

DEMOCRATIC REPUBLIC OF CONGO
CASUALTIES OF WAR
CIVILIANS, RULE OF LAW, AND DEMOCRATIC FREEDOMS

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I. INTRODUCTION

AS THE WAR THAT BROKE OUT IN AUGUST 1998 IN CONGO CONTINUED INTO ITS SEVENTH MONTH, THE CENTRAL AFRICAN REGION SLIPPED FURTHER INTO THE CYCLE OF HUMAN RIGHTS ABUSES AND IMPUNITY. THE CONGOLESE GOVERNMENT HAS VIOLATED THE RIGHTS OF ITS CITIZENS THROUGH INCITEMENT TO ETHNIC HATRED, RESULTING IN HUNDREDS OF DEATHS, THE INTERNING OF TUTSIS THROUGH ARREST AND TRIAL PROCEDURES THAT VIOLATE DUE PROCESS; AND BY SUPPRESSING POLITICAL LIFE THROUGH CENSORSHIP, ARBITRARY ARRESTS, AND BANS ON THE EXERCISE OF FREEDOMS OF ASSOCIATION AND ASSEMBLY. THE REBEL CONGOLESE RALLY FOR DEMOCRACY (RASSEMBLEMENT CONGOLAIS POUR LA DÉMOCRATIE, RCD), WHOSE FORCES OPERATE IN CONJUNCTION WITH THE RWANDAN AND UGANDAN MILITARIES, HAVE COMMITTED WAR CRIMES BY KILLING CIVILIANS IN MASSACRES, HAVE CAUSED PEOPLE TO "DISAPPEAR," AND HAVE CARRIED OUT ARBITRARY ARRESTS WITHOUT REGARD TO DUE PROCESS. INTERNATIONAL INERTIA IN THE FACE OF THESE VIOLATIONS, AS IN THE FACE OF MASSACRES OF THE 1996-97 WAR IN CONGO, ENCOURAGES POLITICAL LEADERS AND MILITIA HENCHMEN ALIKE TO BELIEVE THAT THEY CAN COMMIT ABUSES WITHOUT SERIOUS CONSEQUENCE.

IN LATE JULY 1998, CONGOLESE PRESIDENT LAURENT KABILA SENT HOME ALL RWANDAN SOLDIERS, THUS OFFICIALLY BREAKING TIES WITH THE ALLIES WHO, TOGETHER WITH UGANDAN FORCES, HAD HELPED SWEEP HIM INTO POWER FOURTEEN MONTHS BEFORE. RWANDA AND UGANDA RESPONDED BY INVADING CONGO AND JOINING FORCES WITH TROOPS FROM THE CONGOLESE ARMY (FORCES ARMÉES CONGOLAISES, FAC) THAT HAD MUTINIED AGAINST THE GOVERNMENT IN GOMA AND BUKAVU. THE RCD, COMPOSED OF FORMER TUTSI MEMBERS OF KABILA'S GOVERNMENT, FORMER MOBUTISTS, A NUMBER OF INTELLECTUALS, AND OTHERS, SOON EMERGED AS THE POLITICAL LEADERSHIP OF THIS COALITION. THE CONFLICT IN CONGO GREW DURING AUGUST AND SEPTEMBER, EVENTUALLY DRAWING IN OTHER STATES FROM THE REGION, INCLUDING ANGOLA, ZIMBABWE, NAMIBIA, AND CHAD ON THE GOVERNMENT SIDE, AND WITH BURUNDI APPARENTLY JOINING THE RWANDANS AND UGANDANS TO SUPPORT THE RCD AND THE FAC DEFECTORS. RWANDA AND UGANDA CLAIMED THEY HAD SENT FORCES ACROSS THE BORDER TO PROTECT THEMSELVES AGAINST VARIOUS ARMED GROUPS WHICH HAD BEEN ATTACKING THEM FROM BASES IN THE EASTERN CONGO, OPERATING WITHOUT HINDRANCE FROM THE CONGOLESE GOVERNMENT. BURUNDI CONTINUED TO DENY ITS INVOLVEMENT IN THE CONFLICT DESPITE REGULAR SIGHTINGS OF THEIR TROOPS IN SOUTH KIVU. THE RCD PROCLAIMED ITS GOAL TO BE THE OUSTER OF KABILA, WHILE HIS BACKERS STATED THEY WERE PROTECTING A LEGITIMATE GOVERNMENT FROM FOREIGN AGGRESSION. OUTSIDE OBSERVERS SUSPECTED THAT THE PROSPECT OF EXPLOITING CONGO'S VAST MINERAL WEALTH HAD ATTRACTED MANY OF THE WARRING PARTIES. A NUMBER OF OTHER MILITIA AND REBEL GROUPS FROM THE REGION JOINED THE FRAY, WHILE ALLIANCES BETWEEN THEM AND THE WARRING PARTIES WERE OFTEN UNCLEAR. HUMAN RIGHTS WATCH TAKES NO POSITION ON THE MERITS OF CONFLICTS BETWEEN STATES, BUT EXAMINES THE CONDUCT OF ALL PARTIES DURING THE COURSE OF A CONFLICT, FOCUSING ON WHETHER VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW HAVE BEEN COMMITTED.

IN THEIR EFFORTS TO MAINTAIN OR TO SEIZE POWER, BOTH SIDES TO THE CONFLICT IN CONGO HAVE FAILED TO PROTECT CIVILIANS FROM ABUSE AND HAVE AT TIMES COMMITTED GROSS VIOLATIONS AGAINST THEM. WHEN THE CONGOLESE GOVERNMENT WAS ATTACKED IN AUGUST, SOME IMPORTANT OFFICIALS FOSTERED POPULAR HATRED AND FEAR OF CONGOLESE OF TUTSI ORIGIN, WHOM THEY LINKED WITH RWANDANS, BURUNDIANS, AND EVEN UGANDANS SAID TO CONSTITUTE PART OF A LARGER TUTSI-HIMA CLUSTER OF PEOPLES. IN CALLING FOR SO-CALLED "POPULAR SELF-DEFENSE," THEY ENCOURAGED OTHER CONGOLESE TO ATTACK TUTSI OR THOSE THOUGHT TO LOOK LIKE TUTSI. AS OF MID-JANUARY, HUNDREDS OF TUTSI IN DETENTION OR INTERNED IN GOVERNMENT-HELD TERRITORY BECAUSE OF THEIR ETHNICITY REPRESENTED VULNERABLE TARGETS FOR ANY FUTURE REPRISALS BY GOVERNMENT FORCES OR BY CIVILIAN CROWDS INCITED TO ATTACK THEM. THE KABILA GOVERNMENT CHOSE TO INTERN THE TUTSI, CLAIMING THIS WAS NECESSARY FOR THEIR PROTECTION, RATHER THAN TAKING OTHER NECESSARY MEASURES TO ENSURE THEIR SAFETY.

KABILA CONTINUED TO PROCLAIM HIS COMMITMENT TO DEMOCRATIZATION, INCLUDING TO HOLD ELECTIONS IN APRIL 1999, BUT IN THE MEANTIME HIS GOVERNMENT PROCLAIMED A STATE OF EMERGENCY ("ETAT DE SIÈGE", STATE OF SIEGE) THROUGHOUT MOST OF THE COUNTRY WHICH PLACED SWEEPING POWERS OVER JUSTICE AND THE CIVILIAN ADMINISTRATION IN THE HANDS OF THE MILITARY. A MILITARY COURT, WHICH SUPERSEDED CIVILIAN COURTS, CONDUCTED TRIALS WITHOUT DUE PROCESS GUARANTEES AND IMPOSED DEATH SENTENCES ON POLITICAL SUSPECTS AND CRIMINALS, SOME OF WHOM WERE EXECUTED IMMEDIATELY, WITHOUT THE POSSIBILITY OF APPEAL. DESPITE A JANUARY 29 DECREE LAW THAT CALLED FOR A RETURN TO MULTI-PARTY POLITICS, EXCESSIVE REGISTRATION REQUIREMENTS FOR POLITICAL PARTIES EFFECTIVELY EXCLUDED MANY OF THEM FROM PARTICIPATION IN THE POLITICAL PROCESS. ARRESTS OF CIVILIANS AND LEADING POLITICIANS INCREASED IN EARLY IN 1999.

AS THE CONFLICT CONTINUED, THE SITUATION IN EASTERN CONGO BECAME PARTICULARLY EXPLOSIVE. FORCES BACKING THE RCD COMMITTED NUMEROUS KILLINGS OF CIVILIANS FROM ALMOST ALL DIFFERENT ETHNIC GROUPS IN THE EAST, CREATING A RESENTMENT OF THE RCD, ITS MILITARY BACKERS, AND ETHNIC TUTSI IN GENERAL. KILLINGS OF VILLAGERS WERE OFTEN IN RETALIATION FOR THEIR SUPPOSED SUPPORT OF LOCAL MILITIA KNOWN AS "MAI-MAI," OR FORMER RWANDAN SOLDIERS OR MILITIA, KNOWN AS "INTERAHAMWE." SOLDIERS ACTING FOR THE RCD MOVEMENT ARBITRARILY DETAINED MANY OF ITS SUPPOSED OPPONENTS, OFTEN HOLDING THEM IN IRREGULAR FACILITIES TO WHICH THEIR FAMILIES AND HUMANITARIAN AGENCIES HAD NO ACCESS. ONCE ARRESTED, SOME INDIVIDUALS WERE NOT SEEN AGAIN.

THE TERM "Mai-Mai" HAS BEEN USED TO DESCRIBE INDIGENOUS MILITIA INVOLVED IN A NUMBER OF UPRISINGS IN THE GREAT LAKES REGION SINCE THE COLONIAL ERA. MAI-MAI FIGHTERS OFTEN UNDERGO TRADITIONAL INITIATION RITES WHICH ARE INTENDED TO MAKE THEM INVULNERABLE TO BULLETS AND OTHER WEAPONS OF THEIR ENEMIES. TODAY, THE TERM "Mai-Mai" IS USED TO REFER TO MANY OF THE GROUPS OF INDIGENOUS MILITIA OF DIFFERENT ETHNIC ORIGINS IN EASTERN CONGO OPPOSED TO THE RCD AND ITS ALLIES. IT APPEARS THAT THESE GROUPS ARE NOT WELL-ORGANIZED AND ECONOMIC HARDSHIP MAY HAVE ENCOURAGED MANY YOUNG MEN TO JOIN. SOME OF THE CONGOLESE ARMED FORCES (FAC) IN THE EAST WHO DID NOT JOIN RCD FORCES AND FORMER MEMBERS OF THE ZAIRIAN ARMED FORCES (EX-FAZ) ALSO REPORTEDLY JOINED FORCES WITH GROUPS OF MAI-MAI.

The Interahamwe militia were organized by former Rwandan President Juvenal Habyarimana's political party. During the genocide in Rwanda, the militia were transformed into bands of killers. Since the flight of many Interahamwe to eastern Congo following the genocide, Congolese increasingly referred to any ethnic Hutu combatant in Congo as Interahamwe, including Hutu who have lived in Congo for generations. Many residents of eastern Congo claimed that the Interahamwe had formed an alliance with the Mai-Mai in their fight against the RCD, Rwandan, Ugandan and Burundian militaries, confounding the exact identification of militia.

BOTH SIDES TO THE CONFLICT HAVE MADE STATEMENTS PLEDGING TO GUARANTEE HUMAN RIGHTS IN TERRITORY UNDER THEIR CONTROL WHILE CARRYING OUT LIMITED MEASURES TO PROTECT SOME POPULATIONS. IN ADDITION TO PUBLIC DECLARATIONS REGARDING THEIR ADHERENCE TO THE HUMAN RIGHTS STANDARDS ESTABLISHED BY THE MAJOR INTERNATIONAL TREATIES, THE RCD ESTABLISHED A HUMAN RIGHTS BRANCH WITHIN ITS DEPARTMENT OF JUSTICE AND HUMAN RIGHTS. WHILE THE DEPARTMENT CARRIED OUT A NUMBER OF INVESTIGATIONS OF HUMAN RIGHTS VIOLATIONS ALLEGEDLY COMMITTED BY KABILA'S FORCES—AND TELEVISED CEREMONIES RELATED TO THEM—THEIR PLEDGES TO INVESTIGATE ABUSES COMMITTED BY THEIR OWN TROOPS, SUCH AS IN THE KASIKI AREA OF SOUTH KIVU, DID NOT MATERIALIZE. IN EARLY JANUARY 1999, THE CONGOLESE GOVERNMENT, AFTER BLOCKING A UNITED NATIONS INVESTIGATION THROUGHOUT MUCH OF 1997 AND 1998, INVITED THE U.N. SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS SITUATION IN CONGO TO INVESTIGATE MASSACRES OF HUTU REFUGEES, ALLEGEDLY CARRIED OUT BY RWANDAN FORCES, AND OTHER HUMAN RIGHTS VIOLATIONS. IT REMAINED TO BE SEEN, HOWEVER, IF THESE DECLARATIONS BY BOTH SIDES WOULD TRANSLATE INTO SERIOUS INVESTIGATIONS AND PROSECUTIONS OF THEIR OWN AGENTS WHO WERE RESPONSIBLE FOR ABUSES.

THE INTERNATIONAL COMMUNITY, LED BY THE O.A.U. AND THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY (SADC), ORGANIZED A SERIES OF EFFORTS TO NEGOTIATE A SOLUTION TO THE CONFLICT, THUS FAR WITHOUT SUCCESS. DISCUSSIONS OF HUMAN RIGHTS ISSUES OR CALLS FOR ACCOUNTABILITY FOR THOSE RESPONSIBLE FOR ABUSES COMMITTED DURING THE CONFLICT WERE NOTABLY MISSING FROM THE NEGOTIATIONS. WHILE PRECISE AND VIGOROUS PUBLIC CALLS FROM DONOR STATES AND OTHERS TO RESPECT HUMAN RIGHTS DURING THE CONFLICT HAD GIVEN AT LEAST LIMITED RESULTS, SUCH AS AN APPARENT END TO LARGE-SCALE KILLINGS OF TUTSIS IN AUGUST, THE INTERNATIONAL COMMUNITY LARGELY CONFINED ITS INTERVENTION TO ASSESSMENT MISSIONS, QUIET DIPLOMACY, AND VAGUE CONDEMNATIONS OF ABUSES ON ALL SIDES WITHOUT STRESSING THE NEED TO HOLD PERPETRATORS ACCOUNTABLE FOR ABUSES. THE CONGOLESE GOVERNMENT REPORTEDLY PARTICIPATED IN THE RECRUITMENT OF COMBATANTS FROM REFUGEE CAMPS IN NEIGHBORING COUNTRIES, INCLUDING SOME THAT PROVIDED REFUGE TO MEMBERS OF THE FORMER ARMY OF RWANDA (EX-FAR) AND THE INTERAHAMWE MILITIA WHICH FLED INTO EXILE AFTER PERPETRATING THE RWANDAN GENOCIDE OF 1994. SOME OF THOSE RECRUITED FROM THESE CAMPS, REPORTEDLY SENT TO THE FRONT LINES IN CONGO, MAY HAVE PARTICIPATED IN THE GENOCIDE.

WITH THE DISINTEGRATION OF THE RULE OF LAW IN CONGO AND ELSEWHERE IN THE REGION, CONGO HAS BECOME THE BATTLE GROUND FOR THE INTERESTS OF ITS NEIGHBORS AND A CONGOLESE POLITICAL AND MILITARY ELITE—ALL AT THE EXPENSE OF CONGOLESE CIVILIANS. IN THIS CONTEXT, NEITHER THE CONGOLESE GOVERNMENT AND ITS ALLIES, THE RCD AND ITS BACKERS, NOR THE MYRIAD OF MILITIA AND REBEL GROUPS IN CONGO HAVE MADE RESPECT FOR HUMAN RIGHTS A PRIORITY. WITHOUT FIRM ACTION FROM INTERNATIONAL PLAYERS IN THE REGION AND ELSEWHERE, THE RESULTS FOR THE CONGOLESE ARE LIKELY TO BE MORE ABUSES AND A FURTHER DEGRADATION OF THE SITUATION.

THIS REPORT IS BASED ON HUMAN RIGHTS WATCH FIELD INVESTIGATIONS IN NOVEMBER AND DECEMBER OF 1999 TO EASTERN AND WESTERN CONGO AS WELL AS OTHER COUNTRIES IN THE REGION. MANY OF THE SOURCES IN THIS REPORT ARE NOT NAMED DUE TO THE SERIOUS DANGER FACED BY WITNESSES AND LOCAL HUMAN RIGHTS DEFENDERS.

II. RECOMMENDATIONS

TO THE FORCES IN WESTERN CONGO:

HUMAN RIGHTS WATCH CALLS UPON THE CONGOLESE GOVERNMENT TO:

- INSTRUCT ALL CONGOLESE SOLDIERS TO PROTECT THE CIVILIAN POPULATION AND UPHOLD INTERNATIONAL HUMANITARIAN LAW. INVESTIGATE ACCUSATIONS OF DELIBERATE EXECUTIONS OF CIVILIANS BY CONGOLESE SOLDIERS AND PROSECUTE THOSE RESPONSIBLE.
- INVESTIGATE AND PROSECUTE THOSE WITHIN AND OUTSIDE THE GOVERNMENT RESPONSIBLE FOR USING MEDIA TO FOSTER HATRED AND INCITE TO VIOLENCE. THE GOVERNMENT MUST TAKE ALL NECESSARY MEASURES TO ENSURE THE SAFETY OF ALL CIVILIANS THROUGHOUT GOVERNMENT-HELD TERRITORY, INCLUDING THOSE INTERNED OR IN DETENTION.
- THOSE ARBITRARILY ARRESTED SOLELY ON ETHNIC OR POLITICAL GROUNDS SHOULD BE FREED IMMEDIATELY; ALL DETAINEES SHOULD BE CHARGED WITH A RECOGNIZABLE OFFENSE OR RELEASED.
- GUARANTEE THE RIGHT TO RETURN FOR ALL CONGOLESE OUTSIDE THE COUNTRY. THE GOVERNMENT SHOULD CONTINUE TO FACILITATE THE SAFE DEPARTURE OF TUTSI OR OTHER CIVILIANS WISHING TO LEAVE THE COUNTRY VOLUNTARILY.
- ABOLISH THE SPECIAL MILITARY COURT AND ESTABLISH AN INDEPENDENT JUDICIARY THAT RESPECTS DUE PROCESS. REGULAR MILITARY COURTS SHOULD HANDLE THE CASES OF MILITARY IN DETENTION IN ACCORDANCE WITH INTERNATIONAL NORMS AND THE CONGOLESE MILITARY JUSTICE CODE, INCLUDING THE RIGHT TO APPEAL AND THE RIGHT TO COUNSEL. THE GOVERNMENT SHOULD GUARANTEE THE INDEPENDENCE OF BOTH THE MILITARY AND THE CIVILIAN COURTS AND ENSURE THAT CIVILIANS ARE NOT TRIED BEFORE MILITARY COURTS. CIVILIAN AND MILITARY JUDGES, PROSECUTORS, AND OTHER COURT OFFICIALS SHOULD NOT BE SUBJECT TO INTIMIDATION OR HARASSMENT RELATED TO THEIR DUTIES.
- DESIST FROM THE RECRUITMENT OF CHILD SOLDIERS UNDER THE AGE OF EIGHTEEN AND DEMOBILIZE THOSE ALREADY ENLISTED.
- REFRAIN FROM THE RECRUITMENT OF REFUGEES FROM CAMPS IN NEIGHBOURING COUNTRIES AND RESPECT THE STRICTLY CIVILIAN AND HUMANITARIAN NATURE OF REFUGEE CAMPS AND SETTLEMENTS.
- SCREEN POTENTIAL MILITARY RECRUITS AND EXCLUDE ANY WHO MAY HAVE PARTICIPATED IN WAR CRIMES OR CRIMES AGAINST HUMANITY, INCLUDING THE RWANDAN GENOCIDE. ANY AGAINST WHOM EVIDENCE OF SUCH CRIMES IS FOUND MUST BE PROSECUTED OR DELIVERED TO THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR) AT ARUSHA.
- GUARANTEE FREEDOM OF EXPRESSION AND FREEDOM OF ASSOCIATION FOR ALL CONGOLESE. THIS INCLUDES LIFTING EXCESSIVE REGULATIONS ON POLITICAL ACTIVITIES AND CEASING HARASSMENT AND INTIMIDATION OF HUMAN RIGHTS DEFENDERS AND JOURNALISTS.
- FULFILL THE GOVERNMENT'S PLEDGE TO ALLOW ACCESS AND THE NEUTRAL PROVISION OF HUMANITARIAN ASSISTANCE TO ALL POPULATIONS IN NEED IN TERRITORY UNDER THEIR CONTROL.
- FULFILL ITS OBLIGATION TO CARRY OUT AN IMPARTIAL INVESTIGATION INTO MASSACRES AND OTHER CRIMES AGAINST HUMANITY COMMITTED DURING THE 1996-1997 WAR IN CONGO. THE CONGOLESE GOVERNMENT SHOULD MAKE PUBLIC ITS FINDINGS AND WHERE POSSIBLE HOLD PERPETRATORS ACCOUNTABLE, INCLUDING MEMBERS OF THE AFDL. THE GOVERNMENT'S DECISION ON JANUARY 11 TO ALLOW ROBERTO GARRETÓN, THE U.N.'S SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN CONGO, TO RETURN TO THE COUNTRY TO INVESTIGATE BOTH THE 1996-97 MASSACRES AND THE CURRENT SITUATION SHOULD BE GIVEN FULL EFFECT. HE SHOULD BE GIVEN FULL ACCESS AND COOPERATION TO CONDUCT HIS INDEPENDENT INVESTIGATIONS.
- ALLOW INDEPENDENT HUMAN RIGHTS INVESTIGATORS FULL ACCESS TO INVESTIGATE ALLEGATIONS OF HUMAN RIGHTS ABUSES AND VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW.

HUMAN RIGHTS WATCH CALLS UPON THE GOVERNMENTS OF ZIMBABWE, ANGOLA, AND OTHER COUNTRIES SUPPORTING THE GOVERNMENT OF THE CONGO TO:

- UPHOLD INTERNATIONAL HUMANITARIAN LAW, AND ENSURE THAT ANY VIOLATIONS ARE IMMEDIATELY INVESTIGATED, INCLUDING KILLINGS OF NONCOMBATANTS, RAPE, LOOTING AND DESTRUCTION OF INFRASTRUCTURE ESSENTIAL TO PUBLIC WELL-BEING. ALL MILITARY OPERATIONS, INCLUDING SHELLING AND AERIAL BOMBINGS, SHOULD BE CARRIED OUT IN A MANNER THAT STRICTLY LIMITS THE TOLL ON CIVILIANS AND CIVILIAN STRUCTURES AND IS CONSISTENT WITH THE LAWS OF WAR; INFORMATION NECESSARY TO ESTABLISH THAT INTERNATIONAL STANDARDS WERE RESPECTED SHOULD BE MADE PUBLIC. CLEAR AND PUBLIC INSTRUCTIONS SHOULD BE GIVEN TO TROOPS TO PREVENT ABUSES.

- PRESS THE CONGOLESE GOVERNMENT TO IMPROVE RESPECT FOR HUMAN RIGHTS AND DEMOCRATIC PRINCIPLES. THIS INCLUDES PROTECTION FOR ALL CONGOLESE CITIZENS FROM SUMMARY EXECUTIONS, ARBITRARY ARREST AND DETENTION; GUARANTEEING FREEDOM OF EXPRESSION AND ASSOCIATION; ALLOWING THE POLITICAL OPPOSITION AND ORGANIZATIONS OF CIVIL SOCIETY TO OPERATE WITHOUT HARASSMENT OR INTIMIDATION; ESTABLISHING AN INDEPENDENT JUDICIARY THAT RESPECTS DUE PROCESS; AND INSTITUTING AN INCLUSIVE AND TRANSPARENT TRANSITION TO DEMOCRACY.

TO THE FORCES IN EASTERN CONGO:

HUMAN RIGHTS WATCH CALLS ON THE CONGOLESE RALLY FOR DEMOCRACY, THE GOVERNMENT OF RWANDA, THE GOVERNMENT OF UGANDA, AND THE GOVERNMENT OF BURUNDI TO:

- PUT AN END TO CIVILIAN KILLINGS IN TERRITORY UNDER RCD CONTROL. THE RCD AUTHORITIES AND THE RWANDAN, UGANDAN, AND BURUNDIAN GOVERNMENTS SHOULD GIVE CLEAR INSTRUCTIONS TO THEIR TROOPS TO CEASE CIVILIAN KILLINGS AND TO RESPECT INTERNATIONAL HUMANITARIAN LAW. THOSE SUSPECTED OF COMMITTING ABUSES SHOULD BE ARRESTED, INVESTIGATED, AND PUNISHED WHERE APPROPRIATE.
- INVESTIGATE ALLEGATIONS OF GROSS HUMAN RIGHTS ABUSES INCLUDING LARGE-SCALE KILLINGS, SUMMARY EXECUTIONS, RAPE, AND FORCED "DISAPPEARANCES" OF CIVILIANS. GIVEN THE FAILURE THUS FAR OF THE RCD TO INVESTIGATE THE AUGUST MASSACRES IN THE KASIKA AREA, THE RCD MUST TAKE CONCRETE STEPS TO REINFORCE THE DEPARTMENT OF JUSTICE AND HUMAN RIGHTS OR TO CREATE AN INDEPENDENT COMMISSION OF INQUIRY WITH THE POWER TO CARRY OUT INVESTIGATIONS AND MAKE THEIR FINDINGS PUBLIC. IN ADDITION TO THE KASIKA MASSACRES, OTHER KILLINGS INCLUDING THOSE IN THE MAKOBOLA AREA OF SOUTH KIVU MUST ALSO BE INVESTIGATED. THE RCD AUTHORITIES AND THE GOVERNMENTS OF RWANDA, UGANDA, AND BURUNDI SHOULD INSTRUCT THEIR MILITARY FORCES IN CONGO TO COOPERATE WITH THESE AND ALL OTHER INVESTIGATIONS AND PUNISH PERPETRATORS WHERE APPROPRIATE.
- HALT ARBITRARY ARREST, ILLEGAL DETENTIONS, AND FORCED "DISAPPEARANCES" AND ELIMINATE PRIVATE AND ILLEGAL DETENTION CENTERS. DETAINEES SHOULD BE HELD UNDER HUMANE CONDITIONS IN RECOGNIZED DETENTION CENTERS AND PROVIDED WITH ADEQUATE FOOD AND ACCESS TO MEDICAL CARE. ENSURE THAT PRISONERS ARE HELD ONLY IN PUBLICLY RECOGNIZED PLACES OF DETENTION, AND THAT UP-TO-DATE REGISTERS OF ALL PRISONERS ARE MAINTAINED IN EVERY DETENTION CENTER AND CENTRALLY. THIS INFORMATION SHOULD BE FREELY AVAILABLE TO RELATIVES, LAWYERS, AND OTHERS WITH A LEGITIMATE INTEREST.
- PRISONERS OF WAR IN CUSTODY SHOULD BE PROTECTED IN ACCORDANCE WITH THE GENEVA CONVENTIONS.
- STOP THE RECRUITMENT OF CHILD SOLDIERS UNDER THE AGE OF EIGHTEEN. COMBATANTS UNDER THE AGE OF EIGHTEEN SHOULD BE DEMOBILIZED.
- GUARANTEE FREEDOM OF EXPRESSION AND FREEDOM OF ASSOCIATION IN TERRITORY UNDER RCD CONTROL.
- ENSURE THAT MEMBERS OF ORGANIZATIONS OF CIVIL SOCIETY, INCLUDING HUMAN RIGHTS DEFENDERS, JOURNALISTS, AND OTHERS, ARE FREE FROM HARASSMENT AND INTIMIDATION.
- ALLOW ACCESS AND THE NEUTRAL PROVISION OF HUMANITARIAN ASSISTANCE TO ALL POPULATIONS IN NEED IN TERRITORY UNDER THEIR CONTROL. PROTECT HUMANITARIAN ASSISTANCE FROM LOOTING OR BEING DIVERTED FOR MILITARY USE.
- ALLOW INDEPENDENT HUMAN RIGHTS INVESTIGATORS FULL ACCESS TO INVESTIGATE ALLEGATIONS OF HUMAN RIGHTS ABUSES AND VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW.
- ENSURE THE PROTECTION OF AND FACILITATE ASSISTANCE TO RESIDUAL RWANDAN AND BURUNDIAN REFUGEE POPULATIONS IN EASTERN CONGO WHOSE PRESENCE MAY DATE FROM 1994. THE RCD AUTHORITIES AND THEIR MILITARY ALLIES SHOULD WORK CLOSELY WITH INTERNATIONAL HUMANITARIAN ORGANIZATIONS TO ASSURE THE PROTECTION OF AND ASSISTANCE TO THESE POPULATIONS.

TO THE INTERNATIONAL COMMUNITY:

HUMAN RIGHTS WATCH CALLS UPON THE UNITED NATIONS (U.N.), ORGANIZATION OF AFRICAN UNITY (O.A.U.), THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY (S.A.D.C.) OR OTHER PARTIES INVOLVED IN NEGOTIATIONS ON THE CONFLICT IN CONGO TO:

- ENSURE THAT PEACE NEGOTIATIONS BETWEEN WARRING PARTIES DO NOT SERVE AS A MECHANISM OF FURTHER IMPUNITY IN THE GREAT LAKES REGION. NEGOTIATED SOLUTIONS MUST INCLUDE PROVISIONS TO HOLD POLITICAL LEADERS AND MEMBERS OF THE ARMIES AND MILITIAS IN CONGO ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS DURING THE CONFLICT.
- INSIST THAT ALL PARTIES TO THE CONFLICT INSTRUCT THEIR TROOPS TO RESPECT INTERNATIONAL HUMANITARIAN LAW AND THAT THEY INVESTIGATE FULLY ALL ALLEGED VIOLATIONS. ABUSES BY FOREIGN MILITARIES PARTICIPATING ON BOTH SIDES SHOULD ALSO BE INVESTIGATED. IN PARTICULAR, CALL UPON THE RCD TO FOLLOW THROUGH ON ITS PLEDGES TO LAUNCH INVESTIGATIONS OF THE KASIKA AND MAKOBOLA MASSACRES AND PUNISH THOSE RESPONSIBLE. CALL UPON THE CONGOLESE GOVERNMENT TO CEASE ONGOING ABUSES AGAINST CIVILIANS, INCLUDING INCREASED ARBITRARY ARRESTS OF POLITICAL OPPONENTS AND OTHERS, SUCH AS THE RECENT ROUND-UP OF CIVILIANS, MOSTLY ETHNIC TUTSIS, FROM THE BETHANIE CENTER IN KINSHASA.
- SUPPORT THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS FIELD OFFICE IN CONGO AND INCREASE ITS MONITORING AND TECHNICAL ASSISTANCE PROGRAMS. IN PARTICULAR, THE U.N. OFFICE SHOULD BE GIVEN THE NECESSARY SUPPORT TO PLACE FIELD OFFICERS IN RCD-HELD EASTERN CONGO AND THROUGHOUT GOVERNMENT TERRITORY. AMONG OTHER DUTIES, THESE MONITORS SHOULD HAVE CAPACITY TO MONITOR AND TAPE RADIO BROADCASTS FOR HATE SPEECH AND INCITEMENT TO VIOLENCE.
- THE U.N. SECURITY COUNCIL SHOULD FOLLOW THROUGH ON ITS JULY 1998 REQUEST THAT CONGO AND RWANDA CARRY OUT INVESTIGATIONS OF WAR CRIMES AND CRIMES AGAINST HUMANITY COMMITTED IN CONGO DURING THE 1996-1997 WAR AND HOLD PERPETRATORS ACCOUNTABLE FOR HUMAN RIGHTS VIOLATIONS.

HUMAN RIGHTS WATCH CALLS UPON THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), HOST COUNTRIES AND THE INTERNATIONAL COMMUNITY TO:

- TAKE MEASURES TO SECURE THE EXCLUSIVELY CIVILIAN AND HUMANITARIAN CHARACTER OF REFUGEE CAMPS, INCLUDING MECHANISMS TO DISARM AND SEPARATE ARMED ELEMENTS FROM CIVILIAN REFUGEES, PARTICULARLY THOSE WHO LEAVE CAMPS FOR MILITARY PURPOSES; AND TO EXCLUDE FROM INTERNATIONAL REFUGEE PROTECTION THOSE SUSPECTED OF PARTICIPATION IN WAR CRIMES AND CRIMES AGAINST HUMANITY, WITH A VIEW TO INVESTIGATE AND PROSECUTE WHERE APPROPRIATE IN ACCORDANCE WITH INTERNATIONAL STANDARDS.

HUMAN RIGHTS WATCH CALLS UPON THE UNITED STATES, THE EUROPEAN UNION, INTERNATIONAL FINANCIAL INSTITUTIONS, AND OTHER DONORS TO:

- MAKE ANY BILATERAL OR MULTILATERAL AID TO THE CENTRAL GOVERNMENT OF CONGO CONTINGENT UPON IMPROVED RESPECT FOR HUMAN RIGHTS, THE RULE OF LAW, AND DEMOCRATIC PRINCIPLES.
- VIGOROUSLY AND PUBLICLY DENOUNCE VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW BY ALL SIDES INVOLVED IN THE CONFLICT. THIS REQUIRES CONDEMNATION OF SPECIFIC ABUSES BY ALL PARTIES TO THE CONFLICT, NOT SIMPLY GENERAL ADMONISHMENTS TO RESPECT HUMAN RIGHTS.
- URGE FULL INVESTIGATIONS INTO HUMAN RIGHTS ABUSES BY ALL PARTIES TO THE CONGO CONFLICT. FOREIGN MILITARIES PARTICIPATING ON BOTH SIDES SHOULD ALSO BE INVESTIGATED. IN PARTICULAR, CALL UPON THE RCD TO FOLLOW THROUGH ON ITS PLEDGES TO LAUNCH INVESTIGATIONS OF THE KASIKA AND MAKOBOLA MASSACRES AND PUNISH THOSE RESPONSIBLE. CALL UPON THE CONGOLESE GOVERNMENT TO CEASE ONGOING ABUSES AGAINST CIVILIANS.
- CONDITION ANY MILITARY TRAINING OR ASSISTANCE TO ANY PARTIES TO THE CONFLICT ON ADHERENCE TO INTERNATIONAL HUMANITARIAN LAW AND AN INVESTIGATION OF REPORTED ABUSES BY THEIR TROOPS.
- THE U.S. GOVERNMENT SHOULD COMPLY WITH SECTION 570 OF THE FOREIGN OPERATIONS AUTHORIZATION ACT, KNOWN AS THE LEAHY AMENDMENT, BY ENSURING THAT NO U.S. ASSISTANCE IS PROVIDED TO UNITS OF SECURITY FORCES IF THERE IS CREDIBLE EVIDENCE THAT SUCH A UNIT HAS COMMITTED GROSS HUMAN RIGHTS ABUSES, UNLESS THOSE RESPONSIBLE FOR ABUSES HAVE BEEN BROUGHT TO JUSTICE. IN GENERAL, THE U.S. SHOULD STRENGTHEN ITS MONITORING OF MILITARIES THAT RECEIVE U.S. AID.
- SUPPORT THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS FIELD OFFICE IN CONGO AND INCREASE ITS MONITORING AND TECHNICAL ASSISTANCE PROGRAMS. IN PARTICULAR, THE U.N. OFFICE SHOULD BE GIVEN THE NECESSARY SUPPORT TO PLACE FIELD OFFICERS IN RCD-HELD EASTERN CONGO AND THROUGHOUT GOVERNMENT TERRITORY. AMONG OTHER DUTIES, THESE MONITORS SHOULD HAVE THE CAPACITY TO MONITOR AND TAPE RADIO BROADCASTS THAT PROPAGATE HATE SPEECH THAT INCITES VIOLENCE.
- PROVIDE MORAL, FINANCIAL, AND TECHNICAL SUPPORT TO ORGANIZATIONS OF CIVIL SOCIETY. THIS SHOULD FOCUS ON HUMANITARIAN NEEDS AND DEVELOPMENT PROJECTS, AS WELL AS HUMAN RIGHTS AND PRO-DEMOCRACY INITIATIVES.

• URGE ALL PARTIES TO THE CONFLICT PROTECT ORGANIZATIONS OF CIVIL SOCIETY, INCLUDING HUMAN RIGHTS DEFENDERS, JOURNALISTS, AND OTHERS, FROM HARASSMENT AND INTIMIDATION. IN ADDITION TO GUARANTEEING FREEDOM OF EXPRESSION AND FREEDOM OF ASSOCIATION, THE INTERNATIONAL COMMUNITY SHOULD INSIST THAT THE EXCESSIVE REGULATIONS ON POLITICAL ACTIVITIES BE LIFTED AND THAT REPRESENTATIVES OF CIVIL SOCIETY AND THE POLITICAL OPPOSITION BE INCLUDED IN THE DEMOCRATIC TRANSITION PROCESS.

III. HUMAN RIGHTS ABUSES IN WESTERN CONGO

MANY CHRONIC HUMAN RIGHTS PROBLEMS IN CONGO HAVE WORSENER SINCE THE BEGINNING OF THE CONFLICT. OTHER PROBLEMS HAVE EMERGED AS A RESULT OF ABUSIVE MILITARY OPERATIONS BY THE CONGOLESE ARMED FORCES (FAC) AND ITS ALLIES. A LACK OF ACCOUNTABILITY, FISSURES WITHIN THE GOVERNMENT AND THE MILITARY, RULE BY AN INCREASINGLY ISOLATED GROUP OF LEADERS, AND GENERAL ADMINISTRATIVE DISORGANIZATION HAVE MADE PROSPECTS FOR THE RESPECT OF HUMAN RIGHTS AND THE RULE OF LAW EVEN MORE DISTANT. IN ADDITION TO AGGRAVATING THE HUMAN RIGHTS SITUATION, THESE FACTORS HAVE AT TIMES HAMPERED EFFORTS BY INDIVIDUAL MEMBERS OF THE GOVERNMENT TO PROTECT RIGHTS.

Arbitrary Arrest, Illegal Detentions, and the Military Court

CIVILIANS AND MILITARY ARE FREQUENTLY SUBJECT TO ARBITRARY ARREST AND PROLONGED DETENTION WITHOUT TRIAL IN GOVERNMENT-CONTROLLED AREAS OF CONGO. THE MILITARY COURT, ESTABLISHED IN 1997, WAS IN THE PROCESS OF EXPANSION AT THE END OF 1998 WITH THE ADDITION OF NEW CHAMBERS AT LUBUMBASHI, KANANGA, MBUJI-MAYI, KAMINA, MATADI, LIKASI, AND THE ESTABLISHMENT OF ROVING COURTS.¹ THE JURISDICTION OF THE MILITARY COURT WAS FURTHER EXPANDED ON JANUARY 2, 1999 BY DECREE LAW 171, WHICH DECLARED A STATE OF EMERGENCY ("ETAT DE SIEGE", STATE OF SIEGE) IN EQUATEUR, KATANGA, NORTH KIVU, SOUTH KIVU, MANIEMA, AND PROVINCE ORIENTALE. THE STATE OF SIEGE WAS JUSTIFIED BY THE "DANGER CONSTITUTED BY THE AGGRESSION AND INVASION OF DRC BY FOREIGN ARMIES" AND "CONSIDERING THAT THIS BARBARIC AND UNFAIR WAR PLACES THE CONGOLESE NATION IN DANGER AND DISTURBS THE FUNCTIONING OF THE STATE AND THE GOVERNMENT OF PUBLIC SALVATION."² WHILE THE DECREE LAW HAS DRAWN LITTLE INTERNATIONAL ATTENTION, IT GRANTED THE MILITARY SWEEPING POWERS OVER CIVILIAN ADMINISTRATION. DECREE NO. 172 OUTLINES THE PROVISIONS OF THE STATE OF SIEGE, GIVING THE MILITARY THE AUTHORITY TO REPLACE CIVILIAN AUTHORITIES, APPROPRIATE PRIVATE PROPERTY, AND TO FORCIBLY RECRUIT CIVILIANS FOR THE "BENEFIT, DIRECTLY OR INDIRECTLY, OF NATIONAL DEFENSE AND THE SAFEGUARDING OF PUBLIC SECURITY AND INTEREST."³ FOLLOWING THE NEW DECREE, THE MILITARY COURTS WOULD PRESUMABLY HAVE JURISDICTION OVER ALL CASES HANDLED BY THE CIVILIAN COURT SYSTEM IN THOSE PROVINCES DECLARED UNDER SIEGE. HUMAN RIGHTS LAWYERS IN LUBUMBASHI CONFIRMED THAT THE CIVILIAN COURTS WERE NO LONGER HANDLING CRIMINAL CASES.⁴ AT THE END OF THE YEAR, THE MILITARY COURT HAD JURISDICTION OVER THE CASES OF NEARLY 900 CONGOLESE MILITARY HELD IN THE REEDUCATION AND PENITENTIARY CENTER OF KINSHASA (FORMERLY THE MAKALA CENTRAL PRISON) AND ANOTHER 1,400 HELD IN KATANGA, AS WELL AS HUNDREDS OF CASES OF CIVILIANS, INCLUDING COMMON CRIMINAL SUSPECTS, POLITICAL PRISONERS, AND SUSPECTED REBEL COLLABORATORS.⁵

¹HUMAN RIGHTS WATCH INTERVIEW WITH SECOND PRESIDENT OF THE MILITARY COURT, MILITARY COURT, KINSHASA, NOVEMBER, 1998. ACCORDING TO THE SECOND PRESIDENT, ROVING OR PERMANENT MILITARY COURTS HAD BEEN OR WOULD BE ESTABLISHED IN THESE CITIES AND IN THE INTERIOR.

²The state of siege was proclaimed in Decree No. 171 by President Kabila, Kinshasa, January 2, 1999.

³Decree No. 172, Kinshasa, January 2, 1999.

⁴Human Rights Watch interview by telephone, Lubumbashi, January

⁵THE MILITARY COURT (COUR D'ORDRE MILITAIRE) WAS ESTABLISHED BY DECREE-LAW NO. 019, OF AUGUST 23, 1997. ARTICLE 3 SPELLS OUT ITS PURPOSE AS BEING "TO BRING TO LIGHT ALL THE INFRACTIONS COMMITTED BY ELEMENTS FROM THE 50TH BRIGADE OF THE ARMY, THE SOLDIERS OF THE FORMER ZAIREAN ARMED ~~Human Rights Watch~~ OF THE POLICE."

Since its establishment, the functioning of this court has been marked by prolonged delays, a lack of due process, and a propensity to apply and execute the death sentence.⁶ Many of the military in custody have not been charged. Many civilians who have been politically active are charged with such catchall offenses as endangering the security of the state or "association with wrongdoers."⁷

Public prosecutors often seek the death penalty for civilians and military personnel alike, and over seventy-three death sentences have been carried out since the creation of the court. In violation of international norms, the court lacks an appeal process, even for those sentenced to death.⁸ In interviews with Human Rights Watch, court officials, including the acting commander president of the court and a military public prosecutor, expressed their strong support for death sentences in order to eliminate suspected rebels, common criminals, ill-disciplined military, and collaborators with the enemy.

Decree Law 019 stipulates that all death sentences must be followed by an automatic plea, to be submitted by the Minister of Justice, for presidential pardon. Despite this regulation, many executions were carried out the same day as sentencing or shortly after, raising doubts that presidential pardon had been sought.⁹ Since the clemency procedure is secret, it is difficult to know in how many cases pardon was actually requested and denied. President Kabila, who alone is empowered to commute the death sentences, is known to have granted only one pardon: a thirteen-year-old soldier who had been sentenced to death in late March for killing a Red Cross worker in Kinshasa was granted clemency on April 19, 1999. In addition, a convicted pregnant woman in the town of Uvira was granted a stay of execution until she gave birth to her child.

The second president of the Military Court told Human Rights Watch that under the decree law establishing the court those condemned to death could be legally executed immediately following judgment. This violates principles both of the Congolese code of criminal justice and international norms. On November 14, thirteen FAC officers accused of cowardice and fleeing before the enemy were sentenced to death by the Military Court in Lubumbashi. Public prosecutors and defense lawyers for the thirteen were reportedly given only twenty-four hours to prepare the cases. The thirteen were executed later the same day; it is highly improbable that the time between the sentencing and execution permitted time for the administrative procedures to seek presidential clemency as stipulated by regulations.¹⁰

In the Military Court, even judges and prosecutors fear retribution by soldiers if they issue orders that displease them. Mukuntu Kiyana, the president of the Military Court, was himself arrested on August 6 and released after four days, only to be rearrested on August 29 reportedly for having ordered the death sentence for a group of twenty-four soldiers. Following their execution, he was accused of "intelligence with the enemy," reportedly at the request of military allies of the twenty-four. He remained in detention as of early January. Under sway of the military, prosecutors and judges request and hand down the maximum allowable penalties for those found guilty. According to defense lawyers, judicial personnel also hesitate to give or execute orders to release detainees who might later join the RCD.

⁶Human Rights Watch opposes the death penalty in all cases due to its inherent cruelty and irreversible nature. In addition, the death sentence is most often carried out in a discriminatory manner. In some cases, such discrimination may be on ethnic, religious, or political grounds. Furthermore, the inherent fallibility of all criminal justice systems assures that even when full due process of law is respected innocent persons are sometimes executed. Because an execution is irreversible, such miscarriages of justice can never be corrected.

⁷Human Rights Watch interview with the *Toges Noires* (Black Robes), an NGO providing pro-bono legal assistance for military and civilians before of the Military Court, Kinshasa, November 19, 1999.

⁸Congo is a party to the International Covenant on Civil and Political Rights (ICCPR) which in Article 14 (5) guarantees review of sentences by a higher tribunal. This right is non-derogable, even during a state of emergency.

⁹In addition to Article 14 (5) which guarantees the right to review by a higher tribunal, the ICCPR furthermore provides in Article 6 (4) that "anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence may be granted in all cases."

¹⁰Human Rights Watch interview with Military Court defense lawyer, Kinshasa, November 19, 1999.

MANY OF THE ARRESTS APPEARED ARBITRARY, OFTEN BASED ON ETHNIC RIVALRIES, SETTLING SCORES, OR MEMBERSHIP IN AN OPPOSITION POLITICAL PARTY. THOSE ARRESTED WERE FREQUENTLY ACCUSED OF COMPLICITY WITH REBEL FORCES. RELEASE FROM DETENTION WAS UNCERTAIN EVEN FOR THOSE WHO HAD BEEN ISSUED RELEASE ORDERS, HAVING BEEN ACQUITTED OR HAVING NO CHARGES AGAINST THEM. ACCORDING TO A COURT DOCUMENT SHOWN TO A HUMAN RIGHTS WATCH RESEARCHER BY A MILITARY PROSECUTOR, TWO WELL-KNOWN POLITICAL PRISONERS, PROFESSOR KABILA KALELE, A LECTURER OF SOCIOLOGY AT KINSHASA UNIVERSITY, AND HIS COLLABORATOR JEAN-FRANCOIS KABANDA, A FREE LANCE JOURNALIST, BOTH PROMINENT MEMBERS OF THE UDPS POLITICAL PARTY, WERE ORDERED TO BE RELEASED IN MID-NOVEMBER.¹¹ THE TWO WERE ARRESTED ON OCTOBER 24, 1997 FOLLOWING THE PUBLICATION OF AN ARTICLE IN WHICH THEY ALLEGED THAT PRESIDENT KABILA HAD "SOLD THE COUNTRY" TO THE RWANDAN TUTSIS. DESPITE THE WRITTEN RELEASE ORDER DATED MID-NOVEMBER 1998, THE TWO REMAINED IN DETENTION AS OF EARLY JANUARY 1999.

WHILE THE CONGOLESE GOVERNMENT HAS MADE EFFORTS TO REFORM THE PENITENTIARY SYSTEM, INCLUDING A RENOVATION OF THE REEDUCATION AND PENITENTIARY CENTER OF KINSHASA,¹² PERSONS IN DETENTION REMAINED SUBJECT TO HARSH AND ARBITRARY TREATMENT. ON AUGUST 19, FOLLOWING AN ESCAPE OF APPROXIMATELY 180 PRISONERS FROM THE PRISON, SEVENTEEN PRISONERS AND ONE PRISON OFFICIAL WERE SUMMARILY EXECUTED BY CONGOLESE MILITARY INSIDE THE PRISON GROUNDS FOR HAVING ALLEGEDLY ASSISTED IN THE ESCAPE. ACCORDING TO ONE SOURCE, ONE OF THOSE EXECUTED WAS AN IMPRISONED TELEVISION REPAIRMAN WHO WAS ACTUALLY SHOT BECAUSE A SOLDIER WAS DISPLEASED WITH A REPAIR JOB ON HIS TELEVISION.¹³

Ethnic Persecution

IN ADDITION TO THOSE FACING TRIAL BY THE MILITARY COURTS, ANOTHER GROUP OF PERSONS AT RISK OF EXECUTION OR OTHER HUMAN RIGHTS ABUSE ARE ETHNIC TUTSI CIVILIANS IN GOVERNMENT-HELD TERRITORY, INCLUDING THOSE IN DETENTION OR INTERNED. AS OF EARLY JANUARY, NEARLY 140 TUTSI CIVILIANS WERE IN DETENTION IN KINSHASA AT THE MILITARY CAMP KOKOLO, HEADQUARTERS OF THE 50TH BRIGADE OF THE CONGOLESE ARMED FORCES (FAC). OTHERS ARE CONCENTRATED WITH THE KNOWLEDGE OF THE GOVERNMENT IN VARIOUS PRIVATE LOCATIONS, INCLUDING HOTELS AND RELIGIOUS ESTABLISHMENTS THAT SERVE AS TEMPORARY PLACES OF SAFETY, TOTALING APPROXIMATELY 520 IN KATANGA AND SOME 450 IN KINSHASA BY EARLY JANUARY. AN ADDITIONAL UNKNOWN NUMBER OF TUTSI REMAINED DISPERSED, OFTEN IN HIDING, IN PRIVATE RESIDENCES THROUGHOUT GOVERNMENT-HELD TERRITORY, INCLUDING KINSHASA AND KATANGA.

DESPITE SOME EFFORTS AND PROCLAMATIONS FROM MEMBERS OF THE CONGOLESE GOVERNMENT, TUTSI IN DETENTION OR INTERNED IN GOVERNMENT-HELD TERRITORY—INCLUDING TUTSI PURPORTEDLY UNDER THE PROTECTION OF THE GOVERNMENT—REMAINED EASY TARGETS FOR CONGOLESE MILITARY OR OTHER STATE AGENTS WELL INTO JANUARY 1999. ON JANUARY 12, A GROUP OF AROUND THIRTY-FIVE INDIVIDUALS, MOSTLY TUTSI WOMEN, WERE ROUNDED UP FROM THEIR LODGINGS AT THE CATHOLIC BETHANIE CENTER IN KINSHASA BY MILITARY FROM THE 50TH BRIGADE AND TAKEN TO CAMP KOKOLO. THE MILITARY ACCUSED THOSE ARRESTED OF BEING REBELS OR REBEL-SUPPORTERS, THREATENED TO KILL ONE OF THE CATHOLIC SISTERS, AND LOOTED AND DESTROYED PROPERTY AT THE CENTER. THE OPERATION WAS REPORTEDLY CARRIED OUT WITHOUT THE KNOWLEDGE OF THE MINISTER OF HUMAN RIGHTS, WHO, ALONG WITH OTHER MEMBERS OF THE GOVERNMENT, HAD ARRANGED OR FACILITATED PROTECTION OF THE TUTSI SHELTERED AT THE CENTER. THOSE ARRESTED INCLUDED TWO CONGOLESE HUMAN RIGHTS ACTIVISTS LODGED AT THE CENTER AND AT LEAST ONE OF THE CENTER'S EMPLOYEES. FOLLOWING THEIR ARREST, THE MILITARY AT CAMP KOKOLO CLAIMED THAT THE DETAINEES WERE BEING HELD "FOR THEIR PROTECTION," BUT GAVE ONLY LIMITED ACCESS TO INTERNATIONAL HUMANITARIAN GROUPS OR U.N. AGENCIES ATTEMPTING TO PROVIDE HUMANITARIAN ASSISTANCE TO THE DETAINEES,

¹¹HUMAN RIGHTS WATCH INTERVIEW WITH MILITARY PROSECUTOR, MILITARY COURT, KINSHASA, NOVEMBER 16, 1998. HEADED BY ETIENNE TSHISEKEDI, THE UNION POUR LA DÉMOCRACIE ET LE PROGRÈS SOCIAL, UNION FOR DEMOCRACY AND SOCIAL PROGRESS, IS ONE OF THE MAJOR LONG-STANDING OPPOSITION PARTIES IN CONGO.

¹²WHILE THE GENERAL SITUATION FOR MOST PRISONERS WAS MARKEDLY IMPROVED, CONDITIONS OUTSIDE OF PAVILIONS ONE AND EIGHT COULD NOT BE VERIFIED AS THESE REPORTEDLY DECREPIT SECTIONS WERE NOT ACCESSIBLE TO VISITORS.

¹³HUMAN RIGHTS WATCH INTERVIEW WITH AN NGO REPRESENTATIVE WORKING IN PRISONS OF KINSHASA, NOVEMBER 1998. HUMAN RIGHTS WATCH, *Report* 1999, Vol. 11, No. 1.

THIS MOST RECENT ROUND OF PERSECUTION OF TUTSI BEGAN IN LATE JULY 1998 FOLLOWING PRESIDENT KABILA'S EXPULSION OF RWANDAN MILITARY FROM CONGO.¹⁴

MANY TUTSI CIVILIANS OF CONGOLESE AND OTHER NATIONALITIES FLED KINSHASA DURING THIS PERIOD. AS THE RCD FORCES ADVANCED ON KINSHASA IN AUGUST, THE CONGOLESE GOVERNMENT EXPLOITED EXISTING TENSION BETWEEN TUTSI IN KINSHASA AND OTHER ETHNIC GROUPS AS WELL AS A GENERAL STATE OF FEAR TO HELP DEFEND THE CAPITAL AND MAINTAIN THEIR HOLD ON POWER. DURING THIS PERIOD OF WIDESPREAD PANIC, MEMBERS OF THE CONGOLESE GOVERNMENT MADE DANGEROUS, XENOPHOBIC STATEMENTS, INCLUDING VIRULENT CALLS FOR THE POPULATION TO PICK UP ARMS AND KILL "THE ENEMY"—DEFINED BROADLY AS RWANDANS OR TUTSIS—THAT CREATED AN ENVIRONMENT IN WHICH CIVILIANS COULD KILL WITH IMPUNITY. ON AUGUST 4, PRESIDENT KABILA'S CABINET DIRECTOR ABDOULAYE YERODIA MADE A PUBLIC DECLARATION ON NATIONAL TELEVISION IN KIKONGO, THE LANGUAGE OF BAS-CONGO, ADDRESSED TO THE POPULATION OF THAT REGION THAT WAS A THINLY VEILED CALL FOR ETHNIC ATTACKS ON TUTSIS. YERODIA INSTRUCTED "HIS BROTHERS" TO "RISE UP AS ONE MAN TO KICK OUT HE WHO LOOKS LIKE THE COMMON ENEMY." HE FURTHER STATED THAT THE POPULATION SHOULD USE ANY WEAPONS AVAILABLE, INCLUDING HUNTING GUNS, MACHETES, AXES, ARROWS, STICKS AND ROCKS TO CONTRIBUTE TO THIS EFFORT.¹⁵ ON AUGUST 6, GOVERNOR OF KINSHASA THÉOPHILE MBEMBA ORGANIZED A "MARCH OF ANGER AGAINST THE RWANDAN AGGRESSION" AT THE KINSHASA CENTRAL MARKET, ATTENDED BY YERODIA, MINISTER OF INFORMATION DIDIER MUMENGI, AND MINISTER OF TRANSPORTATION AND COMMUNICATIONS HENRY MOVA SAKANYI.¹⁶ THE MARCH FEATURED ANTI-TUTSI SONGS AND SLOGANS INCLUDING "BETTER TO SPARE A SNAKE THAN A RWANDAN" AND "KINSHASANS SAY NO TO THE PRESENCE OF TUTSI BANYAMULENGUE IN CONGO."¹⁷ RADIO BROADCASTS ON AUGUST 8 FROM A GOVERNMENT REGIONAL RADIO IN THE EASTERN TOWN OF BUNIA CALLED ON THE LOCAL POPULATION TO USE "A MACHETE, A SPEAR, AN ARROW, A HOE, SPADES, RAKES, NAILS, TRUNCHEONS, ELECTRIC IRONS, BARBED WIRE, STONES, AND THE LIKE, IN ORDER, DEAR LISTENERS, TO KILL THE RWANDAN TUTSIS." ON WEDNESDAY THE 12TH, A LOCAL COMMANDER OF THE CONGOLESE ARMY CALLED ON BUNIA RESIDENTS TO "BE FEROCIOUS" WITH THE RWANDANS AND "MASSACRE THEM WITHOUT MERCY."¹⁸

¹⁴Tutsi in Kinshasa and elsewhere in Congo were attacked, killed, or forced to flee due to persecution by the Mobutu government and militia in 1996 and 1997. In an effort to assert their right to Zairian citizenship, Tutsi from South Kivu, known generally as Banyamulenge, supported Kabila and his allies in their overthrow of Mobutu in 1997. Politicians and others who resented the economic and potential political power of the significant number of people of Rwandan origin in eastern Congo increasingly challenged their right to citizenship in an effort to deny their ability to vote or hold political office. For more details, see Human Rights Watch and the Fédération Internationale des Ligues des Droits de l'Homme, (FIDH), "Forced to Flee, Violence Against the Tutsi in Zaire," *A Human Rights Watch Short Report*, vol. 8, no. 2 (A), July 1996; and Human Rights Watch "Transition War and Human Rights," *A Human Rights Watch Short Report*, vol. 9, no. 2 (A), April 1997.

¹⁵"THE PALMARES," KINSHASA-BASED NEWSPAPER, No. 1301, AUGUST 5, 1998.

¹⁶"LE SOUF," KINSHASA AND BRUSSELS-BASED NEWSPAPER, No. 892, AUGUST 8, 1998.

¹⁷THE MARCH ALSO INCLUDED THE PUBLIC SLAYING OF TWO GOATS REPRESENTING FORMER FOREIGN MINISTER BIZIMA KARAHU AND FORMER AFDL LEADER DÉOGRACIAS BUGERA, TWO TUTSI WHO DEFECTED FROM KABILA'S RANKS TO JOIN THE RCD.

¹⁸"DRC: Hate Radio Reemerges as rebels push toward Bunia," *Integrated Regional Information Network*, Nairobi, August 12,

THESE CALLS FROM THE GOVERNMENT RESULTED IN THE SLAUGHTER OF A LARGE NUMBER OF TUTSI IN GOVERNMENT-HELD TERRITORY BY CONGOLESE MILITARY AND CIVILIANS, SOMETIMES FOLLOWING ARREST BY MILITARY. WHILE THE NUMBER OF CIVILIANS KILLED WILL NEVER BE KNOWN, THE TOTAL FOR KINSHASA ALONE WAS PROBABLY SEVERAL HUNDRED.¹⁹ THOSE KILLED WERE PREDOMINANTLY TUTSI, ALTHOUGH CONGOLESE HUMAN RIGHTS NGOs NOTED THAT THOSE KILLED INCLUDED THE HOMELESS, MENTALLY ILL, AND INDIVIDUALS WHO VAGUELY RESEMBLED ETHNIC TUTSI, WHILE OTHERS TOOK ADVANTAGE OF THE ENVIRONMENT OF IMPUNITY TO SETTLE OLD SCORES.²⁰ SEVERAL INCLUDING FORMER DETAINEES DESCRIBED IN DETAIL TO HUMAN RIGHTS WATCH THE KILLINGS OF DOZENS OF PEOPLE ARRESTED BY CONGOLESE MILITARY AND DETAINED IN CAMP KOKOLO DURING THE PERIOD OF ETHNIC SLAUGHTER IN AUGUST.²¹ WITNESSES, INCLUDING MILITARY PERSONNEL FROM CAMP KOKOLO, GAVE TESTIMONY AND INDEPENDENTLY DREW SIMILAR MAPS FOR HUMAN RIGHTS WATCH WHICH IDENTIFIED THE LOCATIONS OF KILLINGS AND SUBSEQUENT BURNING OF BODIES AND BURIALS IN MASS GRAVES IN CAMP KOKOLO. SOME TESTIMONIES INDICATED THAT OTHER MASS GRAVE SITES EXISTED IN KINSHASA, INCLUDING IN THE GROUNDS OUTSIDE THE FORMER PARLIAMENT BUILDING, THE PRESENT LOCATION OF THE OFFICE OF THE PRESIDENCY. WHEN LOOKING FOR HER HUSBAND AT CAMP KOKOLO ON AUGUST 5, ONE SPOUSE OF A TUTSI DETAINEE WAS TOLD BY AN OFFICER AT CAMP KOKOLO THAT "IT WAS NOT WORTH IT TO GO LOOKING FOR HIM. WE'RE LIQUIDATING THEM AT THE PRESIDENT'S OFFICE AND PUTTING THEM IN A BIG HOLE OVER THERE."²² WHILE HUMAN RIGHTS WATCH RECEIVED OTHER REPORTS INDICATING THAT SOME OF THOSE SUMMARILY EXECUTED IN AUGUST HAD BEEN BURIED IN A MASS GRAVE ON THESE GROUNDS, LIMITED ACCESS TO THIS HEAVILY-MILITARIZED AREA PREVENTED VERIFICATION.

THE VIRULENT DISCOURSE AND INCITEMENT TO VIOLENCE FROM STATE AGENTS, AT TIMES BROADCAST OVER NATIONAL RADIO AND TELEVISION, ENDED ONLY IN MID-AUGUST AFTER INTERNATIONAL PRESSURE LED TO A MODERATION OF THE PUBLIC POSITION OF THE GOVERNMENT. IN MID-AUGUST, PRESIDENT KABILA GAVE A PRESS CONFERENCE CALLING FOR THE PROTECTION OF CIVILIANS, ALTHOUGH MANY CONGOLESE LISTENERS CLAIMED THAT HIS SPEECH WAS NOT AS "HEARTFELT" AS PREVIOUS SPEECHES FROM MEMBERS OF HIS GOVERNMENT INCITING THE POPULATION TO VIOLENCE AGAINST ETHNIC TUTSIS.²³ THE CALLS TO VIOLENCE, HOWEVER, WERE REPLACED BY A MORE SUBTLE DISCOURSE FROM SOME OFFICIALS, WHO CONTINUED TO PORTRAY ALL TUTSI AS "EVIL" AND "THE COMMON ENEMY." THE MINISTER OF TRANSPORTATION AND COMMUNICATIONS, FOR EXAMPLE, PUBLISHED A DOCUMENT IN OCTOBER 1999 DRAWING PARALLELS BETWEEN A "HIMA-TUTSI" PHENOMENON IN THE GREAT LAKES REGION AND NAZISM IN THE 1930S AND 1940S.²⁴ WHILE KILLINGS WERE GREATLY REDUCED FOLLOWING KABILA'S AUGUST SPEECH, NO PUBLIC ACTIONS HAVE BEEN TAKEN TO DATE BY THE KINSHASA GOVERNMENT TO PUNISH THOSE RESPONSIBLE FOR INCITEMENT TO HATRED OR VIOLENCE, AND THE POTENTIAL FOR FUTURE VIOLENCE AGAINST ETHNIC MINORITIES REMAINS.

TUTSI WOMEN WERE ALSO SUBJECT TO ARREST, ILL-TREATMENT, AND RAPE IN DETENTION. ONE WIDOW FROM THE KINTAMBO NEIGHBORHOOD OF KINSHASA WAS ARRESTED ON AUGUST 7 AND HELD AT THE OFFICE OF THE RAPID INTERVENTION POLICE (PIR) KNOWN AS "EX-CIRCO."²⁵ UPON ARREST SHE WAS BEATEN ALONG WITH HER THIRTEEN- AND FIFTEEN-YEAR-OLD CHILDREN BY POLICE WHO ACCUSED THEM OF BEING "RWANDANS." THE WIDOW WAS BORN IN CONGO, THE DAUGHTER OF A TUTSI AND A BANGO, AN ETHNIC GROUP UNQUESTIONABLY INDIGENOUS TO CONGO. SHE STATED THAT DURING HER TWENTY-FOUR HOUR DETENTION SHE WAS RAPED BY A MEMBER OF THE PIR AND THAT SHE BELIEVED THAT AT LEAST ONE OTHER WOMEN FROM HER CELL WHO WAS TAKEN AWAY BY POLICE AND RETURNED IN TEARS WAS RAPED.

THE ABSENCE OF PROSECUTION FOR ANY KILLINGS OF TUTSI THUS FAR, THE VERBAL ATTACKS CARRIED OUT WITHOUT PUNISHMENT, AND THE EXISTENCE OF THE "MODEL" OF THE GENOCIDE IN NEIGHBORING RWANDA, COMBINED TO MAKE AN ATMOSPHERE HIGHLY DANGEROUS TO TUTSI. AS THE WAR-TIME SCARCITIES

¹⁹ THIS ESTIMATE IS BASED ON MULTIPLE INTERVIEWS AND REPORTS FROM LOCAL AND INTERNATIONAL ORGANIZATIONS BASED IN KINSHASA. NO COMPREHENSIVE REPORT OR BREAKDOWNS OF THE NUMBER OF COMBATANTS AND CIVILIANS KILLED WERE AVAILABLE FROM THESE ORGANIZATIONS REGARDING KILLINGS DURING THIS PERIOD.

²⁰ A GOVERNMENT STATEMENT IN AUGUST WARNED THE POPULATION THAT REBELS WERE INFILTRATING KINSHASA DISGUISED AS PEOPLE WHO WERE MENTALLY ILL. THIS LED TO THE KILLING OF NUMEROUS MENTALLY ILL PERSONS BY MOBS. ANOTHER GOVERNMENT DECLARATION INSTRUCTED THE POPULATION TO BEWARE OF WOMEN WITH THICK OR BRAIDED HAIR WHO MAY BE SMUGGLING GRENADES INTO THE CITY. THIS LED TO THE HARASSMENT OF NUMEROUS WOMEN AND REPORTEDLY SEVERAL INCIDENTS OF RAPE.

²¹ HUMAN RIGHTS WATCH INTERVIEWS, KINSHASA, NOVEMBER 15, 17, AND NOVEMBER 21, 1999.

²² HUMAN RIGHTS WATCH INTERVIEW WITH SPOUSE OF A CAMP KOKOLO DETAINEE, KINSHASA, NOVEMBER 21, 1999.

²³ HUMAN RIGHTS WATCH INTERVIEW WITH CONGOLESE HUMAN RIGHTS NGO ACTIVISTS, KINSHASA, NOVEMBER 17, 1999.

²⁴ "WAR IN CONGO: THE EFFECT OF HIMA-TUTSI ETHNO-FASCISM IN THE GREAT LAKES REGION," HENRI MOVA SAKAYANI, MINISTER OF TRANSPORT AND COMMUNICATIONS, KINSHASA, OCTOBER, 1999. WITH THE ETHNIC POLARIZATION OF THE LAST THIRTY YEARS, PEOPLE IN THE GREAT LAKES REGION HAVE INCREASINGLY IDENTIFIED THEMSELVES AS PART THE GROUP OF CULTIVATORS, SOMETIMES CALLED "BANTU," OR AS PART OF OTHER GROUPS IDENTIFIED AS CATTLE-RAISERS. THOSE OF ONE GROUP HAVE COME TO FEAR PEOPLE OF THE OTHER, A FEAR OFTEN MANIPULATED BY POLITICIANS WHO CLAIM TO HAVE DISCOVERED GENOCIDAL PLANS AMONG PEOPLE OF THE OPPOSING GROUP. HIMA AND TUTSI WERE CATTLE-RAISERS, THE FORMER FOUND MOSTLY IN UGANDA AND TANZANIA, THE SECOND IN RWANDA AND BURUNDI AND IN EASTERN CONGO.

²⁵ HUMAN RIGHTS WATCH INTERVIEW, KINSHASA, NOVEMBER 16, 1999.

AND SUFFERINGS DUE TO THE WAR CONTINUE TO MOUNT ON THE CONGOLESE POPULATION, THEY BECOME AN INCREASINGLY VULNERABLE TARGET TO ANY FUTURE HATE SPEECH OR CALLS FROM THE GOVERNMENT TO TAKE PUBLIC DEFENSE INTO THEIR OWN HANDS, INCLUDING CALLS TO KILL. DURING INTERVIEWS WITH HUMAN RIGHTS WATCH, CONGOLESE OF DIVERSE BACKGROUNDS IN THE EAST AND WEST—including members of the CONGOLESE GOVERNMENT—MADE ALLUSION TO THE SERIOUS DANGER THAT CIVILIAN TUTSI COULD FACE WERE THE WAR NOT TO GO WELL FOR THE CONGOLESE GOVERNMENT. RATHER THAN ACTING FIRMLY TO PROTECT TUTSI, SOME GOVERNMENT OFFICIALS SUGGEST THAT FURTHER KILLINGS, UNDER THE GUISE OF SUPPOSEDLY “SPONTANEOUS” ACTS BY THE POPULATION MAY BE INEVITABLE. DURING AN INTERVIEW WITH HUMAN RIGHTS WATCH AN OFFICIAL OF THE MILITARY COURT STATED THAT,

IF THE REBELS COME HERE, THERE MAY BE ANOTHER GENOCIDE, A SPONTANEOUS REBELLION. THEY COME WITH A VIRUS. WE KNOW WHO THE RWANDANS ARE JUST BY LOOKING AT THEM. IN THE CASE THAT THEY WIN, LIFE FOR THEM WILL BE IMPOSSIBLE. YOU MAY SEE SOMETHING NOT AT ALL PLANNED.²⁶

IN THIS EXPLOSIVE ENVIRONMENT, FUTURE INCITEMENT FROM MEMBERS OF THE GOVERNMENT OR THE PUBLIC COULD IGNITE EXISTING ANTI-TUTSI SENTIMENT INTO FURTHER KILLINGS BY CIVILIANS OR MILITARY. AT THE SAME TIME, PUBLIC STATEMENTS SUGGESTING GENOCIDAL VIOLENCE COULD EMERGE IN RESPONSE TO BATTLEFIELD LOSSES FOR THE CONGOLESE GOVERNMENT. THIS COULD CREATE THE PRECONDITIONS FOR ETHNIC SLAUGHTER, EFFECTIVELY DESIGNATING A PART OF THE CONGOLESE POPULATION HOSTAGE TO GOVERNMENT FORTUNES IN THE CONFLICT.

SOME MEMBERS OF THE GOVERNMENT AND MILITARY TOOK ACTION TO PROTECT THE RIGHTS OF TUTSI AND OTHERS IN CONGO, AT TIMES AT GREAT PERSONAL RISK, REFLECTING WIDELY DIFFERING POINTS OF VIEW AMONG MEMBERS OF THE CONGOLESE GOVERNMENT REGARDING HUMAN RIGHTS. ON NOVEMBER 21, CONGOLESE MINISTER OF HUMAN RIGHTS LEONARD OKITUNDU PERSONALLY ESCORTED A GROUP OF APPROXIMATELY NINETEEN RWANDAN NATIONALS TO THE AIRPORT IN KINSHASA DURING THEIR EVACUATION TO KIGALI. MR. OKITUNDU GAVE AN INTERVIEW AT THE AIRPORT EXPLAINING THAT THIS WAS A VOLUNTARY REPATRIATION SUPPORTED BY THE CONGOLESE GOVERNMENT, WHICH HAD MADE PROVISIONS FOR TUTSI OF ANY NATIONALITY WISHING TO LEAVE THE COUNTRY. IN AN INTERVIEW WITH HUMAN RIGHTS WATCH, OKITUNDU SAID THE CONGOLESE GOVERNMENT HAS ESTABLISHED A PROCEDURE INVOLVING THE MINISTRIES OF THE INTERIOR AND HUMAN RIGHTS TO FACILITATE THE DEPARTURE OF ANY TUTSI WISHING TO LEAVE THE COUNTRY. NUMEROUS MILITARY AND CIVILIAN OFFICIALS ALSO HOUSED TUTSI IN THEIR OWN RESIDENCES OR ELSEWHERE IN EFFORTS TO PROTECT THEM.

THE ASSISTANCE AND PROTECTION PROVIDED TUTSI BY OTHER GOVERNMENTS (IN THE REGION AND ELSEWHERE), INTERNATIONAL ORGANIZATIONS, AND EMBASSIES WAS INCONSISTENT, ESPECIALLY AS IT CONCERNED THE NEEDS OF EVACUATION. IN THE FIRST MONTHS OF THE WAR, SOME DIPLOMATS, MEMBERS OF LOCAL HUMAN RIGHTS AND RELIGIOUS GROUPS, AND OFFICIALS FROM INTERNATIONAL ORGANIZATIONS TOOK MEASURES TO PROTECT AND ASSIST WITH THE EVACUATION OF TUTSI FROM GOVERNMENT-HELD AREAS. AS OF EARLY JANUARY 1999, HOWEVER, MANY TUTSI WERE STILL LIVING IN FEAR IN KINSHASA, URGENTLY WANTING TO LEAVE THE COUNTRY, BUT UNABLE TO DO SO BECAUSE OF VISA REQUIREMENTS OR A LACK OF FINANCIAL MEANS TO SUPPORT THEMSELVES ABROAD. SEVERAL DIPLOMATS IN KINSHASA—SOME OF WHOM HAD ACTIVELY PROTECTED TUTSI DURING THE PERIOD OF KILLINGS IN AUGUST—STATED TO HUMAN RIGHTS WATCH THAT THEIR INABILITY TO GRANT VISAS OR THEIR SLOWNESS IN DOING SO WAS DUE TO THE POLICIES AND PROCEDURES OF THEIR RESPECTIVE GOVERNMENTS.

SOME MEMBERS OF THE DIPLOMATIC COMMUNITY IN KINSHASA AND REPRESENTATIVES OF INTERNATIONAL ORGANIZATIONS PRIVATELY EXPRESSED FEARS THAT THEY WOULD BE PARTICIPATING IN “ETHNIC CLEANSING” IF THEIR ASSISTANCE IN EVACUATIONS WAS NOT ACCOMPANIED BY A GOVERNMENT GUARANTEE OF THE RIGHT OF CONGOLESE TUTSI TO RETURN AS CITIZENS. THIS MAY ALSO HAVE SLOWED THE GRANTING OF VISAS OR OTHER ASSISTANCE TO TUTSI SEEKING TO LEAVE. EFFORTS HAD BEEN MADE BY SEVERAL EMBASSIES, CHURCH REPRESENTATIVES, AND INTERNATIONAL ORGANIZATIONS, INCLUDING THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS FIELD OFFICE IN CONGO, TO LOCALLY PROTECT TUTSI AND/OR FACILITATE THEIR DEPARTURE, BUT MANY TUTSI REMAINED IN HIDING OR IN DETENTION WITHOUT ASSISTANCE.

ONE KEY INITIATIVE TO PROTECT TUTSI IN KINSHASA BY THIS GROUP WAS AN ATTEMPT TO RELOCATE THE NEARLY 140 TUTSI IN CAMP KOKOLO TO A SAFER, MORE EASILY ACCESSIBLE LOCATION IN KINSHASA. WHILE THE PLAN HAD BEEN APPROVED BY A NUMBER OF HIGH-LEVEL GOVERNMENT OFFICIALS, AS OF EARLY FEBRUARY, PRESIDENT KABILA HAD YET TO SIGN AN ORDER APPROVING THE ASSIGNMENT OF SECURITY PERSONNEL TO THIS SITE.

Violations Committed in Areas of Combat

WHILE TAKING NO POSITION ON WHY COUNTRIES GO TO WAR, HUMAN RIGHTS WATCH HAS EXAMINED THE APPLICATION OF INTERNATIONAL HUMANITARIAN LAW, THE RULES OF WAR, IN NUMEROUS CONFLICTS OVER THE PAST TWO DECADES. WHILE THERE ARE INTERNAL REBELLIONS TAKING PLACE SIMULTANEOUSLY, THE HOSTILITIES IN CONGO INVOLVE SEVERAL STATES FROM THE REGION, MAKING IT AN INTERNATIONAL ARMED CONFLICT AS DEFINED IN

²⁶ Human Rights Watch interview with the second president of the Military Court (Cour d'Ordre Militaire) Kinshasa, 9/9/99, Vol. 1, p. 90. No. 1.

ARTICLE 2 COMMON TO THE FOUR GENEVA CONVENTIONS OF AUGUST 12 1949. AS SUCH, THE CONDUCT OF MILITARY OPERATIONS BY ALL STATES INVOLVED IN THE CONFLICT ARE GOVERNED BY THE GENEVA CONVENTIONS, AS WELL AS THE CUSTOMARY LAWS OF WAR.

THE PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS (PROTOCOL I) CONTAINS DETAILED RULES, MOSTLY REAFFIRMATIONS OR CLARIFICATIONS OF EXISTING CUSTOMARY LAW, WHICH IMPLEMENT THE CUSTOMARY PRINCIPLES THAT A DISTINCTION SHOULD BE MADE BETWEEN COMBATANTS AND CIVILIANS AND THAT CIVILIAN OBJECTS MAY NOT BE THE OBJECT OF MILITARY ATTACKS.²⁷ IN PARTICULAR, ARTICLE 51(2) REAFFIRMS THAT, "THE CIVILIAN POPULATION AS SUCH, AS WELL AS INDIVIDUAL CIVILIANS SHALL NOT BE THE OBJECT OF AN ATTACK."

FURTHERMORE, ARTICLE 57 (2) OF PROTOCOL I PROVIDES THAT THOSE WHO PLAN OR DECIDE UPON AN ATTACK SHALL DO EVERYTHING FEASIBLE TO VERIFY THAT THE OBJECTIVES TO BE ATTACKED ARE NEITHER CIVILIANS NOR CIVILIAN OBJECTS AND ARE NOT SUBJECT TO SPECIAL PROTECTION BUT ARE MILITARY OBJECTIVES WITHIN THE MEANING OF PARAGRAPH 2 OF ARTICLE 52 AND THAT IT IS NOT PROHIBITED BY THE PROVISIONS OF THIS PROTOCOL TO ATTACK THEM. THE REQUIREMENTS TO DO "EVERYTHING FEASIBLE" TO VERIFY THAT THE TARGET SELECTED IS A MILITARY OBJECTIVE INVOLVES, ACCORDING TO MICHAEL BOTHE'S *New Rules for Victims of Armed Conflicts*, "A CONTINUING OBLIGATION TO ASSIGN A HIGH PRIORITY TO THE COLLECTION, EVALUATION, AND DISSEMINATION OF TIMELY TARGET INTELLIGENCE."²⁸

ARTICLES 51(5)(B) AND 57(2)(a)(iii) AND (B) CONTAIN THE FIRST CODIFICATION OF THE CUSTOMARY RULE OF PROPORTIONALITY AS IT RELATES TO COLLATERAL CIVILIAN CASUALTIES AND DAMAGE TO CIVILIAN OBJECTS. ARTICLE 51(5)(B) FORMULATES THIS RULE AS FOLLOWS:

AN ATTACK WHICH MAY BE EXPECTED TO CAUSE INCIDENTAL LOSS OF CIVILIAN LIFE, INJURY TO CIVILIANS, DAMAGE TO CIVILIAN OBJECTS, OR A COMBINATION THEREOF, WHICH WOULD BE EXCESSIVE IN RELATION TO THE CONCRETE AND DIRECT MILITARY ADVANTAGE ANTICIPATED.

THIS RULE, ACCORDING TO BOTHE'S AUTHORITATIVE COMMENTARY ON THE PROTOCOL:

CLEARLY REQUIRES THAT THOSE WHO PLAN OR DECIDE UPON AN ATTACK MUST TAKE INTO ACCOUNT THE CIVILIAN POPULATION IN THEIR PRE-ATTACK ESTIMATE. THEY MUST DETERMINE WHETHER THOSE EFFECTS ARE EXCESSIVE IN RELATION TO THE CONCRETE AND DIRECT MILITARY ADVANTAGE ANTICIPATED. OBVIOUSLY THIS DECISION WILL HAVE TO BE BASED ON A BALANCING OF:

- (1) THE FORESEEABLE EXTENT OF INCIDENTAL OR COLLATERAL CIVILIAN CASUALTIES OR DAMAGE, AND
- (2) THE RELATIVE IMPORTANCE OF THE MILITARY OBJECTIVE AS A TARGET.²⁹

²⁷Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protections of Victims of International Armed Conflicts (Protocol I) of June 8, 1977.

²⁸Michael Bothe et al. *New Rules for Victims of Armed Conflicts* (Martinus Nijhoff Publishers, Boston: 1982, p. 326).

ACCOUNTS FROM WITNESSES IN AREAS OF COMBAT OF THE BEHAVIOR OF THE CONGO-ALLIED FORCES³⁰ FROM AUGUST THROUGH MID-JANUARY 1999 SUGGEST THAT THESE STANDARDS WERE OFTEN DISREGARDED. WHILE INFORMATION FROM AREAS OF FIGHTING OR BOMBING WAS AT TIMES DIFFICULT TO VERIFY, REPORTS OF VIOLATIONS OF HUMANITARIAN LAW WERE REGULARLY RECEIVED. NGOs, JOURNALISTS, AND MISSIONARIES ON THE GROUND GAVE EYEWITNESS ACCOUNTS TO HUMAN RIGHTS WATCH OF THE DAMAGE TO CIVILIANS AND HUMANITARIAN INFRASTRUCTURE FOLLOWING THE BOMBING OF RCD-HELD AREAS BY THE FAC AND THEIR ALLIES, ANGOLA, ZIMBABWE, NAMIBIA, AND CHAD. MOST REPORTS OF VIOLATIONS CAME FROM AREAS OF COMBAT DURING OR SHORTLY AFTER FIGHTING.

RCD MILITARY AND THEIR ALLIES ALSO COMMITTED ABUSES DURING THEIR OFFENSIVE IN WESTERN CONGO. DURING AUGUST AND SEPTEMBER IN BAS-CONGO, RCD FORCES WERE RESPONSIBLE FOR EXTENSIVE LOOTING, ESPECIALLY OF VEHICLES AND COMMUNICATIONS EQUIPMENT, DESTRUCTION OF CIVILIAN INFRASTRUCTURE, AND REPORTEDLY RAPE AND ARBITRARY KILLINGS.³¹ LATER IN AUGUST, RCD FORCES OVERRAN THE INGA HYDROELECTRIC DAM IN BAS-CONGO AND REPEATEDLY INTERRUPTED THE POWER SUPPLY TO THE CAPITAL. THIS LED TO THE DISRUPTION OF RUNNING WATER SUPPLIES TO THE POPULATION AND HAD SERIOUS EFFECT ON MEDICAL AND OTHER ESSENTIAL SERVICES IN THE CAPITAL. RCD FORCES COMMITTED FURTHER LOOTING AS THEY RETREATED FROM KINSHASA, INCLUDING AT HOSPITALS, SCHOOLS, AND THE CATHOLIC MISSION AT KISANTU.³²

AS THEY BEGAN THEIR ASSAULT IN THE BOMA AREA IN MID-AUGUST AND PROGRESSIVELY RECAPTURED TOWNS IN BAS-CONGO, ANGOLAN FORCES AND FAC REPORTEDLY COMMITTED KILLINGS OF CIVILIANS AND RAPE DURING HOUSE-TO-HOUSE SEARCHES FOR RCD SOLDIERS IN BOMA AND MOANDA.³³ HUMAN RIGHTS WATCH ALSO RECEIVED SEVERAL CREDIBLE ACCOUNTS OF EXTENSIVE LOOTING BY ANGOLAN FORCES THROUGHOUT BAS-CONGO, INCLUDING HOSPITALS AT KANGU AND KUIMBA, WHERE EVEN OFFICE FURNITURE OF THE HOSPITALS WAS TAKEN.³⁴ FOLLOWING THE RECAPTURE OF THE CITY OF BOMA BY THE ANGOLANS ON AUGUST 26, ANGOLAN TROOPS TOOK PART IN WIDESPREAD LOOTING INCLUDING THEFT FROM PRIVATE RESIDENCES, FARM ANIMALS, AND VEHICLES, MANY OF WHICH WERE TRANSPORTED TO ANGOLA.³⁵

WHILE COMBAT HAD LARGELY CEASED IN BAS-CONGO BY MID-SEPTEMBER, THE HUMANITARIAN SITUATION REMAINED SERIOUS AT LEAST THROUGH LATE NOVEMBER DUE TO THE EXTENSIVE LOOTING, DESTRUCTION OF INFRASTRUCTURE, AND OTHER ABUSES THAT HAD TAKEN PLACE EARLIER AS WELL AS DIFFICULTIES FOR HUMANITARIAN NGOs TO ACCESS THE REGION. ONE LOCAL HUMANITARIAN WORKER WHO VISITED THE BAS-CONGO PROVINCE IN NOVEMBER DESCRIBED FAC ROADBLOCKS AS "ECONOMIC BARRIERS" IN REFERENCE TO THE BLATANT AND HIGH LEVEL OF EXTORTION BY MEMBERS OF THE FAC.³⁶ GOVERNMENT RESTRICTIONS DENIED ACCESS TO THE REGION BY INTERNATIONAL HUMANITARIAN AGENCIES UNTIL NOVEMBER, WHEN UNCLEAR ADMINISTRATIVE REQUIREMENTS AND MULTIPLE GOVERNMENT INTERLOCUTORS CONTINUED TO SLOW THE DELIVERY OF AID. SEVERAL HUMANITARIAN GROUPS IN KINSHASA EXPRESSED THEIR FRUSTRATION AT NOT BEING ABLE TO RELY ON GOVERNMENT AUTHORIZATIONS AS THESE WERE OFTEN DISREGARDED AT FAC BARRIERS.

³⁰ THIS REFERS TO THE GOVERNMENTS OF ZIMBABWE, ANGOLA, NAMIBIA, AND CHAD, WHICH HAVE ALL SENT TROOPS TO SUPPORT THE WAR EFFORT OF THE CONGOLESE GOVERNMENT, AS WELL AS THE FORCES OF THE CONGOLESE GOVERNMENT AS WELL.

³¹ ACCORDING TO HUMAN RIGHTS WATCH INTERVIEWS WITH WITNESS WHO WERE IN BAS-CONGO AT THAT TIME AND SEVERAL REPORTS FROM CHURCH OFFICIALS, HUMANITARIAN ORGANIZATIONS, AND NGOs FROM BAS-CONGO.

³² HUMAN RIGHTS WATCH TELEPHONE INTERVIEW WITH MISSIONARIES FROM BAS-CONGO, BOSTON, MASSACHUSETTS, NOVEMBER 2, 1999.

³³ ACCORDING TO HUMAN RIGHTS WATCH INTERVIEWS WITH WITNESS WHO WERE IN BAS-CONGO AT THAT TIME AND SEVERAL REPORTS FROM CHURCH OFFICIALS, HUMANITARIAN ORGANIZATIONS, AND NGOs FROM BAS-CONGO. IN THE MOANDA-BOMA AREA, RCD SOLDIERS REPORTEDLY WORE CIVILIAN CLOTHING AS THEY FLED, PROBABLY EVACERBATING THE CIVILIAN DEATH TOLL.

³⁴ REPORT FROM CHURCH IN BAS-CONGO, SEPTEMBER, 1999.

³⁵ THIS TESTIMONY, TAKEN FROM HUMANITARIAN ORGANIZATIONS WHO WERE IN BAS-CONGO AT THE TIME, CORROBORATED REPORTS FROM JOURNALISTS AND DOCK WORKERS IN ANGOLA CONCERNING THE ARRIVAL OF LOOTED GOODS IN LUANDA PORT ON A STATE-OWNED ANGOSHIP BOAT.

³⁶ HUMAN RIGHTS WATCH INTERVIEW WITH INTERNATIONAL AID ORGANIZATION IN KINSHASA, NOVEMBER 13, 1999. February 1999, Vol. 11, No. 1.

Some members of the Congolese government suspected members of the international community in Congo, especially international humanitarian workers, of being spies or sympathizers of the RCD, further hampering access to areas of humanitarian need. In one instance, a member of an international humanitarian NGO was arrested and detained for several days for carrying a report which stated, "it is not certain that the population of Mbuji-Mayi would be hostile to the rebels were they to take the city."³⁷ TRUE SECURITY CONCERNS ALSO PREVENTED ACCESS TO MANY AREAS OF HUMANITARIAN NEED, ESPECIALLY THOSE NEAR THE FRONT LINES. WHILE HIGH-LEVELS OF EXTORTION BY THE FAC AND HARASSMENT OF HUMANITARIAN WORKERS WERE PERHAPS SIMILAR TO PRE-WAR LEVELS, KINSHASA RESIDENTS POINTED OUT THE EFFECTS COULD BE POTENTIALLY MORE SEVERE DURING THE WAR DUE TO INCREASED SOCIO-ECONOMIC PRESSURE ON THE CIVILIAN POPULATION AND AN INCREASED NEED FOR HUMANITARIAN ASSISTANCE.

Aid workers described the behavior of Namibian and Zimbabwean forces at checkpoints as "professional" in several regions. Several reports from humanitarian organizations indicated that Zimbabwean forces had respected international norms regarding the treatment of prisoners of war and had on occasion protected them from the FAC. A humanitarian official working in Bas-Congo reported that Zimbabwean soldiers had intervened on their behalf when unruly FAC harassed them at checkpoints.³⁸

Human Rights Watch received reports of civilian casualties and the destruction of medical and other civilian infrastructure due to aerial bombardments by FAC allies from August 1998 through mid-January 1999, raising the concern that bombings may have deliberately targeted civilian objects, or at best failed to take into account the obligation to protect civilians and civilian property. Witnesses in Shabunda stated that in mid-September, bombs from planes assumed to be allied with the FAC hit civilian targets including the Shabunda hospital.³⁹ Reports from journalists and others in Kalemie and other cities under RCD control in Katanga and Maniema stated that dozens of civilians had been killed or wounded as a result of bombings by the Zimbabwean air force.⁴⁰ LOCAL SOURCES CONFIRMED THAT ON THE NIGHT OF JANUARY 10 AND 11, FAC-ALLIED FORCES CARRIED OUT BOMBING RAIDS IN KISANGANI THAT KILLED AT LEAST SIXTEEN CIVILIANS.⁴¹ THESE ATTACKS APPEARED TO BE INDISCRIMINATE IN THAT THEY DID NOT DISTINGUISH MILITARY OBJECTIVES FROM CIVILIANS AND CIVILIAN OBJECTS.

THE CONGOLESE GOVERNMENT HAS REPORTEDLY RECRUITED SOLDIERS AND MILITIA ACCUSED OF INVOLVEMENT IN THE RWANDAN GENOCIDE OF 1994 FROM REFUGEE CAMPS IN CONGO-BRAZZAVILLE, THE CENTRAL AFRICAN REPUBLIC AND POSSIBLY OTHER COUNTRIES.⁴² THE RECRUITMENT OF REFUGEES BY GOVERNMENTS FROM CAMPS SEVERELY UNDERMINES THE STRICTLY HUMANITARIAN, CIVILIAN AND PEACEFUL CHARACTER OF REFUGEE CAMPS AND INTERNATIONALLY PROTECTED REFUGEE POPULATIONS.⁴³ The Congolese government has a responsibility to examine the past conduct of all combatants, in particular those known to be Rwandan, that is, those recruited in refugee camps housing only Rwandans, and particularly any who registered with local authorities as former members of the Rwandan Armed Forces. Any such persons against whom there are credible charges of genocide or crimes against humanity must be not only excluded from Congolese forces but also prosecuted or delivered to the custody of the International Criminal Tribunal for Rwanda.

³⁷ HUMAN RIGHTS WATCH INTERVIEW WITH INTERNATIONAL AID ORGANIZATION, KINSHASA, NOVEMBER 20, 1998.

³⁸ HUMAN RIGHTS WATCH INTERVIEW WITH INTERNATIONAL HUMANITARIAN ORGANIZATION, KINSHASA, NOVEMBER 23, 1998.

³⁹ HUMAN RIGHTS WATCH INTERVIEW WITH MISSIONARIES IN BUKAVU, DECEMBER 10, 1998.

⁴⁰ AGENCE FRANCE PRESSE, "ZIMBABWEAN BOMBS KILL 20 CIVILIANS IN REBEL-HELD DR CONGO TOWN," DECEMBER 11, 1998.

⁴¹ HUMAN RIGHTS WATCH TELEPHONE INTERVIEW FROM NEW YORK WITH RESIDENT OF KISANGANI, JANUARY 13, 1999.

⁴² HUMAN RIGHTS WATCH INTERVIEW WITH HUMANITARIAN ORGANIZATION OPERATING IN THE CAMPS, KINSHASA, NOVEMBER 19, 1998.

⁴³ Conclusion No. 48 of the 1987 Executive Committee of UNHCR stipulates "the exclusively civilian and humanitarian character of refugee camps" and "the principle that the grant of asylum is a peaceful and humanitarian act that is not to be regarded as unfriendly by another state". Such principles are reiterated in the preamble to the 1969 OAU O.A.U. CONVENTION GOVERNING THE HUMAN RIGHTS WATCH PROBLEMS IN Africa, to which Congo is a party. February 1999, Vol. 11, No. 1.

Human Rights Watch also interviewed Ugandans in detention in Goma who claimed to have been recruited from refugee camps in the Juba area of southern Sudan.⁴⁴ The detainees, who spoke freely and appeared to be free of intimidation, claimed that they had been promised repatriation to Uganda, but were instead flown to Kindu, Maniema province, where they were instructed to join the FAC. They claimed that members of the West Nile Bank Front (WNBF) in the Sudanese camps were also flown voluntarily to Kindu to fight on behalf of the FAC. They were subsequently captured by RCD forces during the battle of Kindu.

Recruitment of Child Soldiers

Since the beginning of the conflict on August 2, recruitment of children has increased. An official communique aired on national radio on August 7, 1998 called for children and youth between twelve and twenty years old to enlist in the armed forces, in response to the RCD insurgency. In addition to Kinshasa, recruitment reportedly took place at the airport in Mbuji-Mayi in Western Kasai, and Kamina, Kaniema, and Manono in Katanga. A FAC commander in Kinshasa who had done an informal survey of troops stationed there in November, 1998 found that one out of every fourteen FAC soldiers was under the age of thirteen.⁴⁵

Kabila has used child soldiers to support his military since 1996.⁴⁶ As the rebel leader of the Alliance of Democratic Forces for the Liberation of Congo (ADFL), he recruited thousands of young child soldiers, known as "Kadogo," or "the little ones," to support his military campaign against the Mobutu government.⁴⁷ Despite pledges from the Congolese government to demobilize children from the FAC since the end of the 1996-1997 war and the establishment of several fledgling demobilization programs, the Kabila government has continued to recruit children as young as seven years old for military service.⁴⁸ While no reliable statistics were available regarding the number of child soldiers, the total number is likely to be at least several thousand.⁴⁹

Conditions for child soldiers appeared to be deplorable. Aid groups working in the interior of Congo said that they frequently saw Kabila's young "volunteers" in tattered clothes and in a precarious nutritional state. A doctor of a humanitarian aid agency who had spoken with child soldiers deployed in Bas-Congo, including one only thirteen years old, feared that the child soldiers in this area would fall victim to epidemics.

International law prohibits the recruitment of any children under the age of fifteen, and an optional protocol to the Convention on the Rights of the Child is being drafted that would raise the minimum legal age for soldiers to eighteen.⁵⁰ Human Rights Watch supports this protocol.

The Democratization Process and Civil Society

President Kabila's declaration of a state of siege on January 2, 1999 gave sweeping powers to the military and again called into question whether the government will carry out its pledges to move towards a more representative government. While this move did not constitute a violation of international law, as Congo is in a state of war, the transfer of powers and other measures taken by the government since the beginning of the war made it clear that any credible transition to democracy was at least temporarily stalled.

⁴⁴Human Rights Watch interview with prisoners of war held at the RCD army security headquarters known as "former ANR," Goma, December 5, 1998.

⁴⁵Human Rights Watch interview with humanitarian agency, Kinshasa, November 15, 1998.

⁴⁶Persons below the age of eighteen are considered children, (Article 1 of the Convention on the Rights of the Child, September 2, 1990). All states are party to the Convention on the Rights of the Child except for the United States of America and Somalia.

⁴⁷Led by then-rebel Kabila, the Alliance des forces démocratique pour la libération du Congo (ADFL) was a coalition of political parties from eastern Congo that, with support from Rwanda, Uganda, Angola, and Burundi, overthrew Zairian President Mobutu in a seven-month war beginning in October 1996. For more details, see the following Human Rights Watch short reports: "What Kabila is Hiding: Civilian Killings and Impunity in Congo," vol. 9, no. 5 (A), October, 1997; "Uncertain Course: Transition and Human Rights Violations in the Congo," vol. 9, no. 9 (A), (also available in French).

⁴⁸Human Rights Watch interview with humanitarian agency, Kinshasa, November 15, 1998. The seven-year-old soldier had been seen by a doctor from the aid agency in the Kapalata demobilization camp near Kisangani early in 1998.

⁴⁹In mid-1997, national television featured a parade of what the government claimed were 5,900 FAC child soldiers in Mbuji-Mayi. Organizations involved in demobilization estimated that the total number in November had likely increased by several thousand.

⁵⁰Human Rights Watch, *Human Rights of the Child*, Article 38 (2) and (3). 16

DESPITE THE JANUARY 29, 1999 DECREE LAW THAT LIFTED THE BAN ON POLITICAL ACTIVITY IMPOSED BY KABILA UPON TAKING POWER IN MAY 1997, PARTY POLITICS REMAINED PROHIBITED FOR ANOTHER THREE MONTHS PENDING THE REGISTRATION OF PARTIES WITH THE MINISTRY OF INTERIOR.⁵¹ WHILE "RECOGNIZING" AND "GUARANTEEING" POLITICAL PLURALISM, THE DECREE NEVERTHELESS SETS FORTH A SERIES OF CONDITIONS WHICH MUST BE MET FIRST BY PARTIES APPLYING FOR REGISTRATION, INCLUDING THE PAYMENT OF A USD \$10,000 FEE, AND THE DEPOSITION BY FOUNDING MEMBERS OF SEVEN COPIES OF A RANGE OF DOCUMENTS, SUCH AS CERTIFICATES OF BIRTH, RESIDENCE, PAYMENT OF STATE DUES, AND AN ATTESTATION FROM A DOCTOR THAT THEY ARE IN GOOD PHYSICAL AND MENTAL HEALTH.⁵² FOUNDING MEMBERS MUST ALSO PROVE THAT THEY AND BOTH THEIR PARENTS ARE OF CONGOLESE NATIONALITY.

THE BAN HAD BY THEN ACCOMPLISHED THE TOTAL PARALYSIS OF THE ENTIRE POLITICAL PROCESS IN THE COUNTRY, WITHOUT A CREDIBLE BID FROM THE RULING PARTY TO OCCUPY THE POLITICAL VACUUM IT SO AGGRESSIVELY SOUGHT TO CREATE. BECAUSE OF THE CONTINUING CRACKDOWN ON THE OPPOSITION AND OTHER DISSIDENTING VOICES EVEN FROM WITHIN THE GOVERNMENT'S RANKS, THE DECREE LIBERALIZING PARTY POLITICS LEFT CONGOLESE POLITICIANS SKEPTICAL. SPOKESPERSONS FOR THE OPPOSITION UNION FOR DEMOCRACY AND SOCIAL PROGRESS (UDPS) TOLD HUMAN RIGHTS WATCH THAT THEIR PARTY, WHICH HAD PERSISTENTLY REJECTED PRESIDENT KABILA'S BAN ON POLITICAL ACTIVITIES, HAD NO INTENTION OF BECOMING A "STATE ENTERPRISE" BY REGISTERING UNDER THE PROVISIONS OF THE NEW LAW.⁵³

AS WAS THE CASE BEFORE THE WAR, POLICEMEN AND SOLDIERS CONDUCTED UNPROVOKED RAIDS ON THE HEADQUARTERS OF POLITICAL PARTIES. THE RAID IN MID-DECEMBER ON THE HOME OF VETERAN POLITICIAN ANTOINE GEZENGA, WHICH DOUBLES AS HEADQUARTERS OF THE PARTI LUMUMBIST UNIFIÉ (PALU), WAS TYPICAL OF THESE ATTACKS. AGENTS, WITH NO WARRANTS, SEIZED DOCUMENTS AND PERSONAL PROPERTY AND ROUNDED UP TWENTY-EIGHT PARTY ACTIVISTS WHO WERE BRIEFLY DETAINED.⁵⁴

CRITICISM OF THE CONSTITUTIONAL REVIEW PROCESS—WHETHER FROM INSIDE OR OUTSIDE THE GOVERNMENT—WAS A SENSITIVE ISSUE. WHEN THE MINISTER OF HEALTH, JEAN-BAPTISTE SONDJI, PUBLICLY QUESTIONED THE WISDOM OF LIMITING THE CONSULTATIONS TO HAND-PICKED INDIVIDUALS AND GROUPS, HE WAS DISMISSED AND BRIEFLY DETAINED WITHOUT FURTHER ADO. ASKED TO EXPLAIN WHY HE FIRED MR. SONDJI, PRESIDENT KABILA HAD THIS TO SAY: "HE PRACTICALLY BANISHED HIMSELF FROM THE GOVERNMENT! HE CRITICIZED THE DRAFT CONSTITUTION SO VEHEMENTLY (....) THAT IS WHY HE HAS BEEN DISMISSED."⁵⁵ ON JANUARY 14, ELEMENTS OF THE SPECIAL GROUP FOR PRESIDENTIAL SECURITY ARRESTED THE DIRECTOR OF THE CENTRAL BANK AND THREE SENIOR AIDs, REPORTEDLY IN RETALIATION FOR THEIR OPPOSITION TO MONETARY STABILIZATION POLICIES ANNOUNCED BY THE GOVERNMENT.

ARBITRARY ARRESTS OF OPPOSITION POLITICIANS AND ACTIVISTS AND SUPPRESSION OF THEIR RIGHTS TO FREE EXPRESSION AND MOVEMENT CONTINUED UNABATED EVEN WHEN THE GOVERNMENT PREPARED TO "LIBERALIZE" PARTY POLITICS. ON JANUARY 16, THE NATIONAL INTELLIGENCE AGENCY SUMMONED FIVE LEADING MEMBERS OF PROMINENT OPPOSITION PARTIES, STERNLY REMINDED THEM THAT THE BAN ON POLITICAL ACTIVITIES WAS STILL IN FORCE, AND DETAINED THEM WITHOUT CHARGES FOR VARYING PERIODS.⁵⁶ ONE OF THE FIVE, MUKENDI WA MULUMBA, OF THE OPPOSITION UNION FOR DEMOCRACY AND SOCIAL PROGRESS, WAS PREVENTED DAYS EARLIER FROM BOARDING A FLIGHT TO BRUSSELS WHERE HE WAS TO REPRESENT HIS PARTY IN A CONFERENCE ORGANIZED BY CONGOLESE CIVIL SOCIETY GROUPS. IN LATE OCTOBER, THE GOVERNMENT PLACED ETIENNE TSHISEKEDI, UDPS LEADER, UNDER VIRTUAL HOUSE ARREST AND DENIED HIM AN EXIT VISA WHEN HE ATTEMPTED TO TRAVEL TO BRUSSELS TO ADDRESS A SESSION OF THE EUROPEAN PARLIAMENT ON HIS PARTY'S PEACE PLAN FOR THE CONGO.

⁵¹"Décret-Loi No. 194 relatif aux partis et aux groupements politiques," signed on January 29, 1999, Daily Bulletin of the Congolese Press Agency (in French), Monday February 1, 1998.

⁵²Ibid.

⁵³Human Rights Watch telephone interviews with UDPS spokespersons, New York / Brussels & Kinshasa, February 3, 1999.

⁵⁴"CONGO - KINSHASA: DRCONGO--SECURITY FORCES RAID PARTY HEADQUARTERS," KINSHASA, AFP, DEC. 16.

⁵⁵"CONGO - KINSHASA: KABILA ON BRUSSELS VISIT, CONGO CONFLICT," *LE SOIR*, BRUSSELS, NOVEMBER 19, 1999.

⁵⁶THE FIVE WERE: ADRIEN PHONGO, GENERAL SECRETARY OF THE UDPS AND MUKENDI WA MULUMBA, A LAWYER AND ADVISOR TO THE PARTY'S LEADER; KAMITATU MASAMBA, LEADER OF THE DEMOCRATIC AND SOCIAL CHRISTIAN PARTY; BOFASSA DJEMO, LEADING MEMBER OF THE POPULAR MOVEMENT FOR THE REVOLUTION; AND KISIMBA

SINCE THE BEGINNING OF THE CONFLICT, KABILA HAS CONTINUED TO PUSH FORWARD PRE-ELECTORAL AND ELECTORAL ACTIVITIES IN A SUPERFICIAL FASHION THAT APPEARED DESIGNED TO ENSURE HIS OWN GRIP ON POWER RATHER THAN TO MOVE THE COUNTRY TOWARD A REPRESENTATIVE DEMOCRACY. DESPITE HIS OWN PLEDGES, THE MOST IMPORTANT STEPS TAKEN THUS FAR TO PAVE THE WAY FOR A RETURN TO MULTI-PARTY POLITICS HAVE LARGELY EXCLUDED THE POLITICAL OPPOSITION AND ORGANIZATIONS OF CIVIL SOCIETY. IN NOVEMBER 1998, THE GOVERNMENT SUBMITTED THE DRAFT CONSTITUTION TO HAND-PICKED "GROUPS OF OPINION" FROM THE CIVIL SOCIETY IN KINSHASA.⁵⁷ THE PROCESS WAS WIDELY CRITICIZED BY THE ORGANIZATIONS OF THE CIVIL SOCIETY AND POLITICAL PARTIES ALIKE: MANY ORGANIZATIONS, INCLUDING SOME OF THOSE INCLUDED IN THE REVIEW, CLAIMED THAT THE TIME ALLOWED FOR REVIEW WAS INSUFFICIENT; POLITICAL PARTIES HAD BEEN EXCLUDED FROM THE PROCESS; THE REVIEW WAS LIMITED TO ORGANIZATIONS IN KINSHASA ONLY; AND THERE WAS NO GUARANTEE THAT THE GOVERNMENT WOULD TAKE INTO CONSIDERATION THEIR POINTS OF VIEW. WITH A VIEW TO PREPARING A NATIONAL REFERENDUM ON THE CONSTITUTIONAL DRAFT, THE GOVERNMENT CREATED A COMMITTEE TO ORGANIZE A POPULATION CENSUS DESPITE THE FACT THAT ALMOST HALF THE COUNTRY WAS INACCESSIBLE DUE TO THE CONFLICT; THE COMMITTEE INVITED SEVERAL NGOs TO ASSIST IN THE PROCESS.

PRESIDENT KABILA'S GOVERNMENT HAS A LONG RECORD OF HARSH TREATMENT OF CRITICAL NONGOVERNMENTAL ORGANIZATIONS, AND PARTICULARLY HUMAN RIGHTS GROUPS. ALTHOUGH THE GOVERNMENT HAD COOPTED A NUMBER OF PROMINENT CIVIL SOCIETY ACTIVISTS AND RIGHTS ADVOCATES IN ITS RANKS, AND AVOIDED OPEN CONFRONTATION WITH THE NONGOVERNMENTAL SECTOR, IT FOUND IT DIFFICULT IN MANY INSTANCES TO HIDE ITS IRRITATION AND DISTRUST OF THE SECTOR'S STRENGTHS AND AUTONOMY.

MOST HUMAN RIGHTS GROUPS STEPPED UP THEIR WORK ON CONSTITUTIONAL AND ELECTORAL ISSUES AND CIVIC EDUCATION IN ADVANCE OF ELECTIONS PROMISED FOR 1999. A CLUSTER OF ORGANIZATIONS CAME TOGETHER TO PROVIDE LEGAL ASSISTANCE TO CASES BEFORE THE MILITARY COURT. FEW TOOK ON THE 'SENSITIVE' ISSUES GENERATED BY THE WAR, PARTICULARLY ETHNIC PERSECUTION, DUE TO A FEAR OF ASSOCIATION WITH THE RCD AND ITS ALLIES AND A GENERAL SENSE OF NATIONALISM. MOST CIVIL SOCIETY ORGANIZATIONS MADE THEIR PRIORITY PROMOTING A TRANSITION TO PEACE AND DEMOCRACY BY PUBLISHING PROPOSALS FOR PEACE AND ORGANIZING NUMEROUS CONFERENCES, NOTABLY A MID-JANUARY MEETING IN BELGIUM OF ORGANIZATIONS OF CIVIL SOCIETY FROM BOTH GOVERNMENT AND REBEL-HELD CONGO.

IV. EASTERN CONGO: FINDINGS

CLEAR TRENDS OF HUMAN RIGHTS ABUSES HAVE DEVELOPED IN EASTERN CONGO SINCE EARLY AUGUST 1998. THE RCD, SUPPORTED BY REGULAR TROOPS OF THE RWANDAN, UGANDAN, AND BURUNDIAN MILITARIES HAVE COMMITTED A RANGE OF ABUSES AGAINST CONGOLESE CIVILIANS, INCLUDING DELIBERATE KILLINGS, ARBITRARY ARRESTS AND DETENTIONS, "DISAPPEARANCES", HARASSMENT OF HUMAN RIGHTS DEFENDERS, ABUSES AGAINST WOMEN, AND RECRUITMENT OF CHILD SOLDIERS IN EFFORTS TO COMBAT INTERAHAMWE AND MAI-MAI INSURGENCIES AND TO EXERT POLITICAL CONTROL OVER OPPOSITION VOICES.⁵⁸ UNLIKE THE 1996-1997 CONFLICT, WHEN MANY OF THE VICTIMS WERE RWANDAN AND BURUNDIAN REFUGEES, THE PRESENT WAR HAS INVOLVED ABUSES AGAINST CONGOLESE FROM ALMOST ALL MAJOR ETHNIC GROUPS IN EASTERN CONGO. RESIDUAL REFUGEE POPULATIONS FROM RWANDA AND BURUNDI, MANY OF WHICH HAD INTEGRATED THEMSELVES INTO LOCAL COMMUNITIES, WERE ALSO TARGETED FOR ATTACK BY RCD FORCES.

⁵⁷ A hand-picked constitutional committee handed a draft constitution to the president in March 1998 for approval. A procedure to create a constituent assembly was nominally established by the government in May to review the draft. Authorities adopted a cumbersome procedure for the selection of assembly members from lists of applicants who, by mid-JUNE, had reportedly reached 10,000. THE ASSEMBLY WAS NEVER FORMED. INSTEAD, THE TASK OF REVIEWING THE DRAFT CONSTITUTION WAS ENTRUSTED TO A "TECHNICAL COMMISSION" HEADED BY THE MINISTER OF JUSTICE AFTER THE WAR BROKE OUT.

⁵⁸ "RCD MILITARY AND ITS ALLIES" OR "RCD FORCES" IN THIS REPORT REFERS TO FORCES FROM THE RWANDAN, UGANDAN, AND BURUNDIAN MILITARIES, AND/OR HUMAN RIGHTS WATCH RECORDED TO AS THE "RCD ARMY") THAT HAVE DEFFECTED TO THE RCD AND ARE UNDER THE COMMAND OF COLONEL PIERRE-ALAIN KABILA, FEBRUARY 1999, VIOLATED 1, NO. 1.

While the current level of human rights abuses against civilians in eastern Congo is already cause for serious concern, the situation risks further deterioration and even more egregious abuses. The growing number of armed groups in the east—both militia and national armies, often with tensions among alleged allies—constitute a real threat to the civilian population. A primary concern is the large number of abuses committed against civilians in areas of combat between Interahamwe and Mai-Mai militia and their adversaries from the RCD and its allies.⁵⁹ The militia groups use guerrilla warfare tactics against the RCD forces, which is often followed by heavy-handed reprisals against civilians by the RCD military. This has led to the displacement of tens of thousands of civilians in North Kivu, South Kivu, and Katanga. Militia in North Kivu attack civilian vehicles, strangling local economies and making travel dangerous outside of urban centers. All sides act in an atmosphere of effective impunity with little or no regard for the protection of civilians, which fuels the cycles of attacks and counter-attacks.

Victims and witnesses of abuses in eastern Congo frequently described perpetrators as “Rwandan,” “Banyamulenge,” or “Tutsi” military allied with the RCD, but were often unable to conclusively identify them as belonging to a particular army. Establishing the national identity of perpetrators was complicated by the fact that some Tutsi military among the Rwandan and Ugandan forces were born in Congo but have lived in all three countries; Kinyarwanda and Swahili are spoken in all three countries; and the use of uniforms by RCD forces was often haphazard. Commanders fighting on behalf of the RCD frequently wore civilian clothes and, in an apparent attempt to further hide their identity, often used their first names or pseudonyms only. Many residents of the east claimed that the RCD military was dominated by Tutsi from the Rwandan, Ugandan, Burundian or Congolese armies, increasing resentment among other Congolese ethnic groups vis-à-vis Tutsi in general. This development has further complicated long-standing conflicts in eastern Congo over customary power, land, administrative posts, and nationality, and may endanger the long-term protection of the rights of Tutsi in Congo.⁶⁰

Despite their administrative role throughout territory under their control, RCD civilian and military authorities lacked control over their foreign allies, including Rwandan, Burundian, and Ugandan forces. This weakened their ability to respect human rights in territory under their control, despite their public commitments to uphold international human rights standards.⁶¹ One Congolese commander of RCD forces told Human Rights Watch that he did not have control over the actions of the Rwandan commander allegedly serving as his deputy.⁶² This Rwandan commander was one of several in the east who was repeatedly cited by victims and witnesses as being responsible for numerous cases of arrests, illegal detentions, and “disappearances”.

This report highlights several patterns of human rights violations by RCD forces. The cases described below illustrate the kinds of abuses being perpetrated by RCD forces and clearly establish the need for further investigation and punishment of those found responsible.

Extrajudicial Executions and Indiscriminate Attacks Against Civilians

Civilians have been the primary victims of the conflict in eastern Congo. Forces aligned with the RCD committed summary executions in eastern Congo from August to early January in eastern Congo. Executions of unarmed civilians often were carried out near areas of combat between militia and RCD forces, while other killings took place in detention centers or following arrests. Most large-scale killings took place in South Kivu, where combat between RCD forces and militia was frequent. Human Rights Watch received numerous reports of extrajudicial executions by RCD forces which continued at the time of this writing, in January 1999.

⁵⁹Most of the abuses committed by the FAC and their allies in the front line areas are described in the western Congo section of this report.

⁶⁰These intertwined conflicts between different ethnic groups in eastern Congo have been exacerbated by the absence of rule of law by the governments of President Kabila and former President Mobutu. People whose ancestors were Rwandan have been subject to a number of changes in Congolese law which could arbitrarily deprive them of their right to nationality. These changes and a threat by the vice-governor of South-Kivu to expel Tutsi in 1996 were among the contributing factors to the 1996-1997 war. Many politicians and others in the Mobutu and Kabila administrations have sought to tailor nationality laws in a fashion that would exclude many ethnic Hutu and ethnic Tutsi from citizenship, thus depriving them of many important rights, including the right to vote and the right to hold office. See Human Rights Watch and FIDH report “Forced to Flee.”

⁶¹During interviews with Human Rights Watch, RCD authorities repeatedly expressed their adherence to international human rights standards. In a public RCD “Political Declaration” delivered in Goma, August 12, 1998, they further proclaimed their recognition of the principles contained in the Universal Declaration of Human Rights, the African Charter on Human and People’s Rights, and the “international pacts.”

⁶²Human Rights Watch interview with RCD military commander, December 9, 1998.

The most well-known and possibly the largest massacre of civilians took place on August 24 in villages near Kasika in the Lwindi collectivity of South Kivu. The killings were carried out by RCD forces who had suffered casualties following an ambush by Mai-Mai in the Lwindi collectivity on August 23. Reportedly angered by the deaths of several officers during the ambush, the RCD forces, described by witnesses as "Rwandan and Ugandan" or "Banyamulenge", attacked the Catholic church at Kasika the following day where they killed thirty-seven civilians, including the Abbey Stanislas, three sisters, and parishioners.⁶³ Many witnesses and residents of Bukavu considered the killings as "a punishment" for the Mai-Mai ambush the day before. Others were killed in the surrounding communities; estimates of the total number of dead, probably at least several hundred, and the extent of destruction of houses and other infrastructure were impossible to verify due to poor security conditions and, in particular, uncertainty regarding the protection of witnesses.⁶⁴

The RCD forces continued killing near the house of the traditional chief of Lwindi, Mr. Mubeta, where approximately twenty-nine people were executed, including the chief and his family, according to a local church official.⁶⁵ Many victims were executed by machete or other sharp objects; a smaller number were shot.⁶⁶ One church official stated that a nun had been cut entirely in two from the head through the entire body.⁶⁷ Many bodies of children and babies were found in latrines. One witness interviewed by Human Rights Watch had identified many of the church officials before their burial in Kasika and assisted with the extrication of corpses and children survivors from latrines.⁶⁸

⁶³Details of the church killings were obtained by Human Rights Watch through a telephone interview with church officials in Kinshasa, New York, September 1, 1998. These details were confirmed by several witnesses interviewed by Human Rights Watch in Bukavu who had carried out investigations in Kasika.

⁶⁴Estimates vary of the total number of victims in the area of the four villages. One investigation conducted by individuals who participated in burials and spoke with witnesses claimed that the total number killed included sixty-six at Kasika, 619 at Kilongutwe, and approximately twenty in Kalambi. They claimed to have the names of the victims. Another investigation, carried out in part by witnesses of the events at Kasika, found that the total killed included 395 at Kasika, forty-three at Zokwe, ninety-five at Kalama, and 373 at Kilongutwe. This second investigation identified by name forty-two of the dead. Catholic clergy estimate that a total of over 1300 were killed during these incidents.

⁶⁵Human Rights Watch interview with official of Catholic church from Kasika area, Panzi, December 9, 1999.

⁶⁶"Massacres-Genocides at Kasika-Kilongutwe, Territory of Mwenza, South Kivu by Tutsi Rebel Troops in DRC", report by the NGO CADDHOM, September 9, 1999.

⁶⁷Human Rights Watch interview with a relative of one of the victims of Kasika, Bukavu, December 16, 1998.

⁶⁸Human Rights Watch interview with official of Catholic church from Kasika area, Panzi, December 9, 1999, Vol. 11, No. 1.

On August 24, the RCD forces carried out a scorched earth campaign along the main road through the Lwindi collectivity, killing civilians and burning houses. Among the villages attacked in this fashion were Kilongutwe, Kalama, and Kalambi. Several Congolese investigators who had participated in burials and/or investigations in the days following the massacres claimed that the RCD forces destroyed many houses, at times burning civilians alive inside them.⁶⁹ Most of the killings took place in Kilongutwe, where it was market day. The destruction of civilian infrastructure, displacement of much of the local population, and widespread fear resulting from the killings continued to make it difficult for residents in the Kasika-Mwenga area to find food, water, or access to health care. Many villagers had not yet returned to their homes as of December.

Authorities from the RCD have publicly acknowledged that these killings were carried out by their own forces and appointed a commission to investigate the incident, headed by the Department of Justice and Human Rights. However, as of early January 1998, the commission of inquiry had failed to conduct any investigation of the killings, and was evidently being stalled by the military authorities.⁷⁰ RCD authorities claimed that several factors had blocked the commission, including the failure of the military to appoint a member to the commission, and a lack of funds.

While the killings in the Kasika area and other reports of human rights abuses have not been publicly investigated by the RCD, the RCD has proven its capacity to investigate and draw attention to human rights violations committed by Kabila's forces, including the killing of Tutsi. A report from the Department of Justice and Human Rights on violations from August to September 1998 was devoted almost entirely to abuses committed by the Kinshasa government, making only a passing reference to the killings at Kasika.⁷¹ The report included an analysis of the norms of international law violated by Kabila's forces and recommended that Kabila and his allies be held accountable for abuses. The RCD made resources available for a televised exhumation and reburial ceremony on December 9 in Uvira of Congolese Tutsi, reportedly civilians killed in Kalemie and Vyura by forces loyal to Kabila.

The Kalehe-Kabare area of South Kivu was another site of fighting between RCD allies and militia that was followed by RCD reprisals against civilians. On the night of October 21 and October 22, RCD forces reportedly killed ten residents, including the village chief Kashera, in the village of Bushaku, in Kalehe.⁷² RCD forces based in Lemera, a few kilometers from Bushaku, attacked residents of Bushaku due to a suspicion that they were supporting Mai-Mai and Interahamwe.⁷³ In addition to the killings, twenty-six houses were burned—the bodies of the ten killed were inside some of them—and others were looted. This pattern of fighting between militia and RCD forces followed by RCD reprisal attacks against civilians continued in the area at least into December.

⁶⁹Report following field investigation by local NGO, Bukavu, September 9, 1998. In an interview with Human Rights Watch on December 15, 1998, the author of this report explained that in one village he looked inside a round, adobe hut which had been set afire with gasoline and saw a waist-high pile of the remains of bodies. The flesh and clothes of the victims had burned into a substance that looked like tar. Similar circumstances elsewhere made it impossible to tell how many people had been incinerated at this and other sites.

⁷⁰In addition to the Department of Justice and Human Rights, the commission was to include representatives from the Department of Territorial Administration, the Department of Foreign Affairs, the Governor's Office of South Kivu, and the RCD army.

⁷¹"Les Violations des droits de l'Homme commises sur le territoire de la République Démocratique du Congo entre août et septembre 1998," Rapport Bimensuel, Department of Justice and Human Rights, Goma, September, 1998.

⁷²"Rapport on the massacres of people at Bushaku and Lemera, territory of Kalehe, 21-22 October, 1998," report from NGO in Kalehe, November 3, 1998. The author and researcher of the report, interviewed by Human Rights Watch in Bukavu on December 9, provided the family names of the ten people killed, who included six children, one a ten-year-old girl.

Killings by RCD forces also took place during the night of December 3 and 4, near the villages of Chipaho and Lemera in South Kivu, where traders and other civilians were going to the market.⁷⁴ Many of those killed, suspected of being supporters of the Mai-Mai, were palm oil merchants who had left their homes in the Katana-Kalehe area at night to arrive for the morning market in Chipaho. The traders had received permission from RCD authorities in Katana and Kalehe to travel this route in order to circumvent other roads presumed to be more dangerous due to fighting. Bodies of the dead were found in the Lemera area by travelers on the morning of December 4. While survivors in a local hospital and family members of the victims provided the names of fifteen men, women, and children who were killed in the Chipaho-Lemera area on that night, the total number of dead is likely to be significantly higher.⁷⁵ Most of the victims were killed by bayonet, machete, or other hand weapons.

Reports from organizations working with refugee populations in South Kivu described attacks on Burundian Hutu refugees in South Kivu by RCD forces and their allies. On several occasions, RCD forces reportedly rounded up groups of refugees who had integrated themselves into the local communities. One report described three round-ups which took place at the weekly market at Runingo, in the Uvira area, on August 15, August 22, and August 29 of twenty-two, eighteen, and eight refugees respectively.⁷⁶ Refugees were also rounded up from their homes in Kaliba on the night of November 28 and 29.⁷⁷ On each occasion, the refugees were loaded onto military trucks and not seen again.

Fighting between the Congolese government's FAC and the RCD in Uvira from August 4 to 7 also led to widespread abuses against civilians. Apparently in reprisal for their own losses, the rebel military reportedly arrested and killed many civilians suspected of opposing the RCD in the days that followed their takeover of the town. Volunteers with the local Red Cross reportedly buried dozens of civilians, mostly men killed by bullets from August 4 to 11. Human Rights Watch is in possession of a list of 119 names of these victims including their addresses and occupations. A participant in the burials told Human Rights Watch "some bodies were tied up, some had their penises chopped off, there were also bodies of young women, aged fifteen, sixteen, seventeen and nineteen, with their underclothes to one side who had been raped and killed. A few victims had been tortured."⁷⁸

Uvira residents reported the "disappearance" of many young men who were detained in safe houses in the luxurious Quartier des Biens Mal Acquis neighborhood that rebel commanders and their men expropriated for their private use after the eviction of many owners and tenants. One particular residence of an RCD commander was dubbed the "slaughterhouse" by Uvira residents because of the torture and killings which reportedly took place behind its walls.⁷⁹ Following many complaints from the population, the killings and looting by RCD forces in Uvira subsided for about two months, reportedly after the replacement of the military commander of the town in mid-October.

However, this more positive trend seems to have been shattered with reports of a massacre in and around the village of Makobola, approximately fifteen kilometers south of Uvira. Over the New Year period, hundreds of civilians in this area were killed by RCD forces and their backers.⁸⁰ Among those killed were volunteer Red Cross workers, and Catholic and Protestant priests with members of their families.⁸¹ The massacre was reportedly in reprisal for rebel losses in confrontations the previous day with Mai-Mai. Following initial pledges to investigate the incident, members of the RCD leadership issued stern denials that civilians were killed at Makobola.⁸² As was the case following the Kasika massacre, this again put in question the Rally's stated commitment to uphold the rule of law, respect human rights, and to protect civilians in areas it controls.

⁷⁴Human Rights Watch interview, Bukavu, December 10, 1999.

⁷⁵One investigator of a Congolese NGO who had interviewed survivors and visited the sites where killings took place stated that the total number of dead was sixty-six.

⁷⁶Human Rights Watch interview, Bujumbura, December 11, 1999.

⁷⁷Human Rights Watch interview with NGO, Bukavu, December 11, 1999.

⁷⁸Human Rights Watch interview with Congolese from Uvira, Bujumbura, December 12, 1999.

⁷⁹Ibid.

⁸⁰"500 Civilians Reportedly Massacred by Rebels in DR Congo," Agence France Presse, January 5, 1999.

⁸¹Report from nongovernmental organization from Uvira, January 2, 1999.

⁸²Human Rights Watch, "Rebels Deny Congo New Year Massacre of 500," Reuters, January 5, February 1999, Vol. 11, No. 1.

The various militia in eastern Congo that are fighting the RCD and its allies also committed abuses against the civilian population. It was unclear to what extent these forces were coordinated or even if they were fighting on behalf of the Congolese government. Residents of eastern Congo claimed that Interahamwe and Mai-Mai militia demanded food, supplies, and monetary support from civilian populations. Since unarmed villagers had little choice but to accept the militia and their demands, their presence put the residents in direct danger of reprisal attacks by RCD forces. The militia were also responsible for attacks on civilian vehicles, including seventeen alone during the month of October on the Goma-Rutshuru road.⁸³ At roadblocks set up throughout eastern Congo, Mai-Mai and Interahamwe demanded fees from travelers and merchants.

In addition to hit-and-run attacks on RCD forces in the east, militia would occasionally attack and temporarily hold villages or larger urban centers. The most significant of these incidents was the September 14 attack on Goma by militia, described by the local population as Mai-Mai and/or Interahamwe. During their brief control of Goma, they killed a number of civilians, including a group of twelve Tutsi who had sought refuge at Ndosho orphanage. The twelve had fled killings of Tutsi in Kisanangani. Among the dead were four children and one infant.⁸⁴ As was frequently the case, attacks such as these led to reprisals against civilians when the RCD forces recaptured towns. Several examples of such reprisals are described below.

Other armed groups, including forces of the Sudanese People's Liberation Army (SPLA) operating in the Congo, which intervened presumably on the side of the RCD, also committed abuses against civilian populations in eastern Congo. In early October, some 17,000 Sudanese refugees were chased back to Yambio in southern Sudan, following attacks on their settlements in the Dungu area of northeastern Congo by SPLA troops. In a statement issued on October 9, the UNHCR complained that SPLA soldiers ransacked its offices in Dungu and Doruma and stole its vehicles and communication equipment.⁸⁵ Other humanitarian sources and local monitoring groups also reported wide scale looting by SPLA soldiers of vehicles, dispensaries, and food supplies in the area during September, and their forcible recruitment of refugees. The looting also caused many civilians to abandon their homes and fields.⁸⁶

Arbitrary Arrests, Illegal Detentions, and "Disappearances"

The RCD military and the Rwandan, Burundian, and Ugandan forces supporting them have been responsible for a pattern of arbitrary arrests, illegal detentions, and "disappearances."⁸⁷ The rate of these abuses varied over time and differed between provinces in the east. Arbitrary arrests, illegal detentions, and "disappearances" in North Kivu have decreased significantly since August and September, apparently due to efforts by the RCD military and civilian authorities to respond to cases raised by lawyers and human rights defenders.⁸⁸ In Goma, several NGOs stated that regional pacification committees, originally set up under Kabila, had also been used by the RCD to help resolve conflicts and cases of arbitrary arrest and illegal detention. While these violations continue, the efforts by RCD authorities to eliminate illegal detention centers and reduce arbitrary arrests and "disappearances" have increased the generally low levels of public confidence in the RCD administration in North Kivu.

In South Kivu, however, these types of violations continued at an elevated rate into December, highlighted by a wave of arrests and intimidation of academics, NGO leaders, and other members of civil society in late November and early December. RCD authorities and their military allies frequently accused those arrested of being collaborators with Mai-Mai, Interahamwe, or of being distributors of hate propaganda. These arrests contributed to the unpopularity of RCD

⁸³ Human Rights Watch interview with traders in Goma market, December 4, 1999.

⁸⁴ "Bimonthly Report: Human Rights Violations Committed in Congo Between August and September 1999," Department of Justice and Human Rights, RCD, Goma, September, 1999.

⁸⁵ "UNHCR Expresses Concern Over Forced Returns to Sudan," UNHCR Press Release, October 9, 1999, Geneva.

⁸⁶ Human Rights Watch interview, humanitarian NGO, Nairobi, November 25, 1999.

⁸⁷ On December 19, 1992, in resolution 47/133, the United Nations General Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance which states that enforced disappearances occur when "persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law." The governments of Rwanda, Uganda, and Burundi, are subject to this declaration. While the RCD is not recognized as a government, it has publicly adhered to the international bill of human rights and claimed responsibility for protecting human rights in territory under its control.

⁸⁸ Human Rights Watch interviews, Kigali, November 19, 1999 and Goma, December 1, 1999.

authorities and to public indignation regarding the presence of Rwandan, Burundian, and Ugandan military forces, as well as to a resentment of ethnic Tutsi in general.

Human Rights Watch interviewed present and former detainees and prisoners of war (POWs) in the east, including some who had been held in illegal detention centers. Some arbitrary arrests and illegal detentions were accompanied by killings, torture, and inhumane treatment by RCD and allied forces. Human Rights Watch interviewed survivors from a group of approximately forty-eight young men and one young woman, most of whom were arrested by RCD military on September 14 in Goma in the wake of the Mai-Mai attack on the town. The forty-nine detainees were held by the military in a shipping container at Goma International Airport without food, water, or ventilation. The shipping container, typical of many used as detention centers in the east, measured approximately six feet by six feet by fifteen feet with no windows or light. By September 16, twenty-seven of the detainees had died of suffocation. Three of the survivors, who had helped with removal of the bodies, had scars on their backs which corresponded with their testimony that the military had cut them with knives and beat them during their arrest.⁸⁹

During a site visit by Human Rights Watch to a container at Goma International Airport, an RCD military commander confirmed that he had used shipping containers there until mid- to late-November as holding places for civilians arrested by RCD military and their allies. The commander stated that the containers, empty upon inspection by Human Rights Watch, were presently used only for short-term detentions and that he now transferred prisoners to the appropriate civilian or military authorities in Goma.⁹⁰

Other containers and private residences throughout the east are reportedly still in use as detention centers, especially for those suspected of collaboration with Interahamwe or Mai-Mai. One young man arrested near Goma in early October by Kinyarwanda-speaking members of the RCD military told Human Rights Watch he was held for two days without food or water in a container located in a quarry just north of Goma. He said four of the approximately fifteen others held with him died from dehydration, exhaustion, and a lack of medical care on the second day of his detention. Many of the detainees, including those that died, were from the Monigi village on the northern outskirts of Goma, a predominantly Hutu area suspected of supporting Interahamwe. The young man was subsequently transferred to a private residence in Goma, known as the house of Mr. Hakazimana, where he was held for approximately two months. He said the approximately ten detainees who were held in this residence were beaten four times a day, fed every other day, and forced to use a hole in the floor of their holding room for a toilet. According to the young man, some of the detainees were transferred to Rwanda. After almost two months in detention, the young man was transferred to the jail of the RCD army known as "Bureau two" where he was interrogated by a judicial police officer and accused of being Interahamwe. The young man was released without explanation in early December. One of his arms, still in a bandage when interviewed by Human Rights Watch on December 6, was partially paralyzed from being tied for extended periods of time during his detention.⁹¹

⁸⁹ Human Rights Watch interview with survivors, Goma, December 11, 1998.

⁹⁰ Site visit to Goma International Airport by Human Rights Watch, December 5, 1998.

⁹¹ Human Rights Watch interview with Human Rights Watch in Goma on December 6, the subject was unable to use February 1999, Vol. 11, No. 1.

Other illegal detention centers in the east were reportedly located at the homes of Rwandan and Congolese military commanders in cities throughout the east, including Uvira, Bukavu, and Goma. One such center was located at the residence of an RCD officer in Goma known locally as commander "Celestin,"⁹² who was reportedly a member of the Rwandan army. One former detainee at this residence described how he and other detainees were beaten and tortured in Commander Celestin's custody and, upon their release, threatened with death if they spoke about their experience.⁹³ An RCD military commander confirmed that the location had been used for detentions up until late November.⁹⁴ One room previously used for detentions was being cleaned during the Human Rights Watch visit. Commander Celestin had reportedly been transferred to Rwanda following protests from lawyers and human rights defenders about the detentions and inhumane treatment at his residence. Human Rights Watch received numerous other reports of detention centers still in use at private residences commandeered by RCD military in North and South Kivu. One woman interviewed by Human Rights Watch claimed that her husband was being held in the residence of a Rwandan commander in Goma known locally as commander "Ngoyi."⁹⁵ When asked why her husband was arrested, she claimed that "if you're Hutu, you're Interahamwe; if you're Hunde, you're Mai-Mai. There is no other motivation." Many Congolese in the east felt that the RCD and their predominantly Tutsi military allies were arresting Congolese based on their ethnicity alone.

Many individuals arrested by the RCD military were never acknowledged to be in detention, they "disappeared" and remain unaccounted for. One such incident occurred in late November when nine men were abducted by troops during a service at the Neo-Apostolic church in the village of Monigi. Witnesses including the wives of the "disappeared" claimed that the men had been abducted by Rwandan forces and that the nine had been taken to Rwanda.⁹⁶ Witnesses recognized one of the soldiers that had grown up in Monigi and later joined the Rwandan army. As of mid-December, RCD authorities had not provided information on the whereabouts of the nine. Many human rights reports received by Human Rights Watch claimed that people abducted were transferred to Rwanda, with some sources claiming prisoners were sent to a detention center at Rugerero in Gisenyi Prefecture. One high-ranking RCD official confirmed that individuals arrested in eastern Congo were at times transferred to Rwanda.⁹⁷ Other reports claimed that arrests followed by "disappearances" were frequently carried out by members of the RPA's own troops in the Congo. Numerous witnesses cited commander "Gapari" in Goma and commanders "Pascal" and "Ilias" in Bukavu, all reportedly members of the RPA, as being responsible for many incidents of arbitrary arrest, illegal detention, including at their own residences, and ill-treatment in Goma and Bukavu.

Harassment of Human Rights Defenders

Despite few guarantees for their security, members of civil society and human rights defenders in eastern Congo attempted to continue their efforts to protect and promote human rights. Working conditions ranged from province to province: most NGOs in North Kivu and Kisangani were able to operate openly and discuss human rights concerns with RCD military and civilian authorities, while in South Kivu, NGOs worked under significant pressure, some in clandestinity.

⁹² Many RCD commanders, including those from the Rwandan and Ugandan militaries, often used first names only and sometimes changed their names or altered them to "Congolese-sounding" names. Many did not wear uniforms. These practices, similar to those used by Rwandan forces in Congo during the 1996-1997 war, complicated the identification of these officers.

⁹³ Human Rights Watch interview with former detainee, Nairobi, November 29, 1999.

⁹⁴ Site visit by Human Rights Watch, Goma, December 5, 1999.

⁹⁵ Human Rights Watch interview, December 11, 1999. "Ngoyi," a Congolese name, was reportedly one of the many officers of the Rwandan Patriotic Army fighting in Congo who had assumed Congolese names to hide their identity.

⁹⁶ Human Rights Watch interview with lawyer of the wives of the nine victims, Goma, December 5, 1999. One of the military involved in the abduction was a Congolese from Monigi who had joined the RPA.

⁹⁷ Human Rights Watch interview, Goma, December 1, 1999.

After the outbreak of war in August, several members of NGOs fled the east following threats, harassment of their organizations, or visits to their homes by RCD military. The RCD encouraged the members of several NGOs to join the RCD and harassed them when they refused.⁹⁸ As was the case under the Kabila administration, members of NGOs which had reported on killings of Burundian and Rwandan refugees in 1996 and 1997 were at particular risk, due to the continued presence of the Rwandan military, who were implicated in the massacres.⁹⁹ People who signed public documents discussing the war, political situation, or human rights were also at risk. Many NGOs were hesitant to document and protest human rights abuses and instead limited their work to the promotion of peace or educational activities, areas considered less sensitive to the authorities.¹⁰⁰

Several university professors and members of NGOs in Bukavu, such as the Groupe Jeremie, the Collective of Youth Organizations of South Kivu (COJESKI), and the Coordination Office of the Civil Society were arrested during a wave of arrests in late November and early December. RCD authorities, including the governor and RCD coordinator of South Kivu, accused various institutions of civil society of being responsible for disseminating anti-Tutsi hate speech and collaborating with Mai-Mai militia.¹⁰¹ In particular, the governor denounced a document entitled "Plan for Peace" developed by the Coordination Office of the Civil Society of South Kivu.¹⁰² The peace plan, addressed to the RCD, the Congolese government, the United Nations, and others, analyzed the human rights, humanitarian, political, and security situation in the east and called for an end to the conflict. Several individuals who signed this document were arrested or summoned for repeated interrogations by the RCD authorities; others fled or went into hiding due to threats from RCD military.

ABUSES AGAINST WOMEN

Women accused of supporting Mai-Mai or Interahamwe militia have been subjected to arbitrary arrest and torture, including rape. On September 16 in Goma, RCD military arrested one woman they suspected of hiding Mai-Mai. The woman was held for three days in a pit near the northern end of Goma known as "Jolis Bois" where she was repeatedly beaten and forced to eat mud. Two months later, she still suffered from back injuries resulting from her beating.

⁹⁸Human Rights Watch interviews with human rights NGOs in Goma and Bukavu, December 4 and December 7, 1999.

⁹⁹This pressure on rights activists increased dramatically following an incident, in early April 1999, in which the Congolese government arrested an investigator from the U.N. Secretary-General's Investigative Team (UNSGIT) in Goma and expelled him to Kinshasa, where government officials seized and photocopied sensitive documents, including names of informants and their signatures on their testimonies about the massacres. In the following weeks, the National Intelligence Agency (Agence Nationale de Renseignements, ANR) questioned leading activists in Goma about their contacts with the United Nations Secretary General's Investigative Team (UNSGIT) and asked them to submit copies of their monitoring reports and lists of their projects, and names of their international partners and funding agencies. Monitoring groups were particularly targeted, forcing at least a dozen prominent rights defenders from north and south Kivu into exile, some of them after going through horrendous ordeals of arbitrary detention and repeated torture. One member of the Grande Vision for Human Rights NGO in Goma, Gallican Ntirivamunda, was arrested and accused of cooperating with the U.N. investigation. Ntirivamunda was held for several months and repeatedly tortured. He remained in detention under the rebel RCD administration, reportedly at the military lockup known as "Bureau Two" in Goma, accused of being a collaborator with Interahamwe. During a Human Rights Watch site visit to Bureau Two, RCD military commander Sylvain Mbuhi stated that Ntirivamunda had "gone missing" on November 17 during a military operation which attempted to use him to trap Interahamwe.

¹⁰⁰Human Rights Watch interview with local NGOs, Goma, December 2, 1999.

¹⁰¹Human Rights Watch interviews, Bukavu, December 8 and December 10, 1999.

¹⁰²Human Rights Watch interview with the governor of South Kivu, Bukavu, December 7, 1999. He referred to the November 14, 1999 "Plan de Paix" a Human Rights Watch document by eight members of the Coordination Office of the Civil Society of South Kivu, February 1999, Vol. 11, No. 1.

Human Rights Watch also received reports of rape by RCD military during cordon and search operations in late August in the Bagira and Kadutu residential areas of Bukavu. Young women were targeted for rape again in the Chimpunda area of Bukavu in mid September by military reportedly looking for arms or militia. One NGO that had interviewed women in the Kalehe area of South Kivu stated that women were beaten or raped by RCD military looking for Mai-Mai or Interahamwe in the countryside.¹⁰³ Human Rights Watch received information from Kisangani indicating that rape, and other forms of sexual abuse of women by soldiers, was a growing problem there as well, leading local activists and other observers to express concern about the possible spread of AIDS as a long term consequence of this war.¹⁰⁴

Recruitment of Child Soldiers

The rebel army reenlisted about a hundred demobilized child soldiers in early August from a transit center in Bukavu, and another 500 upon taking Kisangani in late August. The transit centers were part of an experimental program which UNICEF ran for former child soldiers in cooperation with the Congolese authorities. The former child soldiers learned technical skills and followed classes in the centers, prior to their reunification with their families. "The rebels went in and recruited the children who were there," a spokesperson for UNICEF complained.¹⁰⁵ The RCD continued to recruit children for combat as recently as December 1999. Human Rights Watch interviewed several boys from a group of new recruits from Bunia and Kisangani that varied in age from fifteen to seventeen. In Bukavu, RCD military had abducted or threatened to abduct children, apparently for use in the army, from several local organizations working with unaccompanied minors.¹⁰⁶ While many other boys were among this group of recruits, the actual number of children recruited into RCD forces is unknown.

As noted, although international law currently prohibits the use of soldiers under the age of fifteen, Human Rights Watch supports the principle of an optional protocol to the Convention on the Rights of the Child that would raise the minimum legal age for soldiers to eighteen.

V. INTERNATIONAL RESPONSE

The Southern Africa Development Community, the Organization of African Unity, the European Union, and the United Nations

Since shortly after the outbreak of hostilities in August, the Southern Africa Development Community (SADC) has played a leading role in a succession of regional summits that attempted to mediate a peaceful solution to the conflict in the DRC. Human rights concerns did not figure prominently in these summits, nor were they incorporated into the plan which emerged from the process as a basis for ending the conflict. The failure to incorporate rights issues into the negotiating process and assure that political and military leaders would be held responsible for abuses during the conflict raised concerns that negotiations may serve as a way of avoiding accountability and foster the culture of impunity in central Africa. While the European Union threatened to cut off aid to states involved in the conflict if a negotiated solution could not be found, the respect of human rights by the armies of E.U. aid recipients was not specifically mentioned as a condition to avoid a suspension of aid.

SADC's peace initiative was seriously compromised from the onset by the internal rift within SADC between Zimbabwe, Angola, and Namibia, which intervened militarily on behalf of the Congolese government, and South Africa, SADC's chair, which has persistently pushed for a political settlement. South Africa initially opposed the military intervention by SADC members in Congolese affairs, but later accepted it as legitimate.¹⁰⁷ The armed conflict has shattered the regional alliance that backed President Kabila's own rebellion less than two years ago and now pits Angola and Zimbabwe against their former allies Rwanda and Uganda, who back the rebels.

Successive rounds of regional talks broke down, mainly due to President Kabila's adamant refusal to negotiate face to face with the rebel Congolese Rally for Democracy. Another major hurdle in the negotiations was the persistent denial of Rwanda, until early November, of its direct involvement in the conflict. Rwanda and Uganda backed the rebels' demand to be present in any peace negotiations, short of which, the Rally threatened, it will not be bound by any cease-fire deal. The SADC meetings were coordinated by

¹⁰³ Human Rights Watch interview with women's development and human rights NGO, Panzi, December 10, 1999.

¹⁰⁴ Human Rights Watch telephone interview to Brussels, New York, December 14, 1998.

¹⁰⁵ "UNICEF condemns recruitment of DRC children by rebels, government," AFP, Geneva, August 14, 1999.

¹⁰⁶ Human Rights Watch interview with humanitarian NGO, Bukavu, December 9, 1999.

a regional heads of state committee chaired by Zambia and supported by the Organization of African Unity (O.A.U.) and the United Nations (U.N.). Both the O.A.U. and the U.N., as well as other leading members of the international community, initially took back seats in the search for peace, leaving the lead to SADC's committee.

The role of the Organization of African Unity in the search for peace also failed to resolve the conflict. France, the O.A.U., and the U.N. attempted to arrange a "pre-cessé-fire agreement" between the key players in the conflict in Paris in late November, during the 20th Franco-African Summit. An expected formal agreement again failed to materialize in a summit of the O.A.U.'s Mechanism for Conflict Prevention, Management, and Resolution held in Ouagadougou on December 17. The meeting, which was to last two days, adjourned after twelve hours, exposing a lack of direction and effectiveness in O.A.U.'s mediation efforts.

On August 31, the U.N. Security Council issued a presidential statement that expressed alarm at the plight of the civilian population throughout the country and urged all parties to respect and protect human rights and respect humanitarian law. The statement also called for a cessé-fire, the withdrawal of foreign forces, and the engagement of a political dialogue to end the war in the Congo. In another statement issued on December 11, the council reiterated its call for a peaceful solution to the conflict in the Congo, and said it would consider "the active engagement of the United Nations" to assist in implementing an effective cessé-fire there, as well as a political settlement. The council also condemned violations of human rights and humanitarian law and pressed for unhindered humanitarian access to those displaced by the war.

The collapse of the close alliance between Rwanda and Congo appeared to have encouraged the latter to revise its relationship with the United Nations. On January 11, Leonard Okitundu, the DRC's minister for human rights, extended a written invitation to the U.N. special rapporteur on human rights in Congo, Roberto Garretón, to return to the country, and promised that the rapporteur "will be able to work freely and transparently" to investigate human rights conditions in the country. Garretón subsequently planned a mission to Congo for February 16-23, 1999. Appointed under a 1994 resolution of the Commission on Human Rights, Garretón was effectively barred from entering the country in 1997 following stinging reports he issued about human rights conditions under President Kabila, including massacres of Hutu refugees during the 1996-1997 war which brought Kabila to power. Okitundu also stated that the government planned to establish a national commission of inquiry into the massacres, and reiterated his country's readiness to cooperate with a renewed U.N. probe of the massacres, a promise repeatedly made by DRC officials since the start of hostilities with Rwanda, reflecting a clear reversal in their position. Up until August 1999, Kabila's government had consistently blocked attempts by the United Nations to carry out a complete investigation of these massacres. A previous Human Rights Watch investigation found that Rwandan forces were responsible for the majority of the massacres of Hutu refugees during the 1996-1997 war. The Congolese government has yet to show that it is willing to investigate and hold accountable its own soldiers who may have participated in these and other abuses. The failure to date of the international community to do so and punish those found responsible has contributed to the growing culture of impunity in the region.

THE EUROPEAN UNION

The E.U. repeatedly expressed concern about the Congo crisis, including a rhetorical commitment to human rights, but neither its statements nor the missions conducted by its special envoy had any discernible impact. However, E.U. representatives have taken an increasingly public stance threatening to link E.U. aid programs to the ongoing Congo crisis. In September, Jacques Santer, president of the European Commission, stated that the European Union should revise its assistance programs to ensure that no aid was being used to further the conflict.¹⁰⁸ In November, during President Kabila's visit to Brussels, E.U. Development Commissioner João de Deus Pinheiro referred to Congo's human rights obligations under article 5 of the Lomé Convention and made it clear that the resumption of E.U. development assistance to Congo would depend on preconditions including the establishment of the rule of law and a process of democratization.¹⁰⁹

A stronger line more directly threatening E.U. aid to countries involved in the Congo crisis was taken in December with an E.U. statement issued at the Paris Club consultative group meeting in Kampala: "If no political solution is aggressively pursued, the E.U. might find it increasingly difficult to continue its present level of budgetary assistance to

¹⁰⁸"L'aide de l'UE devrait être refusée aux belligérents, selon Jacques Santer," *Agence France-Presse*, September 6, 1999.

¹⁰⁹Agence Europe, "E.U./Congo: Mr. Pinheiro specifies conditions under which E.U. could resume cooperation and financial support to Congo," *Brussels*, November 27, 1998.

countries involved in the conflict, should they persist on the military option.” The statement went on to call for an immediate cease-fire and the beginning of a process leading to the withdrawal of all foreign troops. Ugandan involvement in Congo was also singled out by the E.U. statement, which acknowledged Uganda’s legitimate security concerns along its border with Congo but continued: “it is doubtful that the current level of military presence and activity up to 700 kilometers away from the Ugandan border solely serves that purpose.”¹¹⁰

The United States

ALTHOUGH THE U.S. HAS REPEATEDLY CALLED FOR A CEASE-FIRE AND THE WITHDRAWAL OF ALL FOREIGN FORCES, U.S. OFFICIALS HAVE MISSED MANY OPPORTUNITIES TO RAISE CONCERNS ABOUT HUMAN RIGHTS VIOLATIONS BY ALL PARTIES TO THE CONFLICT AND TO EXERT PRESSURE ON THOSE PARTIES TO ABIDE BY INTERNATIONAL HUMAN RIGHTS STANDARDS. THE EARLY RELUCTANCE OF THE U.S. TO PUBLICLY CRITICIZE REPORTED ABUSES BY THE RCD FORCES AND THE ARMED FORCES OF THE ALLIED RWANDAN AND UGANDAN GOVERNMENTS FUELED A WIDESPREAD PERCEPTION THAT ITS POLICY IS SKEWED IN FAVOR OF THOSE PARTIES, ESPECIALLY SINCE IT IS TOWARD THOSE FORCES THAT THE U.S. HAS THE MOST IMMEDIATE FORMS OF LEVERAGE AND INFLUENCE. UNFORTUNATELY, EVEN THE U.S. DELEGATION LED BY ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS SUSAN RICE THAT VISITED THE REGION IN LATE OCTOBER—EARLY NOVEMBER 1998 FAILED TO TRANSMIT A CLEAR AND PUBLIC MESSAGE ABOUT THE NEED FOR ALL PARTIES TO RESPECT FUNDAMENTAL HUMAN RIGHTS AND FOR THOSE RESPONSIBLE FOR ABUSES TO BE HELD ACCOUNTABLE.

ON THE CONGOLESE GOVERNMENT SIDE, U.S. POLICY HAS BEEN CONSIDERABLY MORE FORCEFUL. CONDEMNATION OF THE ROUND-UP AND KILLING OF ETHNIC TUTSIS, THE USE OF HATE RADIO, AND THE POTENTIAL FOR A NEW ROUND OF GENOCIDE HAVE FIGURED PROMINENTLY IN U.S. STATEMENTS, AS HAVE CALLS FOR THE KOBILA GOVERNMENT TO INSTITUTE AN INCLUSIVE AND PARTICIPATORY TRANSITION TO DEMOCRACY. MORE RECENTLY, THE U.S. HAS ALSO STRESSED ITS CONCERN ABOUT REPORTS THAT ELEMENTS OF THE EX-FAR AND INTERAHAMWE ARE BEING RECRUITED BY KOBILA, CONDEMNING “ANY COLLABORATION OR COOPERATION WITH THESE INDIVIDUALS OR THE GENOCIDAL POLICIES THEY ESPOUSE.”¹¹¹

REGARDING THE REBEL FORCES, HOWEVER, U.S. STATEMENTS HAVE BEEN LIMITED TO GENERAL ADMONISHMENTS TO RESPECT HUMAN RIGHTS AND THE SAFETY OF HUMANITARIAN WORKERS. THROUGHOUT 1998, NO SPECIFIC MENTION WAS MADE ABOUT REPORTS OF MASSACRES AND SUMMARY AND ARBITRARY EXECUTIONS, SUCH AS THE KASIKA MASSACRE, OR OF THE REBEL PRACTICES OF ARBITRARY ARRESTS, ILLEGAL DETENTIONS, AND “DISAPPEARANCES” OR KILLINGS OF THOSE SUSPECTED OF OPPOSING THEIR POLICIES. ON JANUARY 7, 1999, HOWEVER, THE STATE DEPARTMENT ISSUED A STATEMENT RAISING CONCERNS ABOUT PRESS REPORTS OF A MASSACRE OF CIVILIANS BY RCD FORCES BETWEEN DECEMBER 30 AND JANUARY 1—OBVIOUSLY REFERRING TO THE MAKABOLA MASSACRE, BUT NOT NAMING THIS LOCALITY—AND URGING THE REBELS TO ALLOW ACCESS TO THE SITE BY INDEPENDENT INVESTIGATORS.

THE CONFUSED MESSAGES BEING SENT BY THE CLINTON ADMINISTRATION WERE PARTICULARLY MUDDLED IN MID-OCTOBER, WHEN THE U.S. WENT FORWARD WITH AN INTERNATIONAL MILITARY EDUCATION AND TRAINING (IMET) PROGRAM FOR THE RWANDAN MILITARY, EVEN THOUGH THE OTHER AFRICAN COUNTRIES SCHEDULED TO PARTICIPATE HAD PULLED OUT. ALTHOUGH THE PROGRAM’S REPORTED CONTENT WAS NOT CONTROVERSIAL, FOCUSING ON MILITARY ADMINISTRATION, THE U.S. DECISION TO CONTINUE MILITARY TRAINING FOR ONE OF THE PARTIES TO THE CONGO CONFLICT WHICH HAS BEEN ACCUSED OF INVOLVEMENT IN ATROCITIES AGAINST CIVILIANS ONLY SERVES TO REDUCE CREDIBILITY FOR U.S. POLICY.

¹¹⁰“E.U. warns of aid cutoff to countries with troops in DR Congo,” AGENCE FRANCE-PRESSE, DECEMBER 9, 1998.

¹¹¹“UNITED STATES CONCERNED ABOUT RWANDAN REFUGEE MOVEMENTS.” STATEMENT BY JAMES RUBIN, SPOKESMAN, U.S. DEPARTMENT OF STATE, NOVEMBER 13,

IN ITS OVERRIDING CONCERN ABOUT GENOCIDE IN THE REGION, THE U.S. ADMINISTRATION FREQUENTLY LOST OPPORTUNITIES TO CONDEMN OTHER INSTANCES OF CRIMES AGAINST HUMANITY. AS AMBASSADOR AT LARGE FOR WAR CRIMES ISSUES DAVID SCHEFFER ACKNOWLEDGED IN A DECEMBER 10 ADDRESS, "[H]ISTORY ...TEACHES US THAT WE HAVE TO BE PREPARED TO RESPOND TO SITUATIONS OF WIDESPREAD OR SYSTEMATIC KILLING, RAPE OR OTHER ABUSES—AND THAT THOSE DESERVE THE SAME MORAL CONDEMNATION, CRIMINAL PROSECUTION, AND EFFORTS TO PREVENT AND PUNISH THAT WE GIVE TO THE CRIME OF GENOCIDE. CRIMES AGAINST HUMANITY CAN OCCUR—AND HAVE OCCURRED—in SITUATIONS WHERE THE SPECIFIC REQUIREMENTS OF GENOCIDE HAVE NOT BEEN MET. WE MUST NOT UNDERESTIMATE THEIR SIGNIFICANCE."¹¹² THIS RECOGNITION OF THE BROADER PROBLEM OF CRIMES AGAINST HUMANITY IN THE REGION HAS NOT BEEN GIVEN SUFFICIENT ATTENTION BY U.S. POLICY MAKERS.

BEYOND THE CURRENT POLITICAL CONSIDERATIONS, U.S. ASSISTANCE TO THE CONGO REMAINS SUBJECT TO LEGISLATIVE CONSTRAINTS, PRIMARILY THE BROOKE AMENDMENT AND THE FAIRCLOTH AMENDMENT.¹¹³ UNDER THE STATE DEPARTMENT'S OFFICE OF TRANSITION INITIATIVES, HOWEVER, IN DECEMBER 1998 THE U.S. RE-OPENED TWO OF THREE REGIONAL OFFICES (KANANGA AND LUBUMBASHI; BUKAVU IN THE EAST REMAINS CLOSED) THAT HAD BEEN EFFECTIVELY CLOSED SINCE THE START OF THE CRISIS IN EARLY AUGUST. THE STATED PURPOSE OF THE REGIONAL OFFICES HAS BEEN REVISED, TOWARD THE SUPPORT OF CIVIL SOCIETY AND SUPPORT FOR THE CREATION OF CONDITIONS THAT WOULD MAKE A VIABLE TRANSITION TO DEMOCRACY POSSIBLE.

¹¹² AMBASSADOR DAVID J. SCHEFFER DELIVERS REMARKS ON GENOCIDE RECOGNITION AND PREVENTION AT GENOCIDE CONVENTION AT THE HOLOCAUST MUSEUM, WASHINGTON D.C., DECEMBER 10, 1998.

¹¹³ THE BROOKE AMENDMENT PROHIBITS U.S. ASSISTANCE TO COUNTRIES IN ARREARS ON THEIR DEBT. SECTION 575 OF THE 1999 APPROPRIATIONS BILL, KNOWN AS THE FAIRCLOTH AMENDMENT, STATES THAT NO FUNDS CAN BE PROVIDED TO THE CENTRAL GOVERNMENT OF CONGO UNTIL THE PRESIDENT REPORTS TO CONGRESS THAT THE CENTRAL GOVERNMENT IS: 1) INVESTIGATING AND PROSECUTING THOSE RESPONSIBLE FOR HUMAN RIGHTS ABUSES IN CONGO AND 2) IMPLEMENTING A CREDIBLE DEMOCRATIC TRANSITION. ASSISTANCE CAN BE PROVIDED TO PROMOTE DEMOCRACY AND THE RULE OF LAW AS PART

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