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ZAIRE
Amnesty International’s memorandum to the UN Security Council: Appeal for a commission of inquiry to investigate reports of atrocities in eastern Zaire

1. Introduction

Reports emerging from eastern Zaire raise serious concerns of possible massive human rights violations, notably widespread and systematic killings of refugees from Rwanda and Burundi and Zaïrians. It has been difficult to obtain accurate and detailed information about human rights violations in the areas of Zaire affected by the conflict, particularly the region now controlled by the Alliance des forces démocratiques pour la libération du Congo-Zaire (AFDL), Alliance of Democratic Forces for the Liberation of Congo-Zaire. Humanitarian agencies, human rights groups and journalists have only been allowed limited access. Nevertheless, reports Amnesty International is receiving with increasing frequency from the region are consistent and include a number of sources with no particular vested interest in the conflict. Now is the time to ensure that these alarming reports are thoroughly and impartially investigated.

On 7 March 1997, the United Nations (UN) Security Council in a Presidential Statement expressed concern “about the effects which the continued fighting is having on the refugees and inhabitants of the region”, and took note “with concern of allegations of violations of international humanitarian law in the conflict zone”. Importantly, it welcomed “the sending of a United Nations fact-finding mission to the area”. At the time of writing, though, it remains unclear what the scope and nature of the fact-finding mission will be. Amnesty International is calling urgently for the creation of an International Commission of Inquiry to investigate the allegations of massive human rights and humanitarian law violations and to make concrete recommendations to bring to an end the seemingly endless cycle of slaughter of human beings in the region.

The longer these reports of atrocities remain uninvestigated and their perpetrators enjoy impunity, the longer and more difficult it will be to bring about peace and reconciliation among the region’s peoples, based on a culture of respect for human rights. The investigation is essential to reveal to the people of Zaire the truth about what occurred, what the causes were and which individuals should be brought to justice. Without knowing the truth and making individuals accountable for the atrocities they committed, the people of Zaire and the international community will squander an opportunity to tackle the widespread and systematic disregard for the life of men, women and children who are taking no part in the hostilities and which is still claiming and putting at risk thousands of lives today. Impunity is one of the greatest hindrances to the effective protection of human rights in Zaire. No long term solution to the crisis will be effective if impunity is ignored.

2. Human rights violations and the failure of refugee protection in eastern Zaire

While exact numbers are not known, it is clear that since October 1996 thousands of refugees, Zaïrian Hutu and others have been killed in Zaire or have died from starvation and disease after being forced into hiding in isolated forests. Thousands of refugees have been forced back or have ‘chosen’ to return to Burundi or Rwanda, where serious human rights violations continue and are escalating - with returnees
frequently among the victims. Several hundred thousand other refugees and displaced Zaïrians fled west, further into Zaire. Some remained hidden, others settled in makeshift camps at Shabunda, Amisi, Tingi-Tingi and Ubundu.

Throughout the crisis, the estimates of how many refugees have remained in Zaire have varied widely, due to difficulties in ascertaining how many were hidden in vast tracts of forest. The UN High Commissioner for Refugees (UNHCR) has estimated that, in addition to the approximately 200,000 who were in camps, there may be 240,000 refugees whose whereabouts are unknown. Other sources in the area estimate that as many as 500,000 refugees may be unaccounted for, and raise particular concerns about the disappearance of large numbers of Burundian refugees. It has been virtually impossible to estimate the number of Zaïrians who have been displaced.

Amnesty International has issued a number of recent reports, based on testimonies from a variety of sources in eastern Zaire. The reports draw attention to killings of refugees and Zaïrians, and to other serious human rights violations, by all parties to the conflict. Many of the abuses have occurred in the context of deliberate attacks on camps and villages which have failed to properly distinguish between military targets and the civilian population. Among other measures, Amnesty International has called upon the AFDL to cease attacking refugee camps and for members of the former Rwandese Armed Forces (commonly known as ex-FAR) and interahamwe militia to refrain from using the camps as bases for armed activities.1 Ex-FAR and interahamwe reportedly figure prominently among the remaining refugees.

3. Reports of human rights abuses by the AFDL

As the number of reports grow, the full extent of abuses is beginning to emerge. There is mounting evidence that the AFDL has carried out a deliberate campaign of arbitrary killings and attacks of refugees who have refused or been too afraid to go back to Rwanda and of Zaïrian Hutu, particularly males of fighting age. Many of the reports are from known, credible sources. Many remain unconfirmed. Fighting groups accused of these crimes and their sympathisers have repeatedly denied these allegations which are too grave to be ignored. In order to establish the truth and prevent further abuses, it is essential and urgent that an independent and impartial investigation of these allegations is established.

It is not known how many refugees and Zaïrian Hutu have been killed. Some sources have been able to provide precise figures. In other instances, only rough estimates are available. For example, a Zaïrian group responsible for burying corpses indicated in mid-December that they had collected 6,537 bodies in the Goma, Sake and Rutshuru areas. The UNHCR has said that 1,515 bodies were recovered at Kibumba

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camp, and has found a mass grave at Katale camp containing 300 bodies. The Association zairoise de
defense des droits de l’homme (AZADHO), Zaïrian Association for the Defence of Human Rights, has
reported that thousands of Zaïrian Hutu have been killed in the villages of Ngungu, Nyamitaba and
Nyakariba. A foreign aid worker has reported to Amnesty International that 300 refugees were allegedly
killed in the Parish of Kalambi.

Reports of mass graves, in camps and elsewhere throughout North and South-Kivu, are coming to light.
Witnesses have, for example, reported to Amnesty International and other human rights organizations that
there are numerous graves, containing large numbers of bodies, in and around Kibumba, Katale and
Kahindo. Most are reported to have been killed by a bullet to the head. Many have their hands tied
behind their backs. Some have been covered in plastic sheeting and set on fire. One journalist reportedly
found numerous bodies in a latrine on a recent visit to the deserted Kibumba camp².

Amnesty International has received credible reports from a variety of sources describing how fleeing
unarmed refugees were pursued, intercepted and attacked by the AFDL. Some were killed, while others
were forced back to Rwanda and Burundi. However, no-one has a comprehensive view of how many have
been killed or where, or how many may be dying from their injuries, starvation or disease while in hiding.
The AFDL has not allowed independent witnesses near the areas where the killings are reported.

Mass graves and killings of refugees and Zaïrian Hutu have been reported in territory controlled by the
AFDL, including a grave on a coffee plantation in Sake said to contain the bodies of hundreds of refugees
killed in November 1996 and more than 20 graves in and around Goma. There are reported to have been
a number of massacres by AFDL forces in Hutu villages in the Masisi region following reports of ex-FAR
and interahamwe coming into the villages for food. Marauding ex-FAR and interahamwe militia have
reportedly attacked Zaïrian villagers for food or on suspicion of supporting the AFDL. These incidents
have claimed as many as 170 victims in a single attack.

Arrests, torture, deliberate and arbitrary killings and “disappearances” of prominent or educated Hutu
continue to be reported, particularly around Goma. For example, a Hutu businessman identified as
Muhozi and his wife were reportedly killed on 7 January 1997 by members of the AFDL in Rutshuru.
Those targeted are mainly those suspected of belonging to a Zaïrian Hutu solidarity organization known
as Mutuelle des agriculteurs de Virunga (MAGRIVI). For example, Jean de Dieu Rusimbuka Balolage
was reportedly arrested by members of the AFDL in Goma on 19 December 1996. He was severely
beaten and lost two teeth. He was released after local people pleaded that he had not been a supporter of
the ex-FAR. He subsequently went into hiding and is reported to have fled the country. Others such as
Kalinda Rukeribuga and Kapitene Kabunga are reported to have been “disappeared”, after being
arrested by members of the AFDL. It is feared that they may have been killed.

The Vatican has announced that 8 Rwandese priests and three Habizemaria congregation nuns, all thought
to be Hutu refugees, were killed on 25 February 1997 in Kalima, two days after the town had been taken
by AFDL forces. One priest, Joseph Sagahutu, apparently escaped but his whereabouts are unknown.
The victims had fled to Kalima from Bukavu. The eight priests are: Antoine Hatega Kimana, Emmanuel
Munyakazi, Jean Uwizeyimana, Norbert Mulimo, François-Xavier Muyoboke, Urbain Twagirayezu, Etienne Kabera, and Augustin Nkulikiyumukiza. The three nuns, who were previously

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² Colette Braeckman, Ces cadavres dans le sillage des rebelles zairois, Le Soir (Bruxelles) 26/02/97.
student nurses at Walungu Nursing School in Bukavu, are: Marie-Francine Nyirarukundu, Félicité Mukamihogo and Clotilde Nyirabakungu. There are fears that some of the 15,000 refugees camped at Kalima at the time may also have been killed. A further 33 priests and at least eight Benebikira congregation nuns who fled in November 1996 with other Rwandese refugees from INERA and Kashusha camps have “disappeared” and it is feared that they too may have been killed.

4. Reports of human rights violations by Zairian government forces

Residents of towns and villages in many parts of Zaire live in constant fear of human rights violations by Zairian soldiers, who have pillaged, raped and killed with virtual impunity. They do not know from one day to the next whether their homes, farms and businesses will be looted, or whether their lives will be in danger. Amnesty International has documented widespread human rights violations by the Zairian security forces in many previous reports. For example, soldiers sent to Kivu to quell the violence between various armed groups were reported to have extrajudicially executed at least 37 unarmed civilians at Vichumbi, a small fishing village on Lake Edward, in May 1996. Many people accused of being members of armed groups were subjected to torture and other forms of cruel, inhuman or degrading treatment, leading to death in a number of cases. For example, government soldiers shot dead and mutilated Kahima Baluku, a 20-year-old student, whom they had arrested with nine others on 28 January 1996. The others were severely beaten while in the custody of the security forces in Goma. One of them, Luanda Kibao, had his lower arm amputated when it developed gangrene. Two others died several days later as a result of the beatings.

In the context of the current armed conflict, during November 1996 to February 1997, serious human rights violations are reported to have been committed by the Zairian security forces. Those responsible include primarily the Forces armées zaïroises (FAZ), Zairian Armed Forces, but the involvement of the Service d’action et de renseignements militaires (SARM), Military Action and Intelligence Service, and the Direction générale de la Sûreté nationale (DGSN), National Security Service have also been reported.

4.1 Rape and other abuses against women by soldiers

FAZ soldiers fleeing from advancing AFDL forces in eastern Zaire rampaged through the town of Bunia, 200 miles north of Goma, in early December 1996. They reportedly pillaged the commercial centre of the town, throwing grenades into houses and destroying everything they could not carry away.

On 5 or 6 December, according to several local sources, soldiers brutally raped school girls at the Likovi Secondary School (lycée) in Bunia. The soldiers are alleged to have raped the young girls savagely and systematically - leaving seven of them dead. They went on to raid the town’s maternity hospital, and raped women there. One heavily pregnant woman was reportedly killed. Then the soldiers moved on to a convent for elderly nuns. The nuns fled into the forest, but the FAZ soldiers reportedly followed them,

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4This civilian security service was until December 1996 known as the Service national d’intelligence et de protection (SNIP), National Intelligence and Protection Service. Amnesty International 24 March 1997 AI Index: AFR 62/11/97
beat them with their guns and raped some of them.

Similar abuses against women, especially young women and girls, were reported from other places in eastern Zaire through which retreating FAZ soldiers passed. In mid-November an eye-witness in Nyankunde, 20 kilometres west of Bunia, said he had seen a number of young girls who had been seized by soldiers in Butembo. “They were crying for help as they passed through here, but were guarded by armed deserters.” Amnesty International does not know what subsequently happened to these girls.

4.2 Assaults and killings

There have been numerous reports of killings by soldiers as they travelled northwards and westwards, away from the war zone. In many towns, FAZ soldiers committed widespread violations and fled just days before the AFDL reached there. Many of the reported incidents were impossible to confirm. In some cases, Amnesty International could not ascertain who was responsible, in others it remained unclear whether the killings were deliberate, rather than the result of fighting between armed combatants. For example, there were reports that soldiers had killed as many as 60 civilians in the town of Buta, but these remain unconfirmed.

Soldiers passing through Bunia and Isiro in early November 1996 allegedly killed civilians including a Protestant minister and an unarmed man hiding in a farm. FAZ soldiers were also reported to have killed the head of the insurance company in Bunia. Kahindo Kamungele, a shop owner, was attacked by soldiers who had looted and burned down his shop.

Soldiers brutally and systematically looted towns and villages in Haut-Zaire province, in the northeast, including Aketi and Viadana. A woman and a child were reported killed during the looting by stray bullets. The extent of their destruction was so severe that Haut-Zaire was officially declared a disaster area.

Protests by Zairian citizens have led to violent responses by the security forces. In Lodja, a town in the Sankuru sub-region of East-Kasaï region, members of the civil guard reportedly opened fire on a crowd of students in late January, wounding at least 12, two of whom seriously. The students were allegedly protesting against the arrest of one of their colleagues, a law student called Pengi, because the reason for his arrest was unclear.

5. Recommendations: The need for immediate action

With so many refugees and Zaïrian nationals behind or within easy reach of combatants lines, Amnesty International is issuing this memorandum to members of the UN Security Council and others in positions of influence or responsibility as an urgent call for action in eastern Zaire.

5.1 Access and investigations

There is an urgent need for the independent investigation into reports of mass human rights violations to be conducted in eastern Zaire, including forensic examinations of mass graves. Findings from such investigations would help establish the numbers killed, how they were killed, and would provide evidence.
that might help determine which groups are responsible. That information would contribute to the prevention of further atrocities. Amnesty International is calling for on site investigations of these reports.

The United Nations should establish an International Commission of Inquiry. The UN Member States should provide the necessary political and logistical support so that the Commission can carry out a prompt, thorough and impartial investigation of the alleged violations. It is essential the Commission of Inquiry does not face the recurrent logistical and resource obstacles that previous Commission of Inquiries established by the United Nations have faced. The Commission of Inquiry 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.

The need for unhindered and secure access to all parts of Zaire is more critical than ever. Governments, particularly those which have close relations with or influence over the AFDL and the Zairian Government, must demand that parties to the conflict allow full and impartial investigations into these reports and others, in all parts of Zaire under their control. The Commission of Inquiry must be able to ensure the safety of witnesses and the confidentiality of the information it receives.

The International Commission of Inquiry should be composed of individuals recognized for their competence and impartiality and include or cooperate with the UN Special Rapporteur on the human rights situation in Zaire, M. Roberto Garretón, as recommended by the outgoing High Commissioner for Human Rights, Ambassador José Ayala Lasso. They should be supported by experts required in areas such as forensic anthropology and violence against women and children. The United Nations should draw on the expertise of the NGO community by including such experts in the Commission.

The Commission of Inquiry should go beyond “fact-finding”. Amnesty International believes that the work of the commission of inquiry should include collecting the sort of evidence which can enable decisions to be made about which individuals should be brought to justice. The investigation should be consistent with the UN’s own standards, such as the Principles of Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Its remit should include investigating violations of international humanitarian law, extrajudicial executions and other deliberate and arbitrary killings, “disappearances” and torture, including rape and sexual abuse.

The mandate of the Commission of Inquiry should include recommending to the UN and member states measures required to ensure that perpetrators are identified and brought to justice, excluding the use of the death penalty, and make further recommendations for the prevention of human rights and humanitarian law violations. While it is too late to save the thousands of victims to date, a clearer understanding of their fate coupled with specific measures to counter impunity might help save the lives of many others. The Commission should include gender specific recommendations to address particularly the pervasive use of rape and sexual abuse as a weapon of war.
The Commission of Inquiry should publicly report to the Security Council to enable that body to take into consideration its recommendations and findings and act upon them. Its findings and recommendations should also be integrated into the work of the Joint UN/OAU Special Representative for the Great Lakes Region, Mohamed Sahnoun, to assist him in his efforts to bring peace to the region.

5.2 Abiding by International humanitarian and human rights law

The pressing security concerns which refugees and displaced Zaïrians face in eastern Zaire require a number of crucial undertakings from all parties to the conflict. Other states must actively seek these undertakings and be prepared to ensure that they are honoured. All parties, and particularly the AFDL and the FAZ, must guarantee that they will abide by international humanitarian and human rights law. They must agree not to attack or target people taking no part in the hostilities, including refugees and other unarmed civilians. The UN, the OAU and all states and mediators involved in attempts to work out a ceasefire and peaceful settlement of the conflict should ensure that humanitarian law and human rights guarantees are part of any agreement, that there are clear ways of verifying compliance and that perpetrators will be held accountable for abuses against refugees and other unarmed civilians.

5.3 Human rights and the search for peace

Diplomatic efforts to find a lasting human rights-based solution to the conflict in Zaire and to restore respect for human rights in the refugees’ home countries must continue and receive full support from the international community. Various initiatives to find a political solution are underway, including those of the Joint UN/OAU Special Representative for the Great Lakes Region, Mohamed Sahnoun, talks sponsored by South Africa, and regional efforts spearheaded by a number of African states.

An understanding and analysis of the pattern of human rights violations which has fuelled the conflict should inform the political process and in particular the initiatives of the OAU Central Organ of the Conflict Resolution Mechanism in Lomé on 25-26 March 1997, as well as the proposed UN/OAU international conference on peace, security and development in the Great Lakes Region. The reports of the UN Commission on Human Rights’ Special Rapporteurs on Burundi, Rwanda and Zaire and the results and recommendations of the proposed Commission of Inquiry should be fully integrated into these efforts to ensure that human rights guarantees are worked into any ceasefire agreement or peace settlements, thus addressing one of the principal root causes of the conflict.

5.4A Human rights monitoring presence

Mohamed Sahnoun has proposed a peace plan for the Great Lakes region, adopted by the UN Security Council in Resolution 1097 on 18 February 1997. Importantly, among other measures the plan calls for protection and security for all refugees and displaced persons, and facilitation of access to humanitarian organizations.

Amnesty International has previously highlighted the important role that international monitors can play in ensuring human rights protection in eastern Zaire. Their protective presence would help provide security to refugees and Zairians. The small office of the UN High Commissioner for Human Rights in Kinshasa should be expanded to include a regional office in eastern Zaire. The outgoing High Commissioner for Human Rights, Ambassador José Ayala Lasso, has already made an appeal for funds to be made available to support the deployment of observers in eastern Zaire. The UNHCR also supports the urgent dispatch of qualified human rights organizations to the region, both to examine allegations regarding past human rights abuses and to monitor the current situation.

5.5 Security and protection for refugees and displaced persons

Clearly the challenge of ensuring the security of refugees and displaced persons is a difficult one, particularly when camps and settlements are located within or near conflict zones and armed groups use camps and surrounding areas as bases. However, international standards have been developed, notably through the work of the Executive Committee of the UNHCR, which are directly relevant to the situation in eastern Zaire. While the standards apply to refugee camps, they can be of assistance also in providing protection to displaced Zairians. These principles point to the importance of ensuring the civilian nature of camps, of locating camps in secure locations, and making use of security personnel to provide protection. They also highlight the responsibility of the international community, through the UNHCR, other UN bodies and Member States, to play a central and active role. An impartial law enforcement force should ensure that the camps remain safe for civilians and to tackle any intimidation and physical violence in the camps. All personnel carrying out such policing tasks are bound by international standards for law enforcement officials.

Furthermore, all parties, and particularly the Zairian Government, and ex-FAR and interahamwe, must ensure that the civilian nature of camps and settlements is maintained at all times. The Parties must guarantee that UNHCR and other humanitarian agencies will have secure and unhindered access to areas where refugees and displaced Zairians have fled or “disappeared” so that steps can be taken to locate them and bring them to areas where they will be safe and able to obtain assistance.

5.6 No forced repatriation

While the situation in Rwanda is not currently as dangerous in Zaire, it is not sufficiently and

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6 Crisis in Eastern Zaire: Amnesty International’s appeal for the protection of human rights in the crisis in eastern Zaire, AI Index: AFR 02/15/96, 8 November 1996.

7 In particular, Executive Committee Conclusion No. 48 (XXXVIII) on Military or Armed Attacks on Refugee Camps and Settlements, adopted in 1987; and Executive Committee Conclusion No. 72 (XLIV) on Personal Security of Refugees, adopted in 1993.

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durable safe to conclude that repatriation is appropriate for all. In fact the human rights situation in Rwanda appears to be worsening. Nor would repatriation provide the solution for Burundian refugees - the UNHCR’s position is that return to Burundi should not be promoted or facilitated. Amnesty International continues to receive regular reports of large-scale human rights abuses in Burundi.

There may well be some refugees who genuinely wish to return. They should be provided with reliable and impartial information about the prevailing situation in Rwanda, to ensure that they are making an informed decision. However, forcing further tens of thousands of refugees to return against their will and without adequate safeguards would put them at risk of serious human rights violations and contribute to worsening patterns of abuse and violence in the country. International focus should instead concentrate on taking steps to restore the right of these refugees to obtain international protection in secure conditions.

5.7 Suspend transfers of weapons, ammunition and military personnel

Amnesty International urges Member States of the Security Council and other Member States of the UN to suspend all transfers of weapons, ammunition and military personnel to Zaire, Rwanda and Burundi where human rights abuses against unarmed civilians continue. All parties to the conflict in the region have used military weapons to commit human rights abuses against unarmed civilians. The suspension should remain in place until it can be reasonably and unequivocally demonstrated that such transfers will not be used to commit human rights abuses by any of the parties to the conflicts in the Great Lakes region.

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8 Several governments and other sources have reported that Burundian, Rwandese and Uganda troops are involved in the conflict in eastern Zaire. Amnesty International is concerned that these forces may themselves be involved in committing, condoning or abetting human rights violations. The organization urges these governments to use their influence to prevent abuses by the AFDL and to ensure that their own troops do not perpetrate human rights violations. AI Index: AFR 62/11/97 Amnesty International 24 March 1997