspended in mid 1999.<sup>128</sup>

<sup>123</sup>Maendeleo means "development" in Swahili.

<sup>124</sup>Proces-Verbal de saisie conservatoire du matériel d'émission de Radio Maendeleo par le Commandement de la 6e brigade de Bukavu, July 21, 1999. Decision n. 4/DIPAC/RCD/99 portant suspension de la licence d'exploitation de la Radio Maendeleo/Bukavu, July 30, 1999; Decision N. 4/DIPAC/RCD/99 portant suspension de la licence de l'exploitation de la radio Maendeleo/Bukavu, signed by Lambert Mende Omalanga, Chef du Département de l'Information, Presse et Affaires Culturelles, July 30, 1999.

<sup>125</sup>Human Rights Watch interview, Bukavu, March 13, 2000. See also Heritiers de la Justice, "Situation des droits de l'homme," pp. 11-12.

<sup>126</sup>Ibid.

<sup>127</sup>Human Rights Watch interview, Goma, March 17, 2000.

<sup>128</sup>Human Rights Watch interview, Goma, March 10, 2000.

THE ONLY INDEPENDENT NEWSPAPER NOW PUBLISHING IN THE EASTERN CONGO IS *LES COULISSES*, EDITED BY NICAÏSE OKA KIBELEBELE. THE NEWSPAPER HAS PUBLISHED ARTICLES CRITICAL OF THE RCD, SUCH AS ONE ACCUSING RCD LEADERS OF ILLEGALLY ACQUIRING LAND. IN EARLY 2000, THE PROSECUTOR'S OFFICE OPENED AN INVESTIGATION AGAINST KIBELEBELE, WHICH THE RCD DEPARTMENT OF JUSTICE CLAIMS IS MEANT TO VERIFY THE FACTS TO ENSURE THAT THE PAPER IS NOT BEING LIBELOUS. ACCORDING TO A REPORT PUBLISHED BY KIBELEBELE IN *LES COULISSES*, JOSEPH MUDUMBI, THE HEAD OF THE DEPARTMENT OF TERRITORIAL ADMINISTRATION, CALLED HIM TO HIS OFFICE DURING THE FIRST WEEK OF MARCH AND THREATENED HIM FOR PUBLISHING AN ARTICLE CRITICAL OF HIS INVOLVEMENT IN LAND DEALS.<sup>129</sup>

THE RCD SUSPENDED ANOTHER INDEPENDENT NEWSPAPER, *LA CROISSANCE PLUS*, IN SEPTEMBER 1999 FOLLOWING AN ARTICLE IN ITS AUGUST 31, 1999, EDITION THAT CRITICIZED THE "ABSENCE OF DEMOCRACY" UNDER RCD RULE.<sup>130</sup>

SECURITY FORCES ARRESTED RAPHAËL KINYONGI IN JANUARY 2000 AND HELD HIM IN "CHIEN MÉCHANT" FOR FORTY-EIGHT HOURS APPARENTLY AFTER HE TOOK PICTURES OF STREET CHILDREN. KINYONGI WORKS FOR *JUNCTION*, A BUSINESS JOURNAL, AND SAID HE WAS PLANNING TO USE THE PICTURES FOR AN ARTICLE ON UNEMPLOYMENT. THE SECURITY FORCES ACCUSED HIM OF TAKING THE PICTURES TO SHOW THE OUTSIDE WORLD THAT THE PEOPLE OF CONGO WERE LIVING IN MISERY. THEY ALSO QUESTIONED HIM ABOUT AN ARTICLE ON THE MAÏ-MAÏ THAT HAD APPEARED PREVIOUSLY IN THE JOURNAL.<sup>131</sup>

THE RCD HAS ALSO THREATENED REPORTERS FOR INTERNATIONAL NEWS AGENCIES. THE HEAD OF THE DEPARTMENT OF INFORMATION, KINKÉI MOLUMBA, REGULARLY CONTACTS STRINGERS FOR THE BBC AND VOICE OF AMERICA TO FORBID THEM TO REPORT ON CERTAIN STORIES OR TO REPRIMAND—AND SOMETIMES THREATEN—THEM FOR REPORTS THAT HAVE APPEARED ON BBC OR VOA. IN EARLY FEBRUARY, 2000, FOR EXAMPLE, DELION KIMBOLUMPO CONTACTED THE VOA OFFICE IN WASHINGTON ABOUT A PROTEST MARCH IN GOMA BY THE WIVES OF SOLDIERS WHO OBJECTED TO THEIR HUSBANDS' BEING SENT TO THE FRONT. MOLUMBA CALLED THE NEXT DAY AFTER A REPORT APPEARED ON VOA AND THREATENED KIMBOLUMPO WITH PUNISHMENT, DRIVING HIM TO FLEE GOMA TEMPORARILY. MOLUMBA ALSO FORBODE REPORTERS TO DISCUSS THE *VILLE MORTE* ("GHOST TOWN" STRIKE) IN GOMA IN FEBRUARY.

#### ATTACKS ON WOMEN'S GROUPS

RCD AUTHORITIES SOUGHT TO DISRUPT PLANS FOR A MARCH AGAINST VIOLENCE TOWARDS WOMEN TO BE HELD ON INTERNATIONAL WOMEN'S DAY, MARCH 8, 1999. AUTHORITIES INITIALLY AUTHORIZED THE MARCH, BUT A FEW DAYS BEFORE THE EVENT, THE GOVERNOR OF SOUTH KIVU INVITED THE ORGANIZERS TO MEETING IN WHICH HE ASKED THEM ABOUT THEIR PRECISE PLANS. HE CLAIMED THAT TRACTS AND RUMORS HAD INDICATED THAT THE WOMEN WERE PLANNING TO MARCH NUDE, A TRADITIONAL METHOD OF EXTREME PROTEST. THE WOMEN SAID THEY EXPLAINED THAT THEY HAD NO SUCH PLANS AND THAT AT THAT TIME THE GOVERNOR PROMISED TO GIVE SOME MONEY IN SUPPORT OF THEIR WORK.<sup>132</sup>

THE EVENING BEFORE THE SCHEDULED MARCH TWO SOLDIERS CAME TO THE HOUSE OF ONE OF THE ORGANIZERS, MARIE JEANNE MBACHU, FROM THE CONSULTATIVE GROUP FOR WOMEN WORKING AT THE GRASSROOTS (*CADRE DE CONCERTATION DES FEMMES ŒUVRANT À LA BASE*). THEY TOLD HER THAT THE SECURITY FORCES WERE LOOKING FOR HER BECAUSE SHE WAS PREPARING A MARCH OF NAKED WOMEN. THE NEXT MORNING, ON INTERNATIONAL WOMEN'S DAY, RCD OFFICIALS ANNOUNCED ON THE RADIO THAT THE MARCH WAS CANCELED. THE WOMEN'S ORGANIZATIONS RELUCTANTLY GAVE IN BUT ADDRESSED A LETTER OF PROTEST TO THE GOVERNOR. IN APRIL 1999, MBACHU WAS DENIED PERMISSION TO LEAVE THE COUNTRY FOR A BUSINESS TRIP. SHE WAS ACCUSED OF HAVING SEDITIONARY DOCUMENTS AND INCITING WOMEN TO REVOLT.<sup>133</sup>

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<sup>129</sup> Human Rights Watch interview, Goma, March 17, 2000.

<sup>130</sup> Human Rights Watch interview, Goma, March 10, 2000.

<sup>131</sup> Human Rights Watch interview, Goma, March 17, 2000.

<sup>132</sup> Human Rights Watch interview, Bukavu, March 15, 2000.

For March 8, 2000, women's organizations in Kivu decided to organize a "Day without Women" during which the women would stay at home, grieving for their dead husbands and sisters, and praying. On March 1, one of the organizers, Zita Kavungirwa of Network of Women for the Defense of Rights and Peace (Réseau des Femmes pour la Défense des Droits et la Paix), was summoned to the ANR. During her interrogation she was accused of "preparing genocide" with the activities planned. She was also told that she and her colleagues would be prosecuted.<sup>134</sup>

On March 7, 2000, in the evening, Mbachu was interviewed on Voice of America about the "Day without Women," an interview that was broadcast the next morning. During the day of March 8, many women stayed at home or went to pray in churches. On March 9, the governor was interviewed on radio and accused Marie Jeanne Mbachu of lying. The same day, at the request of Radio France International, she gave another interview in response to the governor, in which she defended herself. The following day, RCD officials called her employer, the German Technical Cooperation (Gesellschaft fuer Technische Zusammenarbeit, GTZ), to arrange a meeting for March 11. At that meeting, the RCD authorities told GTZ if it did not dismiss Ms. Mbachu, the RCD would close down its whole operation. In a letter to Ms. Mbachu seen by Human Rights Watch researchers, GTZ informed her it would have no further need for her services.<sup>135</sup>

### Attacks on Churches

RCD officials and soldiers have sought to limit the influence of clergy, apparently seeing churches as a rival center of power in local society. They have restricted the travel of such leaders as the Anglican bishop of Bukavu and the head of the ECC in Bukavu. They have threatened some priests and pastors and brought others in for questioning at the ANR and elsewhere. Political officials such as the governor of South Kivu and Commandant Ondekane have publicly accused clergy of inciting ethnic hatred and of colluding with the Kabila regime and armed opposition groups.

The RCD has seen the strongest challenge as coming from Emmanuel Kataliko, the Roman Catholic archbishop of Bukavu. Installed as archbishop in 1996 after the assassination of his predecessor, Kataliko apparently first roused the anger of the RCD in February 1999 when he told them that the security problems in eastern Congo resulted from conflicts in Rwanda and should be resolved within Rwanda. He generated even greater anger among the RCD officials with his pastoral letter for Christmas 1999 in which he wrote:

FOREIGN POWERS, with the collaboration of certain of our CONGOLESE BROTHERS, organize wars with the resources of our country. THESE RESOURCES, which should be utilized for our development, for education of our children, for healing our sick, in short so that we could live in a humane fashion, serve to kill us. MORE STILL, our country and we ourselves have become OBJECTS OF EXPLOITATION. ALL THAT IS OF VALUE HAS BEEN PILLAGED, SACKED AND TAKEN OUTSIDE THE COUNTRY OR SIMPLY DESTROYED.<sup>136</sup>

Kataliko was in Kinshasa preparing for the annual episcopal conference when the strike began in Bukavu. At the time a tract purportedly from the Banyamulenge community circulated in Bukavu, accusing the archbishop of fostering hatred against Tutsi and preparing genocide.<sup>137</sup> On February 10, BBC radio news announced that Kataliko, although a Congolese national, had been declared persona non grata by the RCD. RCD officials in Boma and Bukavu declared the report false, but security forces stopped Kataliko after he arrived in Goma on February 12 and as he was preparing to leave for Bukavu. They sent him to Butembo, his home community, which is outside RCD-Goma control. The next day, RCD-Goma vice-president Jean Pierre Ondekane said in a radio interview on RTNC that Kataliko had used his Christmas message to preach ethnic hatred. Ondekane claimed, "We have taken this measure of suspending his presence in Bukavu, because we have the need to protect and assure the security of the population."<sup>138</sup>

<sup>134</sup> Human Rights Watch interviews, Bukavu, March 15-16, 2000.

<sup>135</sup> Ibid.; Human Rights Watch interview, by telephone, May 3, 2000.

<sup>136</sup> Mgr. Kataliko Emmanuel, "Consolez, consolez mon peuple" (Is 40,1) "L'esperance ne trompe jamais" (Rm 5,5): Message de Noel 1999 aux Fidèles de Bukavu, Bukavu, December 24, 1999.

<sup>137</sup> "Réaction de la Communauté Banyamulenge au sujet de la situation qui prévaut dans la ville de Bukavu," Bukavu, February 3, 2000; the Banyamulenge are an ethnic group living in eastern Congo related to the Tutsi ethnic group of Rwanda.

<sup>138</sup> Archeveche Bukavu, "Relegation de Mgr. Kataliko: Dossier Chronologique," February 29, 2000, and interviews in Bukavu, March 13, 2000.

PRIESTS WHO HAVE SUPPORTED THE ARCHBISHOP HAVE BEEN THREATENED BY RCD AUTHORITIES. SOLDIERS CAME TO SEARCH FOR FATHER GYAKIRA BUGANDWA IN NYANGEZI AFTER HE READ THE ARCHBISHOP'S CHRISTMAS LETTER IN CHURCH. AFTER HIDING FOR SEVERAL DAYS, THE PRIEST FELT COMPELLED TO FLEE FOR HIS OWN SAFETY. DURING THE BUKAVU STRIKE, A RWANDAN OFFICER, COMMANDER MACUMU, SOUGHT OUT SEVERAL PRIESTS WHOM HE ACCUSED OF PREACHING ETHNIC HATRED AND HE THREATENED TO HAVE ONE ITALIAN PRIEST EXPELLED FROM THE CONGO.<sup>139</sup>

FOLLOWING KATALIKO'S BANISHMENT, THE CATHOLIC CHURCH OF BUKAVU DECLARED A GENERAL STRIKE, CLOSING CHURCH SCHOOLS AND OFFICES AND SUSPENDING MASS. THE PROTESTANT GROUP ECC ALSO CLOSED ITS SCHOOLS IN SUPPORT, AS DID THE KIMBANGUIST CHURCH. THE PROTESTANTS POINTED OUT THAT SOME OF THEIR LEADERS HAD ALSO BEEN DENOUNCED IN TRACTS FOR INCITING ETHNIC HATRED.<sup>140</sup> IN MID-MARCH, WITH CHURCHES STILL ON STRIKE, THE SITUATION IN BUKAVU REMAINED TENSE.

FATHER PAUL JUAKALI PREACHED A 1999 EASTER SERMON AT MWESO CATHOLIC PARISH IN MASISI TITLED "DEMOCRATIC REPUBLIC OF CONGO: WHY THE NEW WAR?" IN WHICH HE QUESTIONED THE REASONS FOR THE WAR AND DISCUSSED THE NEGATIVE CONSEQUENCES FOR THE POPULATION. TWO DAYS LATER ON THE ROAD BETWEEN KALEMBE AND MWESO SOLDIERS STOPPED THE TRUCK IN WHICH JUAKALI WAS TRAVELING, SINGLED HIM OUT BY NAME AND KILLED HIM, WHILE ALLOWING THE OTHER PASSENGERS TO CONTINUE ON THEIR WAY. WITNESSES SAID THAT THE SOLDIERS WERE ALL HUTU, BUT DID NOT KNOW WHETHER THEY WERE FROM THE RCD OR FROM A GROUP OF THE ARMED OPPOSITION.<sup>141</sup> AT LEAST FIVE CATHOLIC PRIESTS HAVE BEEN KILLED IN UNIRA DIOCESE SINCE THE BEGINNING OF THE WAR, MOST RECENTLY REMIS PEPE KIBUYU ON FEBRUARY 19, 2000. THE PRIEST PARISH OF KALONGE IN SOUTH KIVU WAS ALSO KILLED ON NOVEMBER 22, 2000. IN FEBRUARY, FATHER ISIDORE MUNYASHUNGURI, AN ELDERLY TEACHER, WAS KILLED DURING AN ATTACK ON THE REFECTORY AT BULIMBA PARISH NEAR GOMA.

AS CENTERS OF RELATIVE WEALTH IN A COUNTRY OF DESPERATE POVERTY, CHURCHES HAVE BEEN FREQUENTLY ATTACKED SIMPLY FOR THE BOOTY THEY OFFER. RPA TROOPS ATTACKED MUGOGO PARISH IN WALUNGU AROUND 11 P.M. ON JANUARY 2, 2000. THEY ROUSED THE THREE PRIESTS, WHO WERE ALREADY IN BED, AND DEMANDED DOLLARS AND OTHER GOODS. THEY FORCED THE PRIESTS OUTSIDE WHERE THERE WERE OTHER SOLDIERS AND DEMANDED TO BE LED TO THE COMMUNITY OF NUNS THAT LIVED NEAR THE PARISH. WHEN ONE PRIEST SAID THAT THERE WERE NO NUNS, A SOLDIER STRUCK HIM WITH THE BUTT OF HIS GUN. SOME SOLDIERS WENT TO THE NEARBY COMMERCIAL CENTER AND FORCED RESIDENTS THERE TO LEAD THEM TO THE MONASTERY. THEY SHOT OPEN THE DOOR, WENT IN, AND STOLE MORE. SOME SOLDIERS BEAT THE PRIESTS FURTHER FOR HAVING LIED AND THEY TALKED OF KILLING THEM BUT THEN LEFT WITHOUT FURTHER VIOLENCE. ACCORDING TO PEOPLE IN THE AREA, THE GOODS PILLAGED FROM THE CHURCH WERE TRANSPORTED BACK TO THE RPA/RCD BASE AT MOLUME.<sup>142</sup>

ON THE SAME DAY, RCD AND RPA TROOPS ATTACKED CIHARAMO PARISH IN KALEHE. A GROUP OF PRIESTS AND LAITY WAS GATHERED IN THE RECTORY AROUND 8:30 P.M. WHEN TEN SOLDIERS FORCED THEIR WAY IN, LEAVING OTHERS TO GUARD OUTSIDE. SEVERAL OF THE SOLDIERS WENT THROUGH THE HOUSE LOOTING WHILE OTHERS BEAT THE MEN IN THE ROOM, MOSTLY WITH THE BUTTS OF THEIR GUNS, BREAKING THE ARM OF ONE PRIEST. A PRIEST RECOGNIZED A RWANDAN HUTU AMONG THE SOLDIERS, A FORMER REFUGEE WHO IS NOW PART OF THE RPA. ANOTHER PERSON RECOGNIZED A CONGOLESE RCD SOLDIER WHO HAD PREVIOUSLY BEEN STATIONED AT WALUNGU.<sup>143</sup>

AN ENORMOUS NUMBER OF CHURCHES AND CHURCH SCHOOLS AND HEALTH CENTERS THAT HAVE BEEN PILLAGED SINCE THE BEGINNING OF THE WAR. THE COMMUNITY OF FREE PENTECOSTAL CHURCHES IN AFRICA (COMMUNAUTÉ DES EGLISES LIBRES DE PENTECÔTE EN AFRIQUE, CELPA) HAS HAD MORE THAN SIXTY SCHOOLS PILLAGED IN SOUTH KIVU ALONE, AS WELL AS A NUMBER OF HEALTH CENTERS AND CHURCH BUILDINGS.<sup>144</sup>

### ACCUSATIONS OF INCITING ETHNIC HATRED

WITH RPA SOLDIERS, MOST OF THEM TUTSI, STILL ACTIVELY ASSISTING THE RCD IN MAINTAINING CONTROL IN EASTERN CONGO, LOCAL PEOPLE EXPRESS GROWING HOSTILITY AGAINST RWANDANS AND PARTICULARLY AGAINST TUTSI. THEY ALSO EXPRESS HOSTILITY AGAINST BANYAMULENGE, THEIR FELLOW CONGOLESE OF TUTSI ORIGIN WHO WERE CLOSELY LINKED WITH THE RPA DURING THE FIRST CONGO WAR AND DURING THE EARLY STAGES OF THE SECOND WAR. SOME BANYAMULENGE HAVE MORE RECENTLY TRIED TO DISTANCE THEMSELVES FROM THE RCD. AS ONE REMARKED TO HUMAN RIGHTS WATCH RESEARCHERS,

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<sup>139</sup>Human Rights Watch interview, Bukavu, March 13, 2000.

<sup>140</sup>Interviews in Bukavu, March 12-13, 2000. See also, Eglise du Christ au Congo, "Position de l'Eglise du Christ au Congo/Sud-Kivu Face à la situation qui Prévaux dans la Ville de Bukavu et ses Environs," Bukavu, February, 2000.

<sup>141</sup>Human Rights Watch interview, Goma, March 8, 2000.

<sup>142</sup>Human Rights Watch interview, Bukavu, March 12, 2000.

<sup>143</sup>Human Rights Watch interview, Bukavu, March 13, 2000.

<sup>144</sup>Human Rights Watch interview, Bukavu, March 14, 2000.

For us, the Banyamulenge community has never been a member of the RCD. There are Banyamulenge individuals who are in the RCD—as are other communities. . . . In town, in Bukavu and Uvira, the Banyamulenge are against the RCD.<sup>145</sup>

The rise in hostility towards Tutsi and Banyamulenge is particularly dangerous given the precedent of genocide against Tutsi in Rwanda itself in 1994. A pamphlet calling for the February general strike signed by a “Commander Mbayo” demanded that the work stoppage continue until the “Rwando-Ugando-Burundian aggressors and all their Nilotic and white allies leave our Congolese territory.” The idea that Tutsi or Tutsi-related people like the Banyamulenge represent a “Nilotic” or “Hamitic” race and that other peoples, such as Rwandan Hutu or local Congolese people, are part of a different “Bantu” race underlay the genocidal ideology that cost half a million lives in Rwanda. This bipolar characterization of society is historically inaccurate but is taken for true by many people of the region. The introduction of this supposed “Nilotic” against “Bantu” conflict into the Congo embitters and distorts previously existing differences among local groups and complicates the search for a solution to conflicts of interest among them.

Other pamphlets have circulated in the region calling on local people to discriminate against Banyamulenge, by such practices charging them higher prices in the market or by refusing to share a taxi bus with them. Although not generally observed, such calls are sometimes put into effect, creating an intimidating atmosphere for Banyamulenge.

Some local people recount stories of a dog being dragged on a leash through the dust, with the person slowly killing it singing a song about his wish to kill Tutsi the same way. A similar account features a dog being dragged to its death behind a car. These stories indicate a hostility against Tutsi which could in certain circumstances result in widespread killing.

Discovering the leaders in inciting hatred of Tutsi and Banyamulenge is extremely difficult. “Commander Mbayo,” supposedly a Mai-Mai leader, has not been identified and may not exist as a single, real person.

The dozens of church representatives, human rights activists, journalists and leaders of non-governmental organizations who met with Human Rights Watch researchers in the region all expressed commitment to the principle of non-violence. Well-placed to counteract inflammatory language and speak out for the rights of all minorities, these leaders could play a more active role in defusing ethnic tensions.

### **RCD Accusations of Inciting Ethnic Hatred**

RCD authorities frequently accuse civil society leaders of fomenting ethnic violence and hatred. The authorities link this accusation to another, that of receiving money from Kabila. In a meeting with a Human Rights Watch researcher, the deputy head of the Department of Foreign Affairs, Maître Ruberwa, said: “Kabila has succeeded in subverting the NGOs.” He also asserted that some NGOs in Bukavu favored giving an amnesty to the Interahamwe. In the memorandum to the U.N. special rapporteur on the Democratic Republic of Congo, the head of the Justice Department of the RCD, Jean-Marie Emungu Ehumba, wrote:



NGOs and even some church people. . . pretend that the misery of Congo is the presence of Tutsi, who are assimilated to the armed rebellion and to the allies of the RCD. . . This is why some circles of the civil society work for the destabilisation of the Great Lakes subregion, by cooperating directly with or as middlemen between the negative forces, Kabila's government and certain Western funders.<sup>146</sup>

The RCD uses these broad and undocumented accusations to weaken leaders of civil society and to discredit them with international observers. Should it have concrete instances of incitation to hatred and violence, it should charge and bring to trial those accused of such practices.

## VI. THE INTERNATIONAL RESPONSE

The DRC conflict continues to present the biggest security crisis in the continent, contributing to the worsening of the humanitarian situation in much of central and southern Africa.

The crisis in the DRC embodies the critical need for justice and accountability. Given the past slaughter of Hutu refugees in the DRC and the current fear and hatred between those identified with Tutsi and those identified with Hutu in the Kivu provinces of the DRC, the international community must show that genocide and crimes against humanity will be punished no matter where or by whom they are committed. To leave allegations of such crimes unaddressed in any part of this region will undermine the potential deterrent effect of judgments by the International Criminal Tribunal for Rwanda (ICTR). By creating a jurisdiction able to prosecute crimes not yet committed as well as those of the past, the international community would deliver a clear warning to extremists of all kinds who might otherwise be tempted to organize ethnic violence in order to disrupt any peace accords.

### Southern African Development Community

Zambia took the lead in mediating the conflict in the DRC on behalf of the Southern African Development Community (SADC) and the Organization of African Unity (O.A.U.). After protracted negotiations, the government and rebels, and their respective foreign allies, signed a cease-fire accord in July and August 1999. The agreement addresses Congo's internal political crisis by providing for a national dialogue by the government, the rebels, and the nonviolent political opposition to agree on new political order for the country. It also addresses the security concerns of Rwanda, Uganda, and Angola by committing all parties to identifying and disarming members of armed groups from these countries operating in the DRC and to hand over suspected "genocidal" elements to international prosecutors. The agreement does not provide for accountability for ongoing abuses by the RCD rebels and their backers. It also fails to recognize or take into account the grievances of the Mai-Mai. The accord provides for a Joint Military Commission (J.M.C.) to oversee its implementation, and for a peacekeeping force with a significant U.N. participation to enforce it on the ground.

### United Nations

The U.N. appeared ill-disposed to a peace-enforcement role as initially requested by the mediators. Up until the signing of the Lusaka accord, the U.N. Security Council repeatedly expressed concern about the continuing war in the DRC in resolutions and presidential statements, but failed to take concrete action to stop it. The council viewed the conflict as threatening to regional peace, security, and stability and deplored its disastrous humanitarian consequences. This recognition notwithstanding, the U.N. persisted in keeping a low profile in the search for peace, and in the peace mission once the belligerents reached a truce. The council expressed strong

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<sup>146</sup> Mémoire en réponse à la copie préliminaire du rapport E/CN/2000/42 de Monsieur Roberto Garreton, Rapporteur Spécial des Nations Unies pour les Droits de l'Homme en République Démocratique du Congo, 2 Mars 2000. (*ONG et même certains hommes d'église... font croire que les malheurs du Congo, c'est la présence des Tutsi assimilés à la rébellion armée et aux alliés du RCD ... C'est ainsi que certains milieux de la société civile du Sud-Kivu oeuvrent pour la déstabilisation de la sous-région des grands lacs en pactisant directement ou en faisant relais entre les forces négatives, le gouvernement Kabila et certains bailleurs de fonds occidentaux.*)

support in its communications for the regional mediation process led by Zambia on behalf of SADC and the OAU.

Following the signing of the Lusaka cease-fire agreement, the Security Council unanimously adopted a resolution on August 6, 1999 authorizing the deployment for three months of up to ninety U.N. military liaison personnel in the capitals of the belligerent states. Their mandate included the establishment of contacts with the joint military commission formed by the belligerents to oversee the implementation of the truce. The limited mandate reflected the reluctance in the U.N. to consider a peace enforcement operation under Chapter VII of the U.N. Charter, and a certain preference for a military observation mission. This measured approach again prevailed in the course of the intensive deliberations that occurred during the U.N. Security Council's special session on the DRC from 24-26 January, 2000. The session prepared the ground for the adoption of U.N. Security Council resolution 1291 on February 24 extending the mandate of the United Nations Observer Mission in the DRC (MONUC) to August 31, and authorizing its expansion by a 500 military observer force, plus another 5,537 troops for logistical backup. The Council placed the force under a newly established joint structure with the J.M.C., and gave it a limited Chapter VII mandate by authorizing it to take action to protect U.N. and J.M.C. personnel and infrastructure, and civilians facing imminent threats of attack.

The U.N. Commission on Human Rights maintained its efforts to positively influence human rights developments on the ground. Roberto Garretón, the U.N. special rapporteur for the DRC, returned to the country in February and August 1999 at the invitation of President Kabila's government. He had been banned since March 1997 after implicating forces of then rebel leader Kabila and their Rwandan Patriotic Army allies in the massacre of thousands of Hutu refugees. The government thereafter systematically obstructed the work of the Investigative Team set up by the U.N. secretary-general to circumvent the ban on the special rapporteur, leading to the premature closure of that investigation as well. The fallout between the DRC and Rwanda appeared to have disposed the DRC government to more cooperation with the U.N. In his first meeting with the special rapporteur, on August 28, 1999, President Kabila agreed that the investigation could proceed when the security situation allowed, and promised his country's cooperation. However, despite the concrete steps that the government took during the year to resume its cooperation with the U.N. and to engage leading international human rights organizations in dialogue, this and similar pledges by the government failed to translate into tangible human rights improvements.

Rebel leaders of the main rebel faction, the RCD, on both occasions received the special rapporteur, who was able to travel to Goma twice and to Bukavu once. The rapporteur secured the rebels' agreement to the establishment, as of August 1999, of a branch office at Goma, under the U.N. Human Rights Commission's Field Office in Kinshasa, to monitor the human rights situation in the region. The office was closed for security reasons soon after its inauguration, but was poised to reopen in April 2000.

In his September 1999 report to the General Assembly, the special rapporteur denounced RCD reprisals that ultimately forced five human rights activists who had met with him during his February visit to Goma to flee the country. In presenting his findings before the 56th session of the Human Rights Commission in March 2000, the rapporteur concluded that a climate of terror, humiliation and rejection of those in power reigns in areas controlled by the rebels and their foreign backers. These forces constantly violated the right to life, he found, but also repressed the right to freedom of association, assembly, expression and opinion. The rapporteur denounced the continued application by President Kabila's government of the death penalty and its systematic use of torture, enforced "disappearances," and summary executions. The U.N. Commission on Human Rights in April 2000 renewed the mandate of the special rapporteur for the DRC for another year.

#### The United States

The U.S. has directed its energy toward supporting the Lusaka peace process. Lingering skepticism in regional circles about more direct U.S. involvement in the mediation effort has been fueled by the perception that the U.S. had for too long unconditionally supported the leaders of Uganda and Rwanda. U.S. reluctance to

press for accountability and human rights improvements by all sides grew as the DRC plunged further into chaos, making peace and regional security the primary focus in U.S. public diplomacy. Statements issued by the Department of State in support of the regional peace process contained scant references to abuses by all the belligerents and to their obligations to abide by international human rights and humanitarian standards. Although the U.S. has presented detailed information on the human rights abuses committed by the Kabila government, it says very little about those committed by rebel factions opposed to that government.

The U.S. has failed to hold Rwanda and Uganda directly and unequivocally responsible for abuses committed by their own troops or by the forces of the factions they support in areas under their respective control. While U.S. public statements issued in March 2000 acknowledged the RCD and the Rwandan role in eastern Congo, for example the March 15 State Department statement which urged RCD-Goma and the Government of Rwanda to facilitate the return of the archbishop to Bukavu immediately, there has been a no public denunciations of the conduct of the rebel factions headed by Professor Wamba-dia-Wamba and Jean-Pierre Bemba's MLC and their Ugandan army backers in areas under their respective control in North Kivu and Equateur province. This disparity is also evident in the country chapters on Uganda, Rwanda, and Congo in the State Department's annual Country Reports on Human Rights Practices for 1999.

In recent months, high-level administration officials have publicly weighed in to support Lusaka. In February 2000, President Clinton lauded the Lusaka cease-fire agreement, saying that "[i]t is more than a cease-fire; it is a blueprint for building peace. Best of all, it is a genuinely African solution to an African problem." Secretary of State Madeleine Albright and especially U.S. Ambassador to the U.N. Richard Holbrooke have also publicly committed to Lusaka.

Holbrooke traveled to Africa in December 1999 largely to focus on the Congo conflict. In January 2000, he used the opportunity of the U.S. holding the rotating presidency of the U.N. Security Council to address problems in Africa, in what was termed "the month of Africa." Congo was a principal concern which was dealt with at a special summit attended by seven African heads of state and a special session of the Security Council, chaired by Secretary of State Madeleine Albright. This activity helped build momentum for the establishment of the United Nations Observer Mission in the DRC (MONUC) on February 24. The U.S. advocated a three phased approach to the mission, each step of which would be tied to concrete progress toward the implementation of Lusaka. No U.S. troops would be involved in the operation. The U.S. provided \$1 million in assistance to the Joint Military Commission and \$1 million to support President Masire's effort to facilitate the Congolese national dialogue.

In testimony before the House Subcommittee on Africa of the International Relations Committee on February 15, Holbrooke addressed the issue of U.S. national interest in the Congo crisis as follows: "The U.S. has an interest in upholding regional stability and in preventing the resurgence of genocide and mass killing in Central Africa. In particular, the former Rwandan Army (ex-FAR) and Interahamwe militia, who are implicated in the 1994 Rwandan genocide are still operating in the region, significantly contributing to instability. More than a half dozen regional states have been involved in the fighting. Congo is a contagion of crisis: if the conflict there is allowed to fester, efforts to resolve conflicts and promote stability throughout the region—in Angola, Burundi, Rwanda, Uganda and Sudan—will be even more difficult." He also noted the looming humanitarian crisis that threatened the area. What Holbrooke failed to mention was the other actors responsible for crimes against humanity in eastern Congo, and how the U.S. and the international community could attempt to halt the massive killing of civilians by all sides.

The notable exception to the pattern of U.S. silence on abuses in the east occurred during the month of Africa. Secretary Albright's remarks at the Security Council on January 24 included: "The most disturbing aspect of the conflict in the Congo has been the horrific abuse of fundamental human rights by all sides. We have even heard credible reports recently of women being buried alive in Eastern Congo." This reference to the

killings in Mwenge literally caused a diplomatic incident, and showed how powerfully public exposure of abuses by the U.S. can be felt in the region.

Albright went on to say “[t]here is no rationale of past grievance, political allegiance or ethnic difference that excuses murder, torture, rape or other abuse. Here, today, together, we must vow to halt these crimes and to bring those who commit them to justice under due process of law.” However, this strong rhetoric has not yet translated into firm U.S. support for expanding the jurisdiction of the International Criminal Tribunal for Rwanda in order to try crimes against humanity committed in Congo.

#### **The European Union**

On the condition that the belligerent parties themselves respected their own accord, the E.U. pledged in several public statements support for its implementation, particularly for resettling civilians displaced by the war, fostering national reconciliation in the DRC, and supporting the country’s rehabilitation plans. However, the E.U. also failed to emphasize the need for justice and accountability to end the abuses by all sides in the conflict.

In June 1999 the European Commission issued a communication to the E.U. Council of Ministers and Parliament reviewing the E.U.’s economic cooperation with countries at war in the DRC. The report was intended to avoid the misuse of development funds provided by the E.U. for military purposes. Also in June a presidential declaration expressed concern at the continuing flow of arms and military equipment to the Great Lakes and Central Africa regions. The statement called on member states to strictly adhere to the E.U.’s own Code of Conduct on Arms Exports, and recalled that, under the E.U. code, countries agree not to authorize arms exports that might “aggravate existing tensions or armed conflicts in the country of final destination” or risk fueling human rights abuses.

The first Africa-Europe Summit was held in April 2000 under the aegis of the OAU and the EU. As expected, the summit was long on rhetoric and short on concrete action. Although the summit did not address the Congo crisis per se, the summit’s declaration expressed “our deepest concern over the massive violations of human rights and humanitarian law, and, in particular, the phenomena of racism, genocide and ethnic cleansing. We condemn all such acts and pledge to co-operate with relevant institutions set up to prosecute and try the perpetrators.” This implies that existing institutions have the mandate to hold accountable those who violate human rights and humanitarian law, which is clearly not the case in Congo. The Cairo Plan of Action “urge[s] States to implement international humanitarian law in full, in particular by adopting national legislation to tackle the culture of impunity and to bring to justice the perpetrators of war crimes, crimes against humanity and genocide, by ensuring that international humanitarian law is fully integrated into the training programmes and operational procedures of armed forces and the police force and by ensuring during armed conflicts that impartial humanitarian organizations have secure, rapid and unimpeded access to the civilian population.” While this is a welcome call for states to act to end impunity, it will remain hollow rhetoric if the E.U. and its member states fail to integrate these plans into their policies toward countries in conflict, notably those involved in the Congo crisis.

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Africa Division*

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