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DEMOCRATIC REPUBLIC OF CONGO

Deadly Alliances in Congolesse Forests

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Deadly alliances in Congolesse forests

In November 1996, an estimated 700,000 Rwandese refugees returned to Rwanda from camps in eastern Democratic Republic of Congo (DRC), formerly known as Zaire. Information received at the time by Amnesty International indicated that the refugees were returning to Rwanda to escape the armed conflict and the deliberate targeting of refugees and refugee camps. Human rights and humanitarian organizations expressed concern that many of the more than 1,000,000 refugees from Rwanda and several hundred thousand from Burundi were being deliberately and arbitrarily killed in large numbers by forces of the main armed opposition group, the *Alliance des forces démocratiques pour la libération du Congo* (AFDL), Alliance of the Democratic Forces for the Liberation of Congo.

Sympathizers and supporters of the AFDL claimed that those who fled westwards -further into the interior of the DRC -- were Rwandese Hutu extremists escaping justice for the genocide they had committed in 1994 in Rwanda. In this way, governments legitimized the killing and targeting of unarmed civilians and refugees who were accused of "guilt by association" with the armed elements. As there were no measures taken to prevent unarmed refugees, none were taken either to prevent the killing of unarmed Congolesse civilians. Since then, widespread massacres of unarmed civilians, a large number of them women, children, the seriously ill and the elderly, have been reported by numerous sources in the DRC as late as October 1997.

The massacres initially took place in a context of armed clashes between opponents and supporters of former President Mobutu Sese Seko. The opponents fighting Mobutu 's forces included mainly the AFDL, which comprised Congolesse armed opposition groups, members of the Rwandese Patriotic Army (RPA) and forces of the Burundian, Angolan and Ugandan armies, and other forces. Supporters of President Mobutu comprised various branches of the *Forces armées zairoises* (FAZ), Zairian Armed Forces, members of the armed Angolan opposition group known as the *Uniao Nacional para a Independência Total de Angola* (UNITA) and several hundred mercenaries led by a former Belgian colonel. Most of the mercenaries were reportedly Serbs and Croats. Former members of the Rwandese army and *interahamwe* militia also participated in armed opposition to the AFDL

Most of the killings and other grave abuses against Rwandese Hutu refugees since September 1996 and throughout 1997 are reported to have been carried out by the AFDL and the RPA. Hundreds of Congolese thought by the AFDL to be sympathetic to Hutu or hostile to what they perceive as Tutsi domination are also reported to have been killed.

Reports received by Amnesty International during the past year have led the organization to conclude that the AFDL and the RPA carried out a deliberate and calculated policy in the DRC to kill large numbers of mainly unarmed Hutu, using direct violence or other methods. Since the start of 1997, a number of humanitarian organizations have said that they were being used by the AFDL to lure refugees from their hiding to be killed. An independent and impartial inquiry is required to establish at what level these actions were ordered, encouraged or condoned by the AFDL leadership, and whether there was an intent to kill or cause the death by other means of all or many of the refugees. If this was the case, it could constitute evidence that genocide or other crimes against humanity may have been committed, particularly against members of the Hutu ethnic group.

This report covers human rights abuses committed in the DRC since March 1997. It portrays a sustained pattern of atrocities committed principally against Rwandese, Burundian and Congolese Hutu, but also against Congolese nationals from other ethnic groups. The organization is urging world governments and inter-governmental organizations to use their influence to ensure that measures proposed in this report to prevent human rights abuses are implemented by the DRC Government. President Kabila and his government should also undertake to adhere to and enforce international human rights law and standards, as well as national laws for the protection of human rights. Now is the time for the new government to sign a new contract with all the people of the DRC, regardless of their ethnic origin, beliefs, sex, race, religion or language.

KEYWORDS: CRIMES AGAINST HUMANITY1 / MASS KILLINGS1 / ETHNIC GROUPS1 / ARMED CONFLICT/ WAR CRIMES / INDISCRIMINATE KILLINGS / REFUGEES / FOREIGN NATIONALS / WOMEN / CHILDREN / AGED / NON-GOVERNMENTAL ENTITIES / MILITARY / FORMER GOVERNMENTS / SECOND GOVERNMENTS / PHOTOGRAPHS /

This report summarizes a 48-page document (20,012 words): *DEMOCRATIC REPUBLIC OF CONGO: Deadly alliances in Congolese forests* (AI Index: AFR 62133197) issued by Amnesty International on 3 December 1997. Anyone wishing further details or to take action on this issue should consult the full document.

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DEMOCRATIC REPUBLIC OF CONGO

Deadly alliances in Congolese forests

1. Introduction

In November 1996, an estimated 700,000 Rwandese refugees returned to Rwanda from camps in eastern Democratic Republic of Congo (DRC), formerly known as Zaire¹. Information received at the time by Amnesty International indicated that the refugees were returning to Rwanda to escape the armed conflict and the deliberate targeting of refugees and refugee camps. Human rights and humanitarian organizations expressed concern that many of the more than 1,000,000 refugees from Rwanda and several hundred thousand from Burundi were being deliberately and arbitrarily killed in large numbers by forces of the main armed opposition group, the *Alliance des forces démocratiques pour la libération du Congo* (AFDL), Alliance of the Democratic Forces for the Liberation of Congo. Many governments sympathetic to the AFDL and its allies, particularly the Rwandese and Ugandan governments, rejected these concerns. An attempt was made in late 1996 to set up a Canadian-led multinational force to "facilitate the immediate return of humanitarian organizations and the effective delivery by civilian relief organizations of humanitarian aid to alleviate the immediate suffering of displaced persons, refugees and civilians at risk in eastern Zaire, and to facilitate the voluntary, orderly repatriation of refugees by the United Nations High Commissioner for Refugees as well as the voluntary return of displaced persons, ...". The force, set up by UN Security Council Resolution 1080 (1996) on 15 November 1996, was called off in December 1996.

1.1 Forces against the protection of unarmed civilians

Some governments and other opponents of the multinational force claimed that most **of the** refugees had returned and that those who failed to do so were combatants, such as members of the former Rwandese armed forces, known as the ex-FAR (*Forces armées rwandaises*), and former Rwandese Hutu militia, known as the *interahamwe*, who were responsible for the 1994 genocide in Rwanda. This had the effect of making the AFDL and its allies believe that the international community considered Rwandese Hutu nationals left in the DRC as legitimate targets. Sympathizers and supporters of the AFDL added that those who fled westwards - further into the interior of the DRC - were Rwandese Hutu extremists escaping justice for the genocide they had committed in 1994 in Rwanda. Some implied and others stated explicitly that if the refugees were killed, they deserved no sympathy. In this way, governments legitimized the killing and targeting of unarmed civilians and refugees who were accused of "guilt by association" with the armed elements. As there were no measures taken to prevent the killing of unarmed refugees, none

¹ When it took power on 17 May 1997 the AFDL-led government changed the country's name from the Republic of Zaire to the Democratic Republic of Congo.

were taken either to prevent the killing of unarmed Congolese civilians. Since then, widespread massacres of unarmed civilians, a large number of them women, children, the seriously ill and the elderly, have been reported by numerous sources in the DRC as late as October 1997.

The massacres initially took place in a context of armed clashes between opponents and supporters of former President Mobutu Sese Seko. The opponents fighting Mobutu's forces included mainly the AFDL, which comprised Congolese armed opposition groups, members of the Rwandese Patriotic Army (RPA) and forces of the Burundian, Angolan and Ugandan armies, and other forces. Supporters of President Mobutu comprised various branches of the *Forces armées zairoises* (FAZ), Zairian Armed Forces, members of the armed Angolan opposition group known as the *Uniao Nacional para a Independência Total de Angola* (UNITA) and several hundred mercenaries led by a former Belgian colonel. Most of the mercenaries were reportedly Serbs and Croats. Ex-FAR and *interahamwe* also participated in armed opposition to the AFDL.



Refugees returning to Rwanda in November 1996 , many among several hundred thousand others who remained in the DRC were killed

In addition to massacres and other deliberate and arbitrary killings, the combatants of all sides to the conflict also perpetrated abductions, torture, rape, arbitrary detentions. By far the largest single group of those reported to have been killed are members of the Hutu ethnic group, mainly Rwandese refugees, but also Burundian refugees and Congolese (ex Zairian) nationals. Sources in the DRC estimate that thousands, and possibly tens of thousands, have been deliberately and arbitrarily killed since September 1996. Humanitarian organizations such as the United Nations High Commissioner for Refugees (UNHCR) have estimated that as many as 200,000 Rwandese refugees in the DRC remain unaccounted for; many of them are presumed dead. Hutu are reported to have been relentlessly and actively sought out in forests and make-shift camps around the DRC and killed. While most of the victims were reportedly shot dead, others were beaten to death by the AFDL and its allies.

Bodies of refugees killed in Katale camp, eastern DRC, in late 1996; government representatives and others continued to claim that reports of unarmed refugees being targeted by the AFDL were unfounded.

Many others died from exposure, starvation and disease after humanitarian organizations were deliberately denied access to the refugees.



Most of the killings and other grave abuses against Rwandese Hutu refugees since September 1996 and throughout 1997 are reported to have been carried out by the AFDL led by Laurent-Désiré Kabila who became the President of the DRC on 17 May 1997. Hundreds of Congolese thought by the AFDL to be sympathetic to Hutu or hostile to what they perceive as Tutsi domination are also reported to have been killed. Amnesty International has received reports that individual officers and even whole units of the RPA carried out numerous killings. The AFDL is also reported to have received support in personnel and military equipment from Burundi, Uganda and Angola and fighters from as far away as Somalia, Eritrea and Ethiopia, although their involvement in killings and other abuses has remained unclear. Information received by Amnesty International suggests that it was difficult to distinguish units composed solely of nationals of the DRC from those composed of foreign combatants. However, a number of sources in the DRC have claimed that non Tutsi combatants often refused to take part in the killings, at times resulting in armed clashes between Tutsi and non-Tutsi members of the AFDL. It is believed that the units were often mixed and in this and other reports they are generally referred to as AFDL. Rank and file combatants often said that they were carrying out orders from their commanders but refused to reveal the commanders' identities. Sources in the DRC have concluded that the identities were kept secret because if revealed they would indicate the foreign origin of the commanders. In some cases it is believed that individual commanders or units may have been under orders from their home governments, rather than from the AFDL leadership which took power on 17 May 1997.

In addition to the attack on the refugees, denial of access to the camps by humanitarian workers while the refugees fled or were being killed appears to have been deliberate. Whereas the initial AFDL attacks and other actions against the refugees could have been ordered locally, the top AFDL leadership was clearly aware of the obstructions to humanitarian workers and the effect this was having on the victims. When humanitarian and human rights organizations, as well as some governments, expressed concern about the killings and severe ill-treatment of refugees, President Kabila reportedly said that it was a "minor problem". On 20 June President Kabila was quoted by *Agence France Presse* (AFP) saying on DRC national television that "there have never been any massacres" (*Il n'y a n y a jamais eu de massacres*) of refugees.

1.2 International standards violated by parties to the conflict

Different forms of international law were applicable to the different parties at different stages of the armed conflict. Prior to 17 May 1997, when the current government assumed power, the forces of the then Zairian Government were bound by international human rights treaties which the government had ratified, including the International Convention of Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR).

The principles enunciated in Common Article 3 of the Geneva Conventions of 1949 applied to all parties during the armed conflict, including the forces of the AFDL and their supporters. Common Article 3 applies to an internal armed conflict and protects the fundamental rights of all persons who take no active part in the conflict, including members of the armed forces

who have laid down their arms. It forbids violence to life and person, in particular humiliating and degrading treatment.

Once the AFDL had assumed power, it was bound, as a successor government, by all the international treaties ratified by its predecessor, including the ICCPR and the ACHPR. The current government therefore has an international legal obligation not to violate the provisions of these treaties which include protection of the right to life and a prohibition of torture, cruel, inhuman or degrading treatment which are core rights which cannot be derogated from even during times of war or public emergency.

1.3 Amnesty International's work for human rights in the DRC

Since October 1996, Amnesty International has published reports about abuses committed by members of the AFDL, FAZ and other forces. The organization has appealed to leaders of the forces to issue public instructions to make it clear that human rights abuses will not be tolerated, and that governments should bring those responsible to justice. None of these appeals have been heeded. In October 1997 AFDL soldiers were reputedly continuing to carry out unlawful killings, "disappearances", torture including rape and other grave human rights violations with impunity, although the AFDL-led government has repeatedly said it is committed to the rule of law.

In March 1997, Amnesty International submitted a Memorandum to the United Nations (UN) Security Council² calling for the establishment of a commission of Inquiry to investigate reports of human rights abuses in eastern DRC. At the request of the UN High Commissioner for Human Rights, in late March the UN Special Rapporteur on Zaire led a fact-finding team to gather information about allegations of widespread violations of human rights. Although the AFDL restricted his movements, the Special Rapporteur submitted a report to the UN Commission on Human Rights. It is on the basis of this report that the Commission meeting in Geneva decided in April 1997 that a Joint Mission be sent to eastern Zaire to investigate reports of violations of human rights and humanitarian law. The mission was led by the UN Special Rapporteur on Zaire, and included the UN Special Rapporteur on extrajudicial, summary or arbitrary killings and a member of the Working Group on Forced or Involuntary Disappearances. The AFDL denied the mission access to the region and no investigation occurred. After consultations with the UN Security Council and the DRC Government, the UN Secretary-General sent his own investigative team to the country in August 1997. The government persistently frustrated the team's efforts to begin investigations and its leaders were recalled to New York in early October 1997 for consultations. The AFDL leadership has continued to deny all allegations of human rights abuses by its forces. In October 1997 the DRC Government agreed to an investigation by the UN Secretary-General's investigative team, but a number of obstacles still remained in ensuring a full independent investigation (see chapter 12).

² zaire: Amnesty International's memorandum to the UN Security Council: Appeal for a commission of inquiry to investigate reports of atrocities in eastern Zaire, AI Index: AFR 62/11/97, published on 24 March 1997.

Amnesty International is concerned that the AFDL has used all means, including denial of access to human rights and humanitarian organisations to areas where abuses have been reported, to prevent a thorough investigation of the massacres. Various sources in the DRC have reported that the AFDL and its allies have been using various methods, including burning bodies and dumping them in rivers, to conceal evidence of the atrocities.

In order to give the DRC a fresh start based on a durable rule of law, it is imperative to reveal the truth about what occurred during and after the armed conflict involving AFDL, RPA, FAZ and other armed groups in the DRC. It is crucial to leave no doubt in the minds of the international community, survivors of the killings and the public, as to what the intentions and responsibilities of the perpetrators of the abuses were. The DRC and other governments that supported the AFDL, should make an unequivocal commitment to cooperate with and facilitate the investigation by the UN Secretary General's investigative team. The DRC Government and the wider international community should commit themselves to bringing to justice perpetrators of human rights abuses identified by the investigative team and other independent and impartial bodies.

This report covers human rights abuses committed in the DRC since March 1997³. It portrays a sustained pattern of atrocities committed principally against Rwandese, Burundian and Congolese Hutu, but also against Congolese nationals from other ethnic groups. Amnesty International highlights the fact that crimes against humanity have been committed with impunity and that leaders of the forces in the country have consistently denied the crimes. The organization is urging world governments and inter-governmental organizations to use their influence to ensure that measures proposed in this report to prevent human rights abuses are implemented by the DRC Government. President Kabila and his government should also undertake to adhere to and enforce international human rights law and standards, and national laws for the protection of human rights. A failure to do so can only perpetuate human rights abuses and impunity to which people in the DRC have been subjected for far too long. Now is the time for the new government to sign a new contract with all the people of the DRC, regardless of their ethnic origin, beliefs, sex, race, religion or language.

³ Reports published by Amnesty International about human rights abuses in the DRC between September 1996 and March 1997 include *Action needed to protect thousands from further killings in eastern Zaire* (AI Index: AFR 62/04/96 *Amnesty International condemns human rights violations against Tutsi* (AI Index: AFR 62/13196), *Lawlessness and insecurity in North and South Kivu* (AI Index: AFR 62/14196), *Killings, torture and arbitrary arrests persist amidst international indifference* (AI Index: AFR 62/20/96 *1 violent persecution by state and armed groups* (AI Index:

Amnesty international has sought to initiate a dialogue with the AFDL before and after it came to power. More recently, in August 1997⁴ the organization submitted to the government a 27-page Memorandum entitled *Memorandum to the DRC Government Amnesty International 's Recommendations for legal reform* (AI Index: TG AFR 62/97.10), dated 8 August 1997. The memorandum contains an overview of human rights abuses which have occurred in the DRC, particularly since independence in 1960, and a number of recommendations for fostering the rule of law in the country. In a separate letter, Amnesty International expressed its wish to visit the DRC to discuss with the country's authorities including President Kabila - the organization's recommendations and to gather information about recent human rights abuses in the DRC. At the start of November 1997 Amnesty International received a response from a top official of the DRC Ministry of Foreign Affairs dated 23 September 1997. The response failed to address the concerns contained in the memorandum and claimed that "during the entire military campaign for liberation of our country, the respect and the protection of human life was a top priority It was a war that was conducted with a minimum loss of lives". Furthermore, the letter did not mention whether the DRC Government had considered Amnesty International's recommendations or whether it intended to implement them. Regarding the organization's wish to visit the DRC with a view to discussing and collecting information about human rights concerns, the official responded, "As far as the proposed visit of Amnesty International's high profile delegation is concerned, the government has taken the view that such a visit is no[t] longer required at this particular point in time". The official suggested that this was because the work of Amnesty International was identical to that of the UN Secretary-General's investigative team. He added "However, the expertise of Amnesty International might be sought in other areas in the future. When needed, the government of the Democratic Republic of Congo will not hesitate to call up on the International Secretariat".

⁴ Copies of this memorandum in English and French can be obtained from the International Secretariat of Amnesty International in London and its national sections around the world.

In view of the letter received from the ministry of foreign affairs, a direct discussion between the DRC authorities and Amnesty International may take some time. The organization has therefore decided to make the memorandum public in December 1997. Amnesty International hopes that the DRC Government will consider the recommendations and that the international community, particularly governments and intergovernmental organizations, will encourage it to implement them. Amnesty International will continue to request a visit to the DRC at the earliest opportunity.

2. Deliberate and arbitrary killings by the AFDL and its allies

By March 1997, the AFDL had captured much of eastern (ex-) Zaire from former President Mobutu's retreating FAZ and several hundred mercenaries. Armed clashes were also reported between the AFDL and the ex-FAR and *interahamwe* militia. The presence of armed elements among or close to unarmed Hutu refugees was usually given as justification for attacking the refugees. However, a pattern of wanton killing of Hutu, initially males of fighting age, was established as early as December 1996. By March, Amnesty International was receiving reports of AFDL killing Hutu of all ages and sexes, particularly when fighting reached the Congolese Hutu-dominated Masisi and Rutshuru districts (*zones*) of North-Kivu (*Nord-Kivu*) province. Violence in the province was reported to be continuing in October 1997.

Killings of refugees which began in October 1996 in the camps along the DRC border with Rwanda and Burundi continued as the AFDL and its allies captured more territory, through to the DRC's western border with the Republic of Congo. The refugees who had managed to escape westwards from the camps walked hundreds of kilometres and frequently set up make-shift camps. Humanitarian agencies distributed food and medical supplies, as and when they could, to these camps. Settlement in camps subsequently enabled the AFDL and its allies to locate the refugees and on occasions kill hundreds of them at a time. The AFDL allowed humanitarian agencies to locate and attract refugees out of their hiding and then blocked the agencies' access to the camps. In many cases the agencies appealed to local AFDL leaders to be allowed immediate access to the refugees but to no avail. Distressed representatives of some of the agencies have told Amnesty International that it is during the period when camps were blocked off that most of the massacres occurred. Many of the humanitarian workers who had worked in armed conflicts in other parts of the world said they had never witnessed comparable use of humanitarian organizations to facilitate human rights abuses

2.3 Massacres of Congolese by the AFDL in eastern DRC

Congolese from various ethnic groups known or suspected to have offered assistance to Hutu have been attacked and killed by the AFDL. For example, more than 30 people were reportedly shot dead and many others injured at Mudja, Bukumu county (*collectivité*) of North-Kivu's Nyiragongo district on 12 May. AFDL combatants reportedly suspected that Rwandese refugees had been living in the area. On the morning of 12 May a local AFDL commander based at nearby Rusanyo military post reportedly arrived in the village, ostensibly to seek the assistance of the

local chief (*chef de groupement*) and his people to join AFDL fighters to track down *interahamwe* in hiding. A short distance from the village, the AFDL combatants reportedly ordered the local people to lie on the ground, before opening fire on them. Those killed included a 77-year-old woman known as **Ndamubuya**, 44-year-old Kasinga Ndamugabumwe and Sinsiri Kyuka, a 30-year-old member of the minority Twa ethnic group. Hundreds of residents of the village reportedly fled to other parts of North-Kivu.

Amnesty International has received numerous reports of people killed after they were summoned to meetings by the AFDL, a method reported to have been frequently used by the RPA in Rwanda, particularly in early 1994. For example, on 11 March members of the AFDL are reported to have surrounded and killed at least 30 residents of Mushabambwa village in Bukombo parish (*groupement*), Bwito county, in North-Kivu province's Rutshuru district. The victims and many other people in the area had reportedly been summoned by the AFDL to a public meeting. While the crowd waited to be addressed by AFDL officials, armed members of the AFDL opened fire on them, apparently without warning. Survivors fled into the bush. A woman who received bullet wounds in the hand and shoulder was reported in April to be receiving medical care in Goma. In a separate incident at the end of July 1997 several hundred people who had come to a meeting at Mushangwe, Bashali county in Masisi district, were reportedly burned alive in houses into which they had been herded.

On 13 March, members of the AFDL at Lwana, Bunyakiri, some 80 kilometres northwest of Bukavu, reportedly deliberately and arbitrarily killed about 100 local people. The victims were reportedly targeted because they provided shelter and food to Hutu refugees. There were reports that Rwandese Hutu, including former *interahamwe* militia and ex-FAR were hiding in surrounding forests. They were often tracked down by members of the AFDL who killed some of them; bodies of the victims were reportedly frequently burned. After the massacre at Lwana, local people demanded that a nearby transit camp for Rwandese refugees be closed down.

Around Uvira in South-Kivu province, tensions between the AFDL and members of the Vira, Bembe and Fuliro ethnic groups considered to be opposed to Tutsi domination have been high. The AFDL is reported to have killed members of these ethnic groups in South-Kivu on suspicion of belonging to armed groups opposed to the AFDL. Sources in Uvira have claimed that AFDL officials accused the victims of having supported or participated in the persecution of Tutsi in South-Kivu province before the AFDL took control of eastern DRC.

As many as 120 unarmed civilians were reportedly gunned down on 26 May 1997 by members of the AFDL in Uvira town. The victims were reportedly participating in a demonstration against the killing of about 10 people on the night of 25 to 26 May by gunmen who local people suspected to be members of the AFDL. On 26 May several hundred people gathered in Uvira town to demonstrate against these and other killings by the AFDL in and around Uvira. Demonstrators, reportedly carrying the bodies of the people killed the previous night, came from Kasenga, Kabindula and other localities of Uvira. The demonstrators met up at kakungwe where they were reportedly intercepted by members of the AFDL. One soldier is said

to have talked to his superiors on radio and soon after, the soldiers opened fire, reportedly killing more than 100 demonstrators. The Uvira District Commissioner (*Commissaire de zone*) was reportedly shot and wounded in unclear circumstances during the incident. He was reportedly hospitalized at Roi Khaled Hospital in the Burundian capital, Bujumbura.

As many as 200 Congolese Hutu and Rwandese Hutu refugees were reportedly massacred between 12 and 19 April 1997 by the AFDL at Kabizo, Rutshuru district. Bodies of the victims were reportedly burned in houses in the village. The victims included **Ntezehose Ngabigwi and Rukobwe Rutamba**. Another massacre of as many as 200 Congolese Hutu and Rwandese Hutu refugees, including **Patient Gasana Butsi** and his **sister, Louise**, is reported to have taken place at Mweso. Some of the bodies were reportedly thrown into the Mweso river while others were reportedly thrown into the bush behind Mweso parish compound.

During August and September 1997 Amnesty International received numerous reports of killings of unarmed civilians in North-Kivu province, particularly in the districts of Masisi and Rutshuru, by AFDL and RPA troops. The killings took place in the context of armed clashes between armed opposition groups and AFDL forces. The latter were reportedly supported by Rwandese government forces. Sources in Goma have reported that hundreds of truckloads of RPA soldiers were seen in August 1997 crossing the border from Rwanda to Goma and proceeding north of Goma. The armed opposition groups are reported to comprise members of an armed Congolese armed group known as *mayi-mayi* from North-Kivu and members of the former Rwandese *interahamwe* militia and ex-FAR.

In mid-July 1997 soldiers described as Tutsi were reportedly deployed in Masisi district. Sources in the area claimed that the soldiers were a mixture of members of the AFDL and RPA. On 21 July the administrator for Masisi, his assistant and non-Tutsi soldiers were reportedly removed from the district. During the following two days the soldiers who remained in the area reportedly massacred an unspecified number of unarmed civilians at Katale. Members of an armed opposition group reportedly attacked the soldiers at Katale to avenge the killings on 22 and 23 July. This attack was reportedly followed by another massacre on 29 July of unarmed civilians by members of the AFDL at Kahongole.

The soldiers also reportedly burned down the villages of Lwanguba, Buabo, Mushubagabo, Kinyangutu and Kyamarambo. During the following two days about 20 more villages were reportedly burned down by the soldiers in and around Masisi district headquarters. In early August private homes in a number of villages, as well as administrative buildings in Nyabiondo county, were reportedly destroyed and scores of unarmed civilians killed by soldiers. Patients at a local hospital and some residents of a nearby lepers' village were reportedly among the victims.

Between 2 and 5 August 1997 members of the AFDL reportedly killed as many as 800 unarmed residents of the villages of Wimbi, Alela, Abanga and Talama lying between South-Kivu and Shaba provinces on the shores of Lake Tanganyika. The soldiers reportedly came from the Shaba town of Kalemie, apparently searching for armed opposition groups. The villagers

reportedly tied white bands around their heads to show support for President Kabila but these were reportedly ignored by the AFDL soldiers who shot indiscriminately, including the elderly and children. The victims reportedly included Rwandese and Burundian refugees. Some survivors reportedly fled to neighbouring Tanzania.

3. Abductions by AFDL forces

Tens of thousands of unarmed civilians, most of them Rwandese refugees are feared dead after they were abducted or were forced into forests by the AFDL, away from the reach of humanitarian agencies. It is feared that many of the victims may have been subjected to unlawful killings or have died from starvation, exposure and curable illnesses. The most blatant of such cases was the sudden removal in late April 1997 of as many as 40,000 refugees from Kasese and Biaro camps, south of Kisangani. The refugees had been fleeing westwards from refugee camps in Kivu, as the AFDL frontline advanced. The group of refugees could not be found after they were reportedly attacked by AFDL combatants and local Congolese civilians armed with domestic weapons such as machetes.

Several days before the attack, AFDL leaders in Kisangani had restricted access to the camps by humanitarian workers to two hours a day. Local people and humanitarian workers identified most of the troops in and around Kisangani as RPA who had replaced contingents from Shaba province. Rwandese Vice-President Paul Kagame reportedly claimed in July 1997 that the RPA had played a key role in the capture of Kisangani and other key DRC towns, including Kinshasa. On 20 April six Congolese civilians were killed near Kasese camp. The killings were blamed on the refugees, although the killers are not known to have been identified. The AFDL had for several weeks been broadcasting claims that humanitarian organizations were helping refugees at the expense of Congolese nationals. On 21 April, members of the AFDL prevented humanitarian organizations from having access to the camps, although thousands, including about 5,000 at Biaro, among the 80,000 or more refugees in the two camps were severely malnourished or too ill to travel. As many as 70 refugees had been dying daily in each camp. During the subsequent three days, the camps were reportedly attacked by AFDL and Congolese civilians. A Congolese working for a humanitarian organization who was in the area at the time reported that as many as 500 refugees were killed at Kasese camp. Local people reported seeing a bulldozer being used to dig mass graves and bury those killed.

By the time humanitarian workers and journalists were allowed to visit Kasese camp on 23 April, the camp was entirely deserted. Journalists reported that they were prevented by the AFDL from examining the camp to establish what had occurred. They were also prevented from visiting Biaro. During the visit, members of the AFDL shot into the forest, claiming that they were under attack although the journalists could not detect any gunfire being returned. When some 40,000 refugees were found by humanitarian workers in subsequent days, some of them bore bullet and machete wounds. Some of the women refugees claimed that boys and men among them had been selected and taken away by the AFDL, and that gunshots were heard moments later. The AFDL denied involvement in the attack on the refugees, but continued to prevent

humanitarian organizations from going beyond Biaro to seek out refugees still in hiding or unable to walk. A Rwandese government official responsible

Woman refugee with gunshot wounds sustained in April 1997 AFDL attacks on Kasese and Biaro camps, south of Kisangani.

Howard j. Davies

By the time humanitarian workers and journalists were allowed to visit kasese camp on 23 April, the camp was entirely deserted. Journalist reported that they were prevented by the AFDL from examining the camp to establish what had occurred. They were also prevented from visiting Biaro. During the visit, members of the AFDL shot into the forest, claiming that they were under attack, although the journalists could not detect any gunfire being returned. When some 40.00 refugees were found by humanitarian workers in subsequent days, some of them bore bullet and machete wounds. Some of the women refugees claimed that boys and men among them had been selected and taken away by the AFDL, and that gunshots were heard moments later. The AFDL denied involvement in the attack on the refugees, but continued to prevent humanitarian organizations from going beyond Biaro to seek out refugees still in hiding or unable to walk. A Rwandese government official responsible



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for refugees visited the area and rejected reports that refugees had been attacked or forced out of the camps by the AFDL.

Amnesty International received reports that soldiers were seen on 29 April herding refugees southwards in the direction of Ubundu, as supplies were being brought to Biaro. Other sources reported that some 500 refugees were loaded on to a train which went south of Biaro; their fate remains unknown.

A journalist who visited Kasese camp in May 1997 reported seeing about 40 people there collecting evidence such as bullet cartridges and machetes in an apparent attempt to remove evidence of the attack. He reportedly saw a pile of firewood at the camp and he was told by two men that they were going to burn bodies. The reporter was subsequently chased away by several AFDL soldiers and civilian men armed with machetes.

There have been numerous reports of abductions by members of the AFDL in eastern DRC. Most of the victims are reported to be Congolese Hutu. For example, **Musafiri Kabanda**, a 27-year-old trader was reportedly arrested on 20 April by members of the AFDL at a roadblock at Nyanzale. The driver of the vehicle in which he was travelling was ordered by members of the AFDL to leave without him. He is not known to have been seen by November 1997. **Nyangoma**, a Hutu trader, has reportedly not been seen since after AFDL soldiers removed him from Kibirizi market in Butembo district, North-Kivu province. **Mbitsemunda Mazanga**, neighbourhood chief of Ndosho, has not been since he was taken into custody at the Gendarmerie headquarters (*circo*) in Goma, around 16 April. He has not been seen since.

Gasigwa Ruhiza, an agricultural produce seller from Nyabushongo, in Goma's Buhimba suburb, was abducted on 5 May by members of the AFDL from Katindo market. He was reportedly taken away in a green Pajero vehicle. His whereabouts have remained unknown. Local people reportedly recognized one of his abductors as an AFDL soldier.

Other Hutu who have been abducted include **Isaie Nsenga Rubaka** a nurse, and **Emmanuel Gustave Bangubute**, a seed dealer, who lived in Goma's Birere suburb on Avenue du 20 mai. They were reportedly taken by members of the AFDL on 1 May and they have not been seen since.

The whereabouts of 17 people in Rwindi, North-Kivu province, remain unknown after their arrest on 26 May 1997. They were reportedly among a group of about 20 arrested after an AFDL soldier accidentally shot a colleague. The soldier's death was reportedly blamed on the local population. Among the 17 who were abducted is one called **Kabwana**, son of Busali.

4. Torture by members of the AFDL

Many of the people who have been arrested by the AFDL have reported being subjected to torture and ill-treatment. Women have been beaten across the breasts and raped, in violation of Common Article 3 of the Geneva Conventions in the period prior to 17 May 1997 and in violation of Article 7 of the ICCPR and Article 5 of the ACHPR after that date. Men have been beaten, including on their abdomens and genitals. Some of the detainees have received as many as 40 lashes twice daily. Some members of the AFDL are reported to have spat in the mouths of their victims, a practice that many say is meant to humiliate the victims.

Detention centres notorious for torture in eastern DRC include Katindo military barracks, in a cell known as *Israel*, and at the headquarters in Goma of the *Agence nationale de renseignements* (ANR), National Intelligence Agency. Many of the torture victims in Goma, the capital of North-Kivu, are reported to be Congolese Hutu. For example, **Léonard Ruzige Midiburo** was repeatedly punched and beaten with military belts known as *cordelettes* at the time of his detention in Goma on 17 March, at around 7.30 pm. Soldiers who arrested him reportedly shot in the air as they threw him into the back of a Toyota 2200 pick-up, registration number KV 8309C. He was reportedly held in a room of a house previously inhabited by a former member of the Zairian security service, behind the *Union zairoises des banques* (UZB), Zairian Union of Banks. He reportedly received beatings to practically every part of his body and had his hair pulled from his head. He was also stabbed between the fingers, before he was transferred to a Gendarmerie cell. His torturers took his personal property, including a watch and 270 US dollars. He was subsequently released on 23 March after the soldiers who arrested him failed to return. A few days before his arrest, Léonard Ruzige Midiburo had been visited by members of the ANR who reportedly asked him to report to the ANR of vice in connection with "unidentified" persons staying at his home.

Eight men in Goma accused by the AFDL of armed robbery were tortured at the Gendarmerie headquarters, locally known as *Circo* (*Huitième circonscription militaire*), after their arrest on 29 May 1997. The victims are: **Moshe Kamanzi, Alimasi Lubenga, Shindano Kalwira, Thomas Ezolanga, Jean-Pierre Habimana, Faustin Birindwa** (no relation to former Zaire Prime Minister), **Bahati Yaya Ciza and Anzsoni Nombi**. They were repeatedly kicked and beaten with sticks and rifle butts. On 31 May irons were reportedly welded around their legs and arms on the orders of an AFDL political commissar. The heat generated during the welding inflicted burns to their legs and arms, which became badly infected. The authorities continued to detain the suspects without medical care. Local human rights groups have been assisting the victims with treatment. They were still held in November 1997 without charge or trial.

Victims of torture have included people accused of non-political offences. For example, a man known as **Matata** in North-Kivu province's Rutshuru town was so severely tortured on 23 March 1997 by AFDL soldiers that he died the following day. He had apparently been falsely accused by a local family of stealing 25 US dollars. He was repeatedly beaten on the stomach and genitals. Members of his family who visited him in an AFDL cell found him bleeding from his genitals and rectum. He died from his injuries for which he did not receive medical care.

Between 1 and 3 am on 22 June 1997 AFDL soldiers in Kananga, West-Kasai (*Kasai occidental*) province, subjected Roman Catholic nuns of the Carmelite Order of St Joseph to severe beatings. The soldiers injured a security guard with his machete as they broke into the nuns' compound. The soldiers then reportedly demanded 50,000 US dollars and to have sexual intercourse with the nuns. The nuns were severely beaten after they refused to have intercourse with the soldiers and failed to produce the money demanded. The soldiers left with the nuns' property, including 2,000 US dollars.

Children too have been subjected to torture and ill-treatment. For example, 52 Rwandese Hutu refugee children abducted on 26 April by the AFDL from Lwiro hospital, 30 kilometres west of Bukavu, were kept in a closed truck container, beaten up and were denied food and drink for three days. The children and 10 adult refugees were abducted by about 20 members of the AFDL, including a local commander who threatened hospital workers and accused them of treating enemies. Some medical workers were beaten before the AFDL drove the children away. The children were being treated for various illnesses and the effects of malnutrition at the hospital. The AFDL returned the children and the adults to the hospital after an outcry by international organizations, including UNICEF which was paying for their care. UNICEF reportedly said that the children were in a pretty bad condition when they were returned. The refugees were subsequently sent to Rwanda before the children recovered from their illnesses.

In July, **David Kyalumba**, a pastor of the Katsimu branch of the *Communauté baptiste du Kivu* (CBK/Katsimu), Kivu Baptist Community, was reportedly subjected to 60 lashes by AFDL soldiers at Kabirizi, Butembo district. He was reportedly beaten simply because his nephew, Petuel, failed to pay a debt for two bags of cement. Two men, **Jules Mandefu and Muhoza**, were reportedly subjected to more than 100 lashes for allegedly beating up a soldier in Kibirizi.

Amnesty International is investigating reports that members of the AFDL have deliberately subjected former members of the FAZ to beatings, deprivation of food and other forms of ill-treatment. Some are reported to have been deliberately denied medical care. The ill-treatment, which is reported to have caused scores of deaths among former members of the FAZ, has reportedly taken place in training camps at Kitona and at Kamina in Bas-Congo and Shaba provinces, respectively.

Rape by members of the AFDL has been reported, although individual testimonies are rare. Many rape victims and their relatives fail to report rape cases to limit the social stigma related to their plight. Reports of rape include that of a 17-year-old student known as **Kabuo**. She was reportedly returning from a market when on 15 March five members of the AFDL at the *office de route*, Road Works office raped her in Goma. After the rape, the soldiers returned to Katindo military barracks. **Solange Machozi Baeni** an 18-year-old student at the Institute of Masisi, was reportedly raped by a group of soldiers at Mushaki roadblock near Goma during the night of 3 May 1997. A number of schoolgirls at Masambo, Rwenzori county in North-Kivu, were reportedly raped by AFDL soldiers on 9 August 1997. No action is known to have been taken by the authorities against the soldiers responsible.

Reports of rape elsewhere include that of a young woman and mother of a 7-monthold baby in Kananga, the capital of West-Kasai province. She was reportedly gang-raped on 24 August 1997 by three AFDL soldiers and two civilians at Kapanga, Tshiatshia area.

5. Killings, rape and other abuses by the FAZ and its allies

FAZ soldiers perpetrated atrocities in former eastern Zaire, more recently since 1993 when intercommunal violence broke out in North-Kivu. By September 1996 these atrocities had extended to South-Kivu as repression against members of the Tutsi ethnic group reached its peak (see footnote 3).

By March 1997 most members of the FAZ were on the run, killing, raping and pillaging as they fled from advancing AFDL and allied forces. Some of the atrocities were reportedly committed by mercenaries hired by former President Mobutu's government. Whereas prominent local people were reportedly able sometimes to convince FAZ commanders and government officials to prevent or limit the worst excesses by the FAZ, this was not the case with the mercenaries. One mercenary reported to have been responsible for numerous killings was a Serb colonel who reportedly claimed that he was only answerable to former President Mobutu. He reportedly personally carried out some of the killings of civilians accused of supporting the AFDL. For example, on 2 March the colonel reportedly shot two diamond diggers at Tshopo bridge, outside Kisangani, and threw their bodies into the river. Fourteen others were reportedly detained in a cell at Bangboka airport. A trader known as Uzele who was reportedly held at the airport cell claimed that he found about 200 civilians there, only about 80 of whom are thought to have survived. The victims reportedly included **Kangantumbu Kahindo, Maboke and Paluku Mukaba**. It was reported that the Serb colonel was personally in charge of the daily selection of detainees who were removed from the cell at night to go to "work". Those removed never returned and are reported to have been taken to a nearby forest where they were reportedly made to dig their own graves before they were killed. The colonel reportedly said that the list of those to be killed for collaboration with the AFDL was given to him by local government officials.

On 4 March the Serb colonel reportedly killed two preachers of the Neo-Apostolic church, **Paluku and Kasercka**, at kilometre 36 on the Kisangani-Ituri road. The victims were returning from a preaching mission. On 6 March, soldiers commanded by the colonel reportedly killed a man known as **Kahindo** soon after he was arrested for providing accommodation to a Burundian national who had fled from Goma. The two men and a student, **Bruno Kambale**, were detained at the airport from where Kahindo was executed. The two others survived when the colonel and his men fled from the advancing AFDL forces. On 9 March four people, **Ngereza Kasercka, Amundala Maisuku and Awazi Maisuku and Custa**, were reportedly killed by the colonel and his men at kilometre 40 on the Kisangani-Ituri road.

Members of the FA7 killed or ill-treated many civilians who failed to hand over property to the troops. Among those severely beaten in March and April 1997 by marauding members of the FAZ in Equateur province were **Dr Ilunga** of Ikela, one **Charbon** at

YaluSaka, **Father Ifange** at Bokuma and **Father Kagoma** at Boende. In May a villager in the diocese of Bokungu was burned with a hot knife to force him to reveal the whereabouts of the diocese's bishop.

Members of the FAZ are reported to have carried out killings of members of the ex FAR and unarmed Rwandese refugees. For example, an unspecified number of ex-FAR and about 50 unarmed refugees were reportedly massacred in early April 1997 by FAZ soldiers at Ikela airfield and at Lonkeju in Equateur province. In the same period, FAZ soldiers and local civilians reportedly killed as many as 100 unarmed Hutu refugees at Mokoso.

Numerous women, including young girls, were raped where members of the FAZ passed as they fled. Among the victims in Equateur province were four daughters of one Grégoire in Lingomo. The daughter of one Youyou was raped by four soldiers at Linkanda. Among those raped in Boende was **Antoinette Booto**. One man reportedly joined the AFDL to avenge the rape of his wife in Boende. Many Rwandese refugee women are also reported to have been repeatedly raped by FAZ soldiers who forced many of them to become their "concubines".

6. Abuses by ex-FAR and other armed groups

In addition to acts of violence since late 1994 to prevent refugees from returning to Rwanda, armed former members of the ex-FAR and *interahamwe* militia reportedly killed many refugees who tried to break away from the main groups moving westwards from October 1996. Furthermore, the armed groups reportedly killed some refugees who refused to hand over their food to them or carry their personal belongings, including looted property.

As they fled from eastern DRC, members of the ex-FAR reportedly killed refugees who refused to carry their weapons and other supplies or looted property. For example, a refugee claimed that on 1 March 1997 an ex-FAR major at Lubutu killed four refugee boys who refused to carry bullet cases. Another major reportedly ordered the killing on 2 April of eight refugees near Kisangani after the refugees refused to follow him. On 17 June an ex FAR captain reportedly ordered the killing with bayonets of four women who refused to cross the Congo river to the Republic of Congo without their husbands who they believed were lost. One of the women **reportedly had a child** who was thrown into the river along with the women's bodies.

Congolese civilians in villages crossed by the refugees were also often killed by exFAR and *interahamwe* armed gangs. For example, in March and April 1997 members of the ex-FAR reportedly killed as many as 50 civilians between Boende and Ikela. The victims

included the parents of Protestant pastor Bonanga who were killed at Maindombe in early April. Ex-FAR also reportedly killed about 10 people at Ene. Ex-FAR soldiers reportedly killed four people at Maindombe on the Congo River as the soldiers looted cows belonging to the victims and a nearby Roman Catholic parish.

Armed groups, including the ex-FAR, ex-FAZ and mayi-mayi are reported to have attacked and killed members of the Tutsi ethnic group who had returned in early 1997 to North-Kivu from Rwanda. Attacks on Tutsi civilians reportedly increased in mid-1997 after Tutsi were appointed to replace local government officials from rival ethnic groups in Kivu. Fearing further attacks when members of the RPA withdrew from much of North-Kivu, about 7,000 Tutsi fled to Rwanda in August and September 1997.

7. Killings and other abuses by the AFDL in Kinshasa

Since they arrived in and captured the capital, Kinshasa, on 17 May 1997, members of the AFDL are reported to have committed numerous human rights violations there. The violations include killings, torture and mutilation, sometimes leading to death, "disappearances" and arbitrary detentions. As the *defacto* government from 17 May, the AFDL is bound by international human rights law under the treaties ratified by the its predecessor.

7.1 Extrajudicial executions

Some of those killed around 17 May were unarmed civilians accused of committing crimes such as looting. For example, **30-year-old Nicole Bute** was reportedly shot dead on 20 May by members of the AFDL at Barumbu, Kinshasa, after a manager of a company which had been looted accused her of looting. On the same day, an AFDL soldier at Kauka in Kinshasa's Kalamu district used a bayonet to stab a man accused of stealing a car tyre. Sources in Kinshasa claimed that the man died from his injuries.

Some of the people killed by the AFDL were reportedly unarmed former members of President Mobutu's security forces. For example, on 27 May a former army sergeant known as Pele was killed when AFDL soldiers stabbed him in the ribs and shot him nine times, including in the head. Pele had been in a group of other former soldiers who were moving to new homes. They were intercepted by three AFDL soldiers near Bois Mazal, Kinsuka-cimetière. The AFDL soldiers then subjected the former FAZ soldiers to severe torture, which reportedly included electric shock and whipping. Pele was killed when he reportedly told the AFDL that he preferred a quick death to torture.

Former FAZ soldiers and suspected criminals are reported to have been mutilated; some have died from their injuries. For example, a former member of the Civil Guard had his arms and legs severed by AFDL soldiers who found him carrying domestic property towards Bumbu. His body was burnt by members of the public to avenge ill-treatment of civilians by former members of the FAZ. Another man known as **Dersi**, reported to have been an informer of the former *Brigade spéciale de recherche et de surveillance* (BSRS), Special Investigation and Surveillance Brigade, was also mutilated and burned in public.

A number of mutilated bodies are reported to have been found in various parts of Kinshasa, particularly during May 1997. For example, on 18 May five bodies with severed ears were found near a petrol station at Ma Campagne district. Sources in Kinshasa claimed that members of the AFDL were responsible for the mutilations and killings.

The AFDL-led government has repeatedly used violence, including lethal force, to disperse or prevent peaceful opposition demonstrations and meetings. A number of members of opposition political parties and students have been killed by members of the AFDL. For example, **Freddy Manganzo Nzani**, a university student in Kinshasa, was killed by an AFDL soldier in Kinshasa during a demonstration on 12 June 1997. He was reportedly shot as he pleaded with the soldier to spare him. The authorities are not known to have taken any action against the soldier. Unlawful killings by members of the AFDL since 17 May 1997 are a violation of Article 6 of the ICCPR and Article 4 of the ACHPR. The use of lethal force to disperse demonstrations and meetings is also contrary to provisions of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

On 25 July 1997 soldiers opened fire on a peaceful demonstration by the *Parti lumumbiste unifié* (PALU), United Lumumbist Party, in Kinshasa. At least one demonstrator, **Kiambukuta Komisa**, died as a result of gunshot wounds and a further six demonstrators were gravely injured. This was in violation of Article 6 of ICCPR and of Article 4 of the ACHPR which prohibit the arbitrary deprivation of the right to life. About 30 other demonstrators, **including Kianza Lumbete**, were arrested by soldiers and held incommunicado in an underground cell at the Presidential Palace known as the *Palais de marbre* in Kinshasa's Binza district. Soldiers also reportedly broke into the home of PALU leader Antoine Gizenga where they reportedly stripped naked and whipped a number of PALU supporters. Around 100 other demonstrators at the same demonstration were also arrested. Some of them were held for several hours at Kokolo military barracks, where they were beaten before being released. Others were allegedly held in unofficial cells at the home of the Deputy Minister of Interior or in cells at the *Conseil supérieur de guerre* (Higher Court-martial). The ill-treatment of demonstrators is a violation of Article 7 of the ICCPR and of Article 5 of the ACHPR and of the obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - ratified by former Zaire on 18 March 1996 - to prohibit and prevent torture and ill-treatment.

7.2 Abuses against women

When members of the AFDL arrived in Kinshasa, they tortured and ill-treated women in the context of what appears to have been a campaign against forms of dress such as miniskirts, trousers or leggings. These abuses are a violation of Article 7 of the ICCPR and Article 5 of the ACHPR and of the provisions of the CAT. Although AFDL political leaders denied that they had imposed a dress code for women, the abuses continued. For example, in the week of 19 May, members of the AFDL at a place known as *Triangle de la cité verte* reportedly beat a Young woman wearing a miniskirt with a nail-studded piece of wood which repeatedly tore her flesh. The soldiers threatened to shoot any member of the public who tried to intervene. On 20 May, AFDL soldiers in Barumbu district publicly undressed 17-year-old **Kasenge Mimi** and tore her trousers in front of her parents.

On 22 May four Young women wearing leggings were reportedly publicly undressed at Matete market. A 25-year-old woman was reportedly whipped 40 times during the week of 26 May. There are unconfirmed reports that she may have died from her injuries.

On 24 May one young woman who refused to remove her trousers was reportedly taken to an unknown destination by AFDL soldiers. Her companion who accepted to undress was assisted by members of the public to cover her body.

8. Arbitrary detention and torture of AFDL critics

Critics of the AFDL and its leaders, including journalists and members of opposition political parties, have been targeted for arrest since the AFDL assumed power, in violation of Article 9 of the ICCPR and Article 6 of the ACHPR which prohibit arbitrary arrest and detention. In some cases, arrest warrants were reportedly issued days or even weeks after the arrests to legalise otherwise arbitrary arrests and unlawful detentions. In an apparent reaction to public concern about arbitrary arrests and unlawful detentions, the National Security Council chaired by the AFDL Chief of Staff, Major Anselme Masasu Nindaga, reportedly announced on 13 September 1997 that members of the security services are not allowed to carry out arrests outside the law. It accused civilians and soldiers pretending to be members of the AFDL of carrying out such arrests. However, the Council did not say what legal measures would be taken to prevent arbitrary arrests or to release those unlawfully held. Furthermore, human rights and humanitarian organizations, including the International Committee of the Red Cross (ICRC), have been denied access to most detention centres and the detainees held there.

Dozens of government opponents, many of them accused of being supporters of former President Mobutu or of embezzling public funds, have been detained without warrant and denied the right to challenge the basis for their detention before an impartial and independent judicial official. One of the first former government officials to be detained was **Jonas Mukamba Kadiata**, former director of the state diamond mining company, *La société minière de Bakwanga* (MIBA), based in Mbuji-Mayi, the capital of the diamond mining province of West-Kasai. He was taken on 10 April 1997 by the AFDL from Mbuji-Mayi to Goma. He was placed under house arrest on 11 April and on 12 April he was removed from his post at MIBA, which was subsequently filled by a member of the AFDL. On 23 April he was moved to Lubumbashi which had become the new headquarters of the AFDL. He was freed without charge or trial in Kinshasa on 23 June 1997.

Many other former government officials remain in custody without charge or trial. They are generally accused of embezzling public funds. They include 66-year-old **Cléophas Kamitatu Massamba**, a former government minister. He was arrested on 21 June 1997. He and a number of other former government officials were first held at a detention centre of the High Court Procuracy (*Parquet de grande instance*) in Kinshasa's Gombe suburb. They were transferred in late October 1997 to Makala central prison in Kinshasa. A source in Kinshasa informed Amnesty International that the DRC Government was planning to set up special courts to try this category of detainees because it did not trust existing courts of law. Amnesty International is concerned that if such a court is set up it may not conform to international standards of fair trial, including competence, independence or impartiality.

Leaders and supporters of the main Congolese opposition party known as the *Union pour la démocratie et le progrès social* (UDPS), Union for Democracy and Social Progress, have been particularly targeted. For example, 15 UDPS members were arrested on 15 August

1997 during a peaceful demonstration organized by the UDPS to celebrate the fifth anniversary of the election of UDPS leader Etienne Tshisekedi as Prime Minister. They were held at the ANR until 10 October when they were transferred to a Gendarmerie detention centre known as "B2" (*Bureau deux*). The following day they were transferred to the *Circo* detention centre from where they were released on 14 October. They were reportedly tortured with electro-shock batons during interrogation. Nine of them were reported to be suffering from various illnesses for which they were denied medical care. **Hilaire François Mukandila Mpanya**, co-founder of the UDPS, spent many days without treatment for malaria fever; **Pascal Kapuwa Ilunga** is diabetic and needed regular medication; **Fils Mukoka** had a fractured arm; **Constantin Kabongo** walked with difficulty due to wounds inflicted to his leg. After their release, they claimed that while in custody members of the security forces beat them repeatedly to force them to renounce their political activities. Two of them suffered severe injuries which led to their being hospitalized. All 15 were denied access to their families and legal counsel. They were not charged with any offence and were not presented before a judicial official, as required by Congolese law. Amnesty International believes that they were detained as prisoners of conscience held solely because they participated in a peaceful demonstration in support of the UDPS leader. Their detention was in violation of Article 19 of the ICCPR and Article 9 of the ACHPR and the provisions of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Students known to be or suspected of supporting opposition political parties have been targeted by the government for arrest and ill-treatment. For example, **Richard Mpiana Kalenga** was arrested on 30 June 1997 by an AFDL lieutenant at Martyrs Stadium (formerly known as Kamanyola Stadium) in Kinshasa during the independence anniversary celebrations. He was taken to a detention centre at Mont Fleury in Kinshasa's Ma Campagne district where he was reportedly severely beaten with military belts (*cordelettes*) and truncheons (*matraques*) and trampled on. He was also reportedly dipped in a disused swimming pool full of filthy water.

While in custody, Richard Mpiana Kalenga was reportedly threatened with death and ordered to write a letter to President Laurent Kabila seeking forgiveness for causing disturbances and meeting opposition politicians at the university, and pledging loyalty to the AFDL. Before his release on 2 July, a top military official ordered him to take to the AFDL headquarters six other students who were accused of involvement in organizing demonstrations. He was threatened with death if he failed to hand them over within five days. Amnesty International and Congolese human rights groups appealed to the DRC authorities to ensure that the students were not arrested or ill-treated. The organization learned that the threats against the students were lifted by October.

Two members of a political party known as the *Mouvement national congolais Lumumba* (MNC-L), Congolese National Movement, **Richard Dunia Luminangulu** and **Ismael Tutwemoto**, were arrested in Kinshasa on 1 July. The detainees were reportedly accused of offending the head of state, although the authorities did not disclose the reasons for their arrest. In November 1996 they left Belgium where they had been living in exile and stayed in Kampala, Uganda, until 18 June 1997 when they left for Kinshasa. They were held by the ANR at the security service's detention centre on *Avenue des Trois Z* in Kinshasa,

where they were reportedly denied medical care for various illnesses. Sources in Kinshasa claimed that they were arrested after they criticized AFDL policies restricting opposition party activities. Ismael Tutwemoto and Richard Dunia Luminangulu were released at the start of September and on 22 September respectively. They are not known to have been charged with any offence.

Some opposition leaders have been arrested to prevent them from leaving the country. The arrests are reportedly intended to prevent government critics from using their stay outside the DRC to denounce human rights violations by the AFDL. For example, **Joseph Olengha N'Koy**, President of the *Forces novatrices pour l'union et la solidarité* (FONUS), Innovative Forces for Union and Solidarity, was briefly detained at N'Djili airport in Kinshasa on 10 October 1997. He was on his way to the USA where he was due to attend a conference. He was reportedly beaten by members of the security forces at the time of his arrest. Soon after his release, the Deputy Minister of the Interior reportedly alleged that Joseph Olengha N'Koy had recruited 40,000 youths to be trained in UNITA camps, and that weapons and other military equipment had been found at his house. Joseph Olengha N'Koy claimed that members of the AFDL looted his property at his two residences.

Joseph Olengha N'Koy's arrest in October is the latest in a series by security forces belonging to former President Mobutu and President Kabila. Each time he was arrested for his non-violent political activities. For example, on 8 September 1997 he was arrested by about 20 members of the AFDL who held him incommunicado for one day at Mont Fleury detention centre in Kinshasa. After his release on 9 September he said that security officials had accused him of responsibility for workers' strikes and other actions intended to destabilise the AFDL. In May and June FONUS supporters participated in demonstrations to protest against the AFDL ban on opposition political party activities. In July he publicly demanded an investigation into reports of massacres of Rwandese refugees by the AFDL. In September he said that FONUS would assist UN investigators into the massacres. He had been detained several times by former President Mobutu's security forces, including in December 1996, for his criticism of government policies and its failure to respect political freedoms.

Journalists critical of the AFDL have been targeted for arrest and ill-treatment in violation of Article 19 of the ICCPR and Article 9 of the ACHPR which protects their right to freedom of expression. For example, **Polydor Muboyayi Mubanga** editor-in-chief of *Le Phare* newspaper, who was arrested on 8 September by members of the AFDL at his home in Kinshasa. The soldiers reportedly broke windows and doors to arrest him and damaged much of his household property. The soldiers beat him before they took him to a detention centre at the High Court (*Tribunal de grande instance*) in Kinshasa. He was arrested in connection with an article which appeared in his newspaper alleging that President Kabila was forming a personal armed unit similar to former President Mobutu's *Division spéciale présidentielle* (DSP), Special Presidential Division. On 17 September he was charged with "spreading false rumours and inciting ethnic hatred" ("*propagations de fausses nouvelles et incitation à la haine ethnique*"), offences punishable by up to two years' imprisonment. At the start of November the Kinshasa Court of Appeal ruled that it was incompetent to try his case and that he could only be tried by the State Security Court. He remained in custody.

Some people, particularly in eastern DRC, have been arrested because of their alleged involvement in anti-Tutsi organizations such as the exclusively Hutu *Mutuelle des agriculteurs du Virungo* (MAGRIVI). For example, **Déogratias Komayombi**, a former member of MAGRIVI, has been held incommunicado since his arrest in Rutshuru town on 5 July 1997. By October 1997 he was reportedly being held in a military camp situated in the Albert National Park.

9. Persecution of human rights activists

The AFDL started clamping down on human rights activists virtually as soon as it began controlling territory in eastern DRC. As far back as November 1996 a number of human rights activists in North and South-Kivu provinces informed Amnesty International that they were being told not to investigate or report on human rights abuses by the AFDL and its allies without the permission of the AFDL. Some activists have reportedly received death threats and other forms of intimidation. AFDL leaders in Kisangani reportedly searched and removed documents from the office of a human rights group there known as *Les amis de Nelson Mandela*, accusing the group of organizing conferences against the AFDL. Many of the activists have fled their provinces or even the country. Others are reported to have joined the AFDL-led administration under pressure from the AFDL leadership. Other human rights activists are continuing human rights work at great risk to themselves. For example, a member of the *La voix des sans voix* (VSV) human rights group was briefly detained in late June 1997 when he tried to investigate the case of a political detainee. The unlawful arrest and detention of human rights activists is in violation of the prohibition of arbitrary arrests contained in Article 9 (1) of the ICCPR and Article 6 of the ACHPR.

Some human rights activists have been arrested and ill-treated on suspicion of collecting information for the UN investigators into massacres of Rwandese refugees and other civilians since September 1996. Those arrested included **Bertin Lukanda**, the President of the Maniema branch of the *Conseil régional des organisations nongouvernementales* (CRONG), Regional Council of Non-governmental Organizations, an umbrella group of national non-governmental organizations, and his colleague, **Diomba Ramazani**. They were arrested on 6 August 1997 on the beach of the River Congo in Kindu, the main town of DRC's Maniema province. They were preparing to make routine visits to local partner organizations when they were arrested by armed members of the AFDL and taken to Lwama military barracks in Kindu where they were reportedly subjected to severe beatings. Amnesty International learned that Diomba Ramazani became critically ill after being subjected to severe beatings at the military camp and he was transferred to Kindu General Hospital after a few days. It is alleged that soldiers in the camp accused CRONG of spying for a United Nations commission of inquiry into allegations of massacres in eastern DRC and of having links with the UDPS.

Bertin Lukanda is also the head of information for a local independent human rights group based in Kindu, known as *Haki Za Binadamu* (HZB). Other workers for HZB had in previous months been harassed and prevented from travelling freely in the DRC. On 1 August 1997, *Haki Za Binadamu* was ordered to cease functioning and was by early November 1997 being kept under military surveillance. AFDL soldiers also reportedly placed several hundred

bullets in the HZB of force in an attempt to implicate its officials of involvement in armed opposition to the AFDL.

On 14 August 1997, AFDL soldiers arrested **Dieudonné Asumani**, a CRONG administrative secretary. He was accused of having sent information to foreign human rights organizations concerning the arrest of his colleagues, Bertin Lukanda and Diomba Ramazani. He was held in Lwama military barracks. Bertin Lukanda and Dieudonné Asumani were released on 7 September 1997.

Didi Mwati Bulambo, a prominent local human rights activist, was arrested by soldiers on 23 August 1997 and held in a military barracks at Kamituga in Mwenga district of South-Kivu. Reports that he was ill-treated in detention raised concern for his well-being. Didi Mwati Bulambo is the general coordinator of the *Collectif d'action pour le développement des droits de l'homme* (CADDHOM), Collective of Actions for Human Rights Development, a non-governmental organization in Kamituga. He was accused of inciting the population against the AFDL. However, Amnesty International believes he was arrested because of his human rights activities. He was only allowed access to one of his relatives who brought him food. He was denied access to legal counsel or to medical care. He was released on the night of 18 September 1997, without charge or trial.

Didi Mwati Bulambo was arrested and detained previously in July 1996 by former President Mobutu's security officials following a series of articles he had written criticizing corruption in the Procuracy of Kamituga. During his detention at that time, he was subjected to whippings and was denied access to a doctor after he became ill.

10. The death penalty

On 22 October 1997 an AFDL soldier, **Kanyongo Kisase**, was executed by firing squad. This was the first judicial execution since the AFDL came to power in May 1997. On 25 September 1997, Kanyongo Kisase was standing guard outside the house of the Minister of Health in Kinshasa when he reportedly opened fire on a group of students from a school opposite who were taunting him. He was tried and sentenced to death only hours after the killing by an impromptu military tribunal set up within the school. Although he was provided with legal representation at his trial Amnesty International is concerned that he and his legal counsel were not given adequate time to prepare his defence. Furthermore, his trial took place in an atmosphere of hostility in which it was difficult to expect a fair trial. He was not given an opportunity to appeal to a higher court against his conviction and sentence.

Eight soldiers convicted of the charge of attempted mutiny and sentenced to death on 27 September 1997 also faced imminent execution, without a right to appeal. On the night of 20 September, soldiers at the Badiadingi military camp, east of Kinshasa, reportedly staged a protest about unpaid wages. The subsequent conviction of the eight soldiers, for attempted mutiny was arrived at by a military tribunal which fell short of internationally recognized standards of fairness. The men reportedly appealed for clemency from President Laurent-Désiré Kabila. A further 42 soldiers were reportedly sentenced to life imprisonment with hard labour.

Amnesty International is unconditionally opposed to the death penalty, considering it to be a violation of the ultimate right to life. It is not only the ultimate form of cruel, inhuman or degrading punishment, it is also irrevocable and always carries the risk that the innocent may be put to death.

11. The international community's reaction to the atrocities

The widespread human rights abuses that have occurred in the DRC, particularly in the eastern part of the country, have been regarded by many in the international community solely as a humanitarian problem. Much of the time and energy during several months of the armed conflict in the DRC were spent on what was needed to return Rwandese refugees home, almost to the total exclusion of measures that were required to protect them and other victims. Other victims included Burundian Hutu refugees and members of Congolese Hutu and other ethnic and political groups in the DRC. Some governments which could have used their influence on the belligerents to stop the abuses failed to do so, while others directly or indirectly supported armed groups which they knew or should have known were perpetrating grave human rights abuses, including violations of international humanitarian law.

11.1 The international community abandons refugees

Instead of seeking means to protect hundreds of thousands of refugees and other unarmed civilians from human rights abuses, governments and intergovernmental organizations focussed almost exclusively on the repatriation of Rwandese refugees. The international community ignored the worsening human rights situation, particularly after December 1996, to which these refugees were being returned⁵ mass forcible repatriation was carried out without regard for this situation, or for the plight of displaced and other unarmed civilians in the DRC. Forcible repatriation of Rwandese and Burundian refugees was carried out without regard for the fears of the refugees. Virtually no action was taken to prevent members of the AFDL and other armed groups from subjecting unarmed civilians in the DRC to human rights abuses.

In almost all cases, foreign governments that were known to have influence on the AFDL limited their concern to facilitation of the repatriation of refugees, and paid negligible attention to measures to prevent massacres of the refugees. Indeed many officials of foreign governments praised the AFDL for freeing the refugees from the control of former *interahamwe* militia and ex-FAR and for helping them to return home, without questioning or condemning the human rights abuses committed in the process. The fate of those who were unable or unwilling to return to Rwanda was ignored as were human rights abuses committed by the AFDL against unarmed Congolese civilians. Leaders of some governments have not only failed to condemn the abuses by the AFDL, but also supported denials by the AFDL-led government of human rights abuses committed by AFDL combatants and their allies, and its obstruction of the UN inquiry. This stance by some government has served to give comfort to

⁵ See Amnesty International report entitled *Rwanda: Ending the silence*, AI Index: AFR 47132/97, published on 25 September 1997.

the Congolese Government that its members or soldiers responsible for past and current human rights abuses will enjoy impunity.

Amnesty International recognises the serious dilemma the situation in eastern DRC posed, with regard to the protection of Rwandese refugees. It was clear that protection in that area was, as a practical matter, simply not available. However, that does not detract from the fact that the human rights situation in Rwanda was grave, with returning refugees often targeted for deliberate and arbitrary killing, "disappearance" and torture. Amnesty International believes that solutions to the situation should have taken more account of the fact that much of Rwanda was, and indeed still is, not safe for refugees to return to.

11.2 AFDL denies humanitarian organization access to refugees

As governments and intergovernmental organizations (IGOs) pleaded for humanitarian assistance to be allowed to reach the refugees, the AFDL was actively preventing humanitarian organizations from reaching many of the refugees. Following the killing of a SCF worker and four refugees, the AFDL for several weeks denied the UNHCR permission to establish a collection centre for the repatriation of Rwandese refugees at Karuba, 45 kilometres east of Goma. The AFDL repeatedly claimed that access was being denied in the interest of humanitarian workers' security. However, many humanitarian organizations have expressed fears that the denial of access was intended to prevent them from witnessing massacres or discovering massacre sites.

Conversely, a number of humanitarian organizations have expressed concern that they were used by the AFDL to attract refugees out of their hiding only to be subsequently killed by the AFDL. One organization reported in April 1997, "Our staff believe they are part of a planned strategy of extermination with our aid and presence being used to lure people from the forest making it easier for refugees and the displaced to be subsequently killed by AFDL forces". In eastern DRC the AFDL imposed its so-called "facilitators" to travel with humanitarian organizations which expressed concern that the facilitators were used to identify the location of refugees in hiding. Once they found the refugees, the organizations were required to seek permission to assist the refugees. Some organizations reported that the permission took days to be granted, only to find that the refugees could no longer be traced, amid reports that AFDL combatants had been sent to kill the refugees in locations identified by the "facilitators". It was reported in early 1997 that the AFDL's coordinator for humanitarian organizations had access to a UNHCR vehicle equipped with radio communication which could have enabled the AFDL to monitor the activities of the UNHCR and other humanitarian agencies in eastern DRC. A UNHCR official told Amnesty International that allowing the AFDL coordinator to use a UNHCR vehicle was often the only way to get the coordinator to facilitate the agency's work. He added that confidential messages were not normally transmitted by radio. However, any access to refugees would have to be discussed with and permission sought from AFDL leaders. Moreover, access by road and air was often blocked for days or longer by local AFDL combatants.

Many non-governmental organizations (NGOs) have reported that their vehicles were requisitioned or stolen by AFDL combatants for military and other purposes. In early 1997

the AFDL requisitioned about 84,000 litres of fuel intended for UNHCR vehicles used in humanitarian work. When the AFDL seized vehicles and fuel used by humanitarian organizations it must have been aware that the life-saving activities of these organizations would be severely inhibited and many refugees and displaced people could lose their lives as a result. The AFDL leadership is not known to have prevented or even condemned these acts by its combatants.

For many months the Rwandese Government has repeatedly blamed the UNHCR for delaying the repatriation and held the agency responsible for the death in May 1997 of 92 refugees crammed on a train. The government appeared not to be concerned that when the deaths occurred the AFDL had loaded large numbers of refugees, many of them too weak to travel, on the train, without informing the UNHCR and other humanitarian organizations to take measures to ensure the refugees' safety.

After the AFDL came to power, it became more apparent that actions against Rwandese refugees were being coordinated between the Rwandese and Congolese authorities. For example, when on 9 September 1997 the UNHCR suspended its activities for Rwandese refugees in the DRC, both the Rwandese and Congolese governments condemned the work of the agency. The UNHCR was protesting against the DRC Government's obstruction of its work, including the forcible return on 4 September of about 800 Rwandese and Burundian refugees in Kisangani to Rwanda. Although the DRC

Government announced on 3 October that it had closed its border with Rwanda, in practice it was a closure to prevent Rwandese refugees from entering the DRC. On the same day, the government ordered UNHCR workers to stop operations in North-Kivu and forcibly returned at least 830 refugees, 730 of them women and children, to the Rwandese border town of Gisenyi. UNHCR workers were not allowed to interview the refugees, many of whom had recently arrived in the DRC after leaving the country in early 1997. Two days later, the DRC Government announced that it had expelled 4,000 Rwandese refugees. More than 100 people were killed in and around Gisenyi when armed insurgents attacked the area on 8 and 14 October.

11.3 Responsibility of some governments

For many months the Rwandese Government denied reports that it had played a key role in the war to oust former President Mobutu. When in October 1996 the RPA inside Rwanda shelled FAZ positions in Kivu, the Rwandese Government said it was only exercising its right to defend its territory and population against shelling by the FAZ. In late 1996 Amnesty International received reports that in early September 1996 AFDL forces, including the RPA, infiltrated South-Kivu province from Rwanda, through northern Burundi. Some of the forces reportedly travelled in trucks with a UNHCR logo. A UNHCR official told Amnesty International that no UNHCR trucks were commandeered from Rwanda and the agency had no knowledge of the use of its logo to transport combatants from Rwanda. The official said that in November 1996 the UNHCR thwarted an attempt by the Rwandese authorities to commandeer UNHCR trucks to transport RPA troops to eastern DRC.

In a surprise move in July 1997, Major-General Paul Kagame, the Rwandese Vice President and Minister of Defence, told the Washington Post newspaper that "... the Rwandan government planned and directed the rebellion that toppled the longtime dictator and that Rwandan troops and officers led the rebel forces." He reportedly added, "... Rwandan mid-level commanders led Congolese forces throughout the successful rebellion and that Rwanda provided training and arms for those forces even before the campaign to overthrow Mobutu began last October."

The Washington Post further reported Major-General Kagame as saying, "The first goal was to dismantle the camps. The second was to destroy the structure of the Hutu army and militia units based in and around the camps either by bringing the Hutu combatants back to Rwanda and dealing with them here or scattering them." Given such a level of involvement in the war, it is clear that the Rwandese Government was in a position to prevent many of the human rights abuses that occurred. More critically, the killings were so widespread, affecting tens or hundreds of thousands of unarmed civilians that RPA and AFDL field commanders appear to have ordered and acquiesced in killings. By November 1997 the Rwandese authorities were still denying that any killings of unarmed civilians, including Rwandese nationals, took place, while at the same time supporting the DRC Government's position against the UN inquiry. Major-General Kagame was subsequently quoted as saying that RPA soldiers would remain in the DRC until "the job is finished". Large numbers of RPA troops were reportedly leaving the DRC, although it remained unclear how many remained there.

Ugandan government troops are also reported to have taken part in the conflict. They are reported to have captured some towns such as Beni in North-Kivu from the FAZ before handing them over to the AFDL. Although there has been virtually no information about killings of unarmed civilians by Ugandan troops in the DRC, Amnesty International believes that these troops are likely to have knowledge of what occurred and may have failed to prevent some of the killings.

Burundian government troops and Tutsi militia were also reported to have been involved in attacks against Hutu in South-Kivu province, where Burundian armed Hutu opposition groups were known to be based. During a visit to Burundi on 30 October 1997 President Kabila thanked the Burundi Government for its help during the war against former President Mobutu. AFDL combatants are reported to have attacked FAZ positions in Shaba province from neighbouring Zambia. Some AFDL combatants were reportedly trained in Tanzania. Fighters from Eritrea, Ethiopia and Somalia are also reported to have taken part in the war, although the direct role played by their governments has remained unclear.

The United States of America (USA) has repeatedly denied reports that it played a role in the conflict in the DRC. However, the USA Department of Defence acknowledged that American soldiers had been involved in the training of RPA soldiers since 1994⁶. Major General Kagame disclosed to the Washington Post newspaper in July 1997 that he had informed the USA Government of Rwanda's intention to attack refugee camps in eastern

⁶ See section IX.2 of Amnesty International report entitled *Rwanda: Ending the silence* (AI

DRC. The US government has not disclosed how much it knew about the preparation and pursuit of the war in former Zaire, for which Major-General Kagame said he commended the US for "taking the right decisions to let it proceed". In this case, the US Government, particularly as a permanent member of the UN Security Council, was in a position to take action to prevent attacks on refugee camps which it knew contained hundreds of thousands of unarmed civilians. Not only is it very likely that some of the RPA soldiers trained by US soldiers took part in the fighting in the DRC, it is also likely that members of the AFDL were trained alongside RPA soldiers. For several months a US government representative worked closely with the AFDL leadership, in a capacity which the US authorities have not yet clarified. Amnesty International is concerned that the USA military and security transfers to the RPA may have been used by the AFDL and RPA to commit atrocities in the DRC. If the US Government had taken into consideration human rights violations by the RPA in Rwanda, it would have concluded that similar abuses were likely to occur in the DRC. Independent sources have reported that US soldiers were seen in eastern DRC as late as August 1997. The US government has denied these reports.

In early 1997 the Angolan Government sent hundreds and possibly thousands of its forces to fight alongside the AFDL, particularly in southern DRC. The forces that came from Angola also included members of the former Zairian paramilitary police known as the Katangese gendarmes and their off springs who had been living in Angola since the 1960⁷ Amnesty International received reports that some of these troops were involved in human rights violations against Angolans in the DRC who were suspected of supporting or belonging to UNITA. Although it is unclear how many of these troops remain in the DRC, some of them were reported in September 1997 to be deployed in northwestern DRC.

The Zimbabwean Government is reported to have given substantial military support to the AFDL during the fighting. A Johannesburg-based newspaper reported in July 1997 that the Government of Zimbabwe had supplied weapons worth 38 million dollars to the AFDL and that two Zimbabwean planes and their pilots were used to transport AFDL fighters and their supplies inside the former Zaire.

12. AFDL's obstruction of UN investigations

From early May 1997 onwards the AFDL obstructed a UN investigation into allegations of human rights abuses in eastern Zaire, while at the same time denying reports that its combatants had committed many of the abuses. The obstruction contradicted a public declaration on 25 April by President Kabila that he would invite UN and other agencies to investigate the refugee crisis. He added then that he would grant full access to such an investigation, accept its findings and take action, if necessary. The UN investigation had been decided in April 1997 by the UN Commission on Human Rights at its 53rd session, following

⁷ Katangese gendarmes were formerly loyal to Moise Tshombe who in the early 1960s led an attempt by Shaba province, then known as Katanga (President Kabila's home province), to secede. After their defeat by forces led by former President Mobutu, the gendarmes and their families fled to Angola from where they launched unsuccessful armed attacks on former zaire in March 1977 and May 1978.

numerous and persistent reports of "violations of human rights and fundamental freedoms in Zaire, particularly cases of summary execution, torture and cruel, inhuman or degrading treatment, violence against women, ...". The Commission requested the Special rapporteur on the situation of human rights in Zaire and on Extrajudicial, summary and

Katangese gendarmes were formerly loyal to Moïse Tshombe who in the early 1960s led an attempt by Shaba province, then known as Katanga (President Kabila's home province), to secede. After their defeat by forces led by former President Mobutu, the gendarmes and their families fled to Angola from where they launched unsuccessful armed attacks on former Zaire in March 1977 and May 1978.

arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances "to carry out a joint mission to investigate allegations of massacres and other issues affecting human rights which arise from the situation prevailing in eastern Zaire since September 1996 and to report to the General Assembly by 30 June 1997 and the Commission at its fifty-fourth session".

During five days of negotiations with AFDL leaders in Goma and Lubumbashi, members of the UN investigation team were told that the AFDL rejected allegations that its combatants had committed human rights abuses. The AFDL said it would not allow the participation of the Special Rapporteur on Zaire in the mission. It accused him of prejudice against the AFDL. The alleged prejudice related to a report the Special Rapporteur submitted on 2 April 1997 to the UN Commission on Human Rights. The report contained accounts of allegations of massacres, particularly of Hutu refugees, by the AFDL. Furthermore, the AFDL insisted on appointing its own experts to participate in the investigation. This was rejected by the mission in order to ensure the independence, impartiality and confidentiality of the investigation and its findings. At least one AFDL official reportedly issued a thinly veiled threat to the mission by saying that members of the mission risked being killed in Masisi, and adding that there would be a "survivor to tell the story". AFDL leaders subsequently told the mission that they had no time to continue discussions about the investigation. The mission returned to Geneva without carrying out any investigation.

In an attempt to break the apparent impasse over the composition and scope of the investigation the UN Secretary General set up a new investigative team. The team arrived in Kinshasa on 24 August but faced continuous obstructions from key government ministers. The obstructions included a demand by the DRC authorities that the investigative team be accompanied by a DRC government team. On 30 August an estimated 5,000 AFDL supporters in Kinshasa participated in a demonstration to protest against the UN Inquiry. The demonstration, which was accompanied by government soldiers, took place despite a ban imposed by the government on all demonstrations since mid-May 1997.

The UN team was also refused permission to leave Kinshasa. At the start of October the three leaders of the UN team were recalled to New York for consultation with the UN Secretary General, after the government had effectively prevented them from beginning any investigations. Following a meeting in Kinshasa between Bill Richardson, US Permanent Representative to the UN, and President Kabila on 25 October 1997, the DRC Government

agreed to allow the team to begin its investigations. The leaders of the investigative team returned to Kinshasa on 11 November 1997 to begin the investigations.

Amnesty International welcomed this new development, particularly the government's agreement that the team would be allowed to deploy in any part of the DRC. However, the organization remained concerned that some of the conditions agreed between

Ambassador Richardson and President Kabila would hamper the team's ability to carry out an independent and impartial investigation, as well as the effectiveness of its conclusions. For example, according to Bill Richardson's communiqué, the UN investigative team was required to communicate its needs to the DRC Government and not directly to the UN. Amnesty International is concerned that the government may, by omission or commission, fail to communicate the team's requirements to the UN. The team's security was placed in the hands of the government, a factor that could compromise the security of evidence gathered or being investigated by the team, as well as that of witnesses.

Amnesty International is concerned that the UN investigative team was denied responsibility for making recommendations on prosecution or punitive measures. Furthermore, the communiqué failed to indicate what recommendations the team would be expected to make. Although responsibility for recommendations was left to the UN Secretary General, there was no indication of the time frame in which the recommendations would be published or action taken on the basis of the team's conclusions. Amnesty International is further concerned that references to non-interference in Congolese internal affairs and respect for the country's integrity were left undefined in relation to the investigation, and could give rise to claims by the government that certain aspects of the investigation were a violation of the agreement. Furthermore, the communiqué prohibited the team from contacting members of the former government, thus excluding potential witnesses and suspects from being interviewed by members of the investigative team. The communiqué said that the government would be given reasonable opportunity to review the investigation team's report. Amnesty International is concerned that this could be interpreted by the DRC Government to mean that the government could change parts of the report or delay its publication for an indefinite period

Amnesty International is also concerned that more evidence may have been destroyed and witnesses intimidated or eliminated during the months that the government has succeeded in delaying the investigation.

After one week's waiting in Kinshasa, the investigative team's leaders reportedly met the DRC Minister of Foreign Affairs on 18 November 1997 to discuss the start of the investigation.

13. Conclusion

The AFDL-led government which came to power in May 1997, seven months after it began a campaign to overthrow former President Mobutu, has repeatedly denied that its combatants carried out any massacres of Rwandese refugees and other widespread human rights abuses.

As highlighted throughout this report, there is abundant evidence that the AFDL and its allies, as well as the FAZ and other armed groups, including mercenaries, were involved in large scale killing of unarmed civilians from the Hutu and other ethnic groups in the DRC. Numerous reports indicate that the largest number of victims were killed by the AFDL and its allies. The AFDL caused many of them to die from starvation, disease and exposure. Referring to the killings, in April 1997, the UN Secretary-General said "many innocent people are victims of slow extermination".

Reports received by Amnesty International during the past year have led the organization to conclude that the AFDL and the RPA carried out a deliberate and calculated policy in the DRC to kill large numbers of mainly unarmed Hutu, using direct violence or other methods that would achieve the same objective. Since the start of 1997, a number of humanitarian organizations have said, some confidentially and a few publicly, that they were being used by the AFDL to lure refugees from their hiding to be killed. An independent and impartial inquiry is required to establish at what level these actions were ordered, encouraged or condoned by the AFDL leadership, and whether there was an intent to kill or cause the death by other means of all or many of the refugees. If this was the case, it could constitute evidence that genocide or other crimes against humanity may have been committed, particularly against members of the Hutu ethnic group. On these grounds alone there is an urgent need to carry out a thorough investigation into the killings to establish their cause and course. While a large part of the investigation would have to be carried out in the DRC, it is clear that some of it would have to take place in the countries which played a significant role in the armed conflict, as well as in countries from where mercenaries came.

14. Amnesty International recommendations

Amnesty International believes that the DRC Government, members states of the UN and the Organization of African Unity (OAU), and the wider international community should take action now to end a culture of human rights violations condoned or ordered by government and other political leaders in the DRC. In order to achieve this objective, the organization is suggesting a number of recommendations which it believes will begin to restore and sustain respect for human life and other human rights in the country.

14.1 To the DRC Government

The DRC Government should:

- publicly acknowledge that human rights abuses were and are being committed by various armed groups, including by members of the AFDL and its allies;

issue a public condemnation of all the abuses, regardless of the identity of the
fully cooperate with and remove any obstacles to independent investigations,
including by the UN Secretary General's investigative team and human rights
organizations into reports of violations of human rights and international
humanitarian law;

- ensure that citizens of the DRC and other countries who are identified by an independent and impartial investigation as having been responsible for human rights abuses in the DRC are brought to justice in accordance with international standards for fair trial. Officials of the DRC Government or its security forces who are identified as having perpetrated, ordered or condoned violations of human rights and international humanitarian law, particularly deliberate and arbitrary killings, abductions and torture or other forms of cruel, inhuman or degrading treatment, should be removed from positions in which they may carry out further human rights violations or impede investigations, pending proceedings against them before an independent court of law;
- urgently begin to implement Amnesty International's recommendations for legal

reform contained in a memorandum which the organization submitted to the DRC

Government in August 1997 and which the organization has made public at the same time as this report;

- support and promote the work of human rights and humanitarian organizations.

14.2 To armed opposition groups operating in the DRC, including former FAZ, ex-FAR and *mayi-mayi*

Deliberate and arbitrary killings of unarmed civilians and other human rights abuses by armed opposition groups represent grave violations of international humanitarian law.

Leaders of armed opposition groups should:

- stop killing unarmed civilians and make clear to those under their command that deliberate killings of civilians and other arbitrary killings will not be tolerated,

instruct all those under their command to respect basic principles of international humanitarian law, as laid out in Common Article 3 of the Geneva Conventions.

In particular, they should prevent the killing of non-combatants and those taking no direct part in the conflict,

- investigate and denounce deliberate and arbitrary killings committed by those

under their command and provide public information about steps taken to prevent further such killings;

- cooperate with and support the UN Secretary General's investigative team and

any other independent and impartial investigations to identify those who have perpetrated human rights abuses and violations of international humanitarian law. Surrender those among

their groups identified as having perpetrated or ordered human rights abuses to an independent and impartial court of law for trial in accordance with international standards for fair trial.

14.3 To UN Members States

UN Member States have a responsibility to take action to prevent a further deterioration of the human rights situation in the DRC, by demanding that the DRC Government takes steps to prevent further human rights violations as well as by providing positive and concrete support to projects which will help protect and promote human rights.

(i) Governments which supported the AFDL or the FAZ should:

- publicly condemn all abuses of human rights and violations of international

humanitarian law which have occurred and continue to occur in the DRC, regardless of the identity of the perpetrators or the victims;

- fully disclose their role in the armed conflict and ensure that their military and other

officials cooperate with the UN Secretary General's investigative team in order to ensure that the perpetrators of the abuses of human rights and violations of international humanitarian law, including those from their own countries, are identified with a view to bringing them to justice;

- stop directly or indirectly supporting the DRC Government's denials of grave human

rights abuses which occurred since September 1996 and its obstructions of the UN

and other investigations. The governments should encourage the DRC Government to fully cooperate with the UN Secretary General's investigative team in order to end impunity in the DRC;

encourage the DRC Government to implement Amnesty International's recommendations for legal reform submitted to the government in August 1997

(ii) UN Members States should:

publicly condemn current and past widespread human rights abuses in the DRC;

exert what ever influence they can over the DRC Government and its security forces, as well as over armed opposition groups to respect international human rights and humanitarian law; request the DRC Government to provide regular and up-to-date information on action taken to prevent further human rights violations - in particular, extrajudicial executions and "disappearances" - including details of the progress of investigations and action taken to bring

to justice those found responsible without recourse to the death penalty; demand and support investigations into human rights abuses in the DRC: in particular and that the DRC Government and its allies accept a full, independent and impartial investigation by the UN Secretary General's investigative team into violations of human rights and humanitarian law which have occurred in the DRC since September 1996, in order to identify the perpetrators and bring them to justice as a necessary step to ensure that these human rights abuses will never happen again;

provide the necessary political and logistical support so that the UN Secretary General's investigative team can carry out a prompt, thorough and impartial investigation of the alleged abuses. It is essential the investigative team does not face the recurrent logistical and resource obstacles that previous inquiries established by the United Nations have faced. The investigative team will be working in very difficult conditions and the international community must demonstrate its true commitment to ending impunity in the region by fully supporting its work both politically and financially;

recognise that unhindered and secure access by the investigative team to all parts of the DRC is more critical **than ever. The investigative team must be able to** ensure the safety of witnesses and the confidentiality of the information it receives;

ensure that the investigative team publicly reports, within reasonable time, through the UN Secretary-General to the UN Security Council. The report should contain appropriate recommendations based on the team's findings, including on measures

required to bring to justice individuals identified by the investigative team as having ordered, acquiesced or perpetrated human rights abuses.

(iii) OAU Member States

AI urges members states of the OAU to:

- place the DRC on the permanent agenda of the Council of Ministers to ensure regular scrutiny of the human rights situation in the country and the Great Lakes region in general;
- ensure that the Mechanism on Conflict Prevention Management and Resolution monitors the human rights situation in the DRC to enable it to advise the OAU on early action to prevent further human rights abuses;
- provide support for the UN Secretary-General's investigative team by using its

influence to urge the DRC Government to remove all obstacles to a full and thorough investigation;

- request the African Commission on Human and Peoples' Rights to undertake a study, under Article 45(1)(a) of the ACHPR, of the current human rights situation in the DRC and to present a report to the next Assembly of Heads of State and Governments.

(iv) SADC Member States

The Southern African Development Community (SADC) should ensure that:

- the DRC, as its newest member, complies with the provision of Article 4 of the SADC Treaty pertaining to observance of human rights and the rule of law;
- it uses its influence to encourage the DRC Government to cooperate with the UN investigative team;
- it assists the DRC Government to implement immediately any recommendations made by the UN to address human rights abuses in the DRC.

Transfers of military, security and police equipment

Governments should not supply lethal weapons and other types of military, security or police equipment to the DRC Government and its military allies which may be used to commit human rights abuses by the security forces or by other armed groups against unarmed civilians in the country. They should recognize that, given the persistent pattern of killings of unarmed civilians described above, such equipment is likely to contribute directly to further human rights abuses. Amnesty International urges governments to take into account the evidence that most of the victims of killings and abductions during armed conflict in the DRC are unarmed civilians, including many women and young children;

- Governments considering transfers of military, security and police equipment or training to the DRC should insist on independently verifiable guarantees that human rights violations and breaches of international humanitarian law have ceased and that the equipment will not be used against unarmed civilians, before agreeing to such transfers;
- Governments should take into account that equipment classed as "non-lethal" (such

as military communication equipment and vehicles) could also facilitate human rights abuses, especially in remote areas of the DRC;

- Governments considering military transfers to other countries in and around the

Great Lakes should also bear in mind that such equipment could find its way into the DRC and could be used to perpetrate further human rights abuses there. It is well established that there are close links between the security forces and armed opposition groups of the DRC and neighbouring countries.

Positive assistance to the DRC which would contribute to the protection of human rights could include:

- providing human rights training to members of the AFDL, police and prison service,

including training in international standards for the conduct of security forces and prison officials and the practical implementation of these standards. Such training should be supported with a view to creating an effective system of accountability for human rights applicable to personnel in the army, police and prison service;

- assisting the DRC judiciary to ensure its independence, impartiality and competence,

by providing material and human resources, and by demanding that the DRC Government and its security forces respect the independence and impartiality of the judiciary, particularly by implementing Amnesty International's recommendations

for legal reform contained in a memorandum submitted to the DRC Government in August 1997;

- assisting the prison system - directly or through non-governmental humanitarian

organizations - in improving conditions of detention and ensuring that detainees have access to medical care at all times;

- providing human and material resources to the office of the UN High Commissioner

for Human Rights in Kinshasa to enable it to effectively monitor the human rights situation in the DRC and provide the DRC Government with assistance in the rebuilding of its judicial system and police force.

Refugee protection

Governments should abide by the principle of *non-refoulement* at all times. No person should be forcibly returned to or removed from the DRC if s/he may face serious human rights violations in the country of origin. This principle - besides being a principle of customary international law and therefore binding on all states - is enshrined in international treaties, such

as the 1951 Convention Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa;

All governments, as well as intergovernmental organizations, should strive to ensure that all refugees in the DRC are afforded protection. The DRC authorities should be urged to implement immediately concrete measures ensuring that refugees are treated in accordance with international standards of refugee protection and human rights protection. In particular, refugees should not be subjected to *refoulement*, extrajudicial executions, "disappearance", torture and other forms of cruel, inhuman or degrading treatment;

- Governments and the UNHCR should make it clear that members of the DRC

government and security forces who perpetrate or order human rights abuses against refugees will be held personally responsible for their acts. Courts of law and political bodies should investigate all allegations of human rights abuses, and take action against those identified as having played a role in violating the rights of refugees and other people in the DRC;

- The DRC should be provided with the necessary international assistance to ensure

that unarmed civilians, including refugees, are protected from human rights abuses in the country and are provided with adequate humanitarian assistance. Foreign governments should consider providing international civilian police personnel to help ensure the safety of unarmed civilians, including refugees, who are at risk of human rights abuses in the DRC if the authorities there continue to show unwillingness or inability to protect them;

The international community should assist the DRC Government in identifying individuals among the refugees suspected of participation in violations of human rights and international humanitarian law in the DRC or their country of origin and promptly undertake thorough and independent investigations into these allegations to enable a decision to be reached on whether they should be prosecuted. In such cases, the individuals should be tried by a jurisdiction which will provide them with a fair trial, without recourse to the death penalty. Rwandese nationals or others against whom there is evidence of involvement in the 1994 genocide or other crimes against humanity in Rwanda should be transferred to the jurisdiction of the International Criminal Tribunal for Rwanda (ICTR) in Arusha.