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# Democratic Republic of Congo

## Ituri: a need for protection, a thirst for justice

### Introduction: a need for protection, a thirst for justice

Between July 2002 and the beginning of 2003, the conflict in Ituri has claimed the lives of over 5,000 people<sup>1</sup>. Between May and September 2003 over 1,000 more were killed, most of them civilians, particularly children and women, caught up in an atmosphere of growing ethnic tension and the violently articulated aspirations of disparate armed groups, many of whom are backed by regional powers.

Hundreds of thousands of others have fled persecution in a desperate search for safer locations. Compelled by “warlords” to abandon their animals and land, tens of thousands of Iturians have no alternative to a precarious life as refugees or as internally displaced persons confined to camps holding only those fortunate enough to have escaped the killings and mutilations. Although it is difficult to establish precise numbers, many others have vanished into the forest. There, lacking humanitarian aid, they are vulnerable to raids by a large variety of ethnic militia who are driven by motivations weak compared to the scale of their killings.

Hundreds of social, educational and medical facilities have been destroyed, and scores of villages pillaged, burned and razed to the ground. Prosperous villages like Bogoro, Fataki and Kaseyni now resemble ghost towns, where the only things of importance that remain are the memories of the people who fell in inter-community clashes and mass killings. The price that has been paid by the civilian population, particularly women, is very high.<sup>2</sup> Used by armed groups often operating along ethnic lines for economic and political reasons, the Ituri conflict has become a constant threat to the peace process and is the Achilles heel in the search for the new political order which the international community so fervently desires and supports.

Terrible crimes are still continuing and the violence being perpetrated is increasingly cruel and gratuitous, indeed often incomprehensibly savage. The more the leaders of armed groups manipulate the population and fan the flames of ethnic hatred, the more regional powers, like Rwanda and Uganda are indirectly supporting

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<sup>1</sup> Statistics from the ICC Prosecutor’s office derived from complaints received, 16 July 2003.

<sup>2</sup> Since 1999, the conflict in Ituri has left over 50,000 dead and hundreds of thousands of people have been displaced. The International Rescue Committee estimates that 3.5 million people have already died in the Congolese conflict since 1998.

these killings and contributing to the deterioration of the situation. During the few months of this sudden escalation in violence, the outside world has become aware of the human drama which is being played out in Ituri, hidden away as it had been from cameras. Aside from the situation in Bunia, nearly all the territories that make up the district, which is rich in natural resources, are being left empty as violence becomes a daily reality. The violence is now so widespread and safe havens so scarce that the flows of migrants no longer have any precise destination to flee to. Even the sites where the displaced from Bunia are located, which are still attracting waves of new arrivals, offer less and less security to their occupants. Many observers are still wondering whether the conflict is still one of rival factions fighting to further their own economic interests, and those of their sponsors, or whether it has become a deliberate attempt by the leaders of the armed groups to wipe out civilian populations with the aim of “ethnic cleansing”<sup>3</sup>.

Given that it was proving impossible to ensure the protection of vulnerable segments of the population, a heightened international response became essential. The lobbying of many international NGOs, including Amnesty International,<sup>4</sup> has contributed to the stepping-up of the international community’s engagement in Ituri.

The “Artemis” Force<sup>5</sup> dispatched by the European Union, under French command, and with a United Nations mandate, was deployed in early June 2003 in Bunia, the main town of Ituri. This followed the burning of the town by armed groups after the sudden withdrawal of Ugandan occupation forces on 6 May 2003. Made up predominantly of French soldiers, with a few troops from other European Union countries and South Africa, this force had a mandate which was limited in time and space: “[t]o protect the airport and bring security to Bunia until 1 September 2003”. Tailor-made for the French<sup>6</sup>, this mandate was restricted to the town of Bunia, where inter-ethnic clashes, basically between the Hema and Lendu, two minority communities in Ituri, had escalated significantly. The mandate of the Artemis troops

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<sup>3</sup> A concern voiced by an Alur intellectual in July 2003 in Beni. The Alur are the main ethnic group in Ituri.

<sup>4</sup> On 20 May 2003, Amnesty International, in conjunction with Human Rights Watch, took a key step when it called for an international force to be deployed to protect the civilian populations in Ituri from the mass human rights violations and ensure the effective performance of humanitarian work. For further details see *AI Index: AFR 62/015/2003*.

<sup>5</sup> In this document we will refer to this force variously as the FMIU, the Multinational Force or “French troops”.

<sup>6</sup> French army military experts very openly have expressed their unwillingness to see French troops engaged in this region, stating that none of the essential conditions for such an operation to succeed had been met. With the bitter memory of Operation Turquoise, which resulted in fiasco in Rwanda during the 1994 genocide, France dragged its heels and laid down many conditions for acceptance.

has now expired, though security has not been fully restored to the population of Ituri. Flash points have mushroomed and the Ituri Brigade, the new force of the *Mission de l'Organisation des Nations Unies au Congo* (MONUC), United Nations Mission in the Democratic Republic of Congo (DRC), which has taken over from the French, has still to overcome the lack of confidence felt towards it by the local population.

This report is the result of a series of investigative missions carried out by Amnesty International in July 2003 in the Ituri region, particularly in Bunia, in regions of North Kivu (Beni, Oicha, Erengeti, Boikene, Mangangu and Nyaleke), which have been affected in different ways by the Ituri crisis, and finally in the border areas between Uganda and DRC, particularly in the villages of Bundibugyo, Rwebisengo, Karugutu, Ntoroko and Fort Portal around Lake Albert in Uganda.

It reveals serious human rights abuses committed in the context of the conflict since March 2003, continuing insecurity, despite the action of the Emergency Interim Multinational Force and in part because of the ineffectiveness of MONUC.

It also expresses serious concerns on the part of Amnesty International over the continuation of these abuses and the challenges which the Ituri Brigade, with its strengthened mandate, must face. The report also details the need for political dialogue and both national and international legal processes, which are vital to punish the crimes which have been committed.

The report concludes with a series of recommendations to the armed groups, the DRC transitional government, MONUC, the international community and regional powers (Uganda and Rwanda), and underlines, in particular, the civilian population's urgent need for protection and their thirst for justice.

## **I- Chronicle of a mass slaughter foretold**

### **A-The origins of instability in Ituri**

Ever since the beginning of the second war in the DRC in August 1998, fighting for control over the Ituri region has been one of the main sources of instability in the east, which was occupied very early on by armed groups opposed to the central government in Kinshasa. A victim of the ambiguous regional policy of Uganda, which is concerned about its own interests in the DRC, the district of Ituri has suffered acutely from this instability. Control of the district has moved successively from the hands of the *Rassemblement congolais pour la démocratie* (RCD), Congolese Rally for Democracy, to the *Rassemblement congolais pour la démocratie – Mouvement de libération* (RCD-ML), Congolese Rally for Democracy – Liberation Movement, to the *Front pour la libération du Congo* (FLC), Front for the Liberation of Congo back to the RCD-ML, to the *Union des patriotes congolais* (UPC), Union of Congolese Patriots, and to the *Front pour l'intégration et la paix en Ituri* (FIPI), Front for Integration and Peace in Ituri. The Ugandan government has always pursued an active “divide and rule” policy in the region, supporting different groups at the same time. Currently, the district is governed by an interim administration made up of all the region’s ethnic, political and military groups. Lacking in real power, it is under the vigilant eye of the Ituri Brigade, which has a United Nations (UN) mandate to ensure protection and security for the civilian population and the conduct of humanitarian work.

However, the battle in recent months for control of Bunia clearly reflects its economic and strategic importance in eastern DRC. With its strong natural resource potential yet undermined by the inter-ethnic conflict that local leaders and regional powers are stoking, Ituri today is the fly in the ointment of the peace process which has led to the establishment of the DRC’s national transitional government.

While the rest of the country slowly returns to peace, Ituri is sinking into a violence which only the protagonists understand. The message being transmitted to national and international public opinion by the Congolese is one of a peace dynamic in Kinshasa and of a war logic in Bunia. With regard to Bunia, it is clear that the international community must work to restore peace and respect for human rights. These are goals which all the region needs but which instability, political confusion and the mushrooming of armed groups used by Uganda, are rendering increasingly difficult to achieve.

## **B – The capture of Ituri by the Uganda People’s Defence Forces (UPDF) on 6 March 2003**

Since August 2002, Bunia and a large sweep of Ituri district had been under the control of the UPC. Assisted by the UPDF, UPC forces put the governor, Mulondo Lopondo, who was appointed by Mbusa Nyamwisi of the RCD-ML, to flight. The RCD-ML lost Ituri and regrouped in North Kivu at Beni, which its commanders made the group’s headquarters.

In December 2002, Thomas Lubanga’s UPC, which had been Uganda’s ally until then, officially announced a new alliance with the RCD-Goma in order to tighten relations with Rwanda. During a period when bilateral relations between Rwanda and Uganda were at their most tense, Uganda did not appreciate such a rapprochement which it saw as compromising Uganda’s internal security. Mediation by the British government, notably Clare Short<sup>7</sup>, to achieve a rapprochement between the two Heads of State, proved fruitless.

Not only did Uganda feel reason for reproaching Rwanda for supporting UPDF officers, particularly Colonel Mende and Samson Kyakabale, who had broken away and taken refuge in Kigali, but also, and in particular, the Ugandan government linked the so-called anti-government activities of Kizza Besigye,<sup>8</sup> with the establishment of a rebel movement known as the People’s Redemption Army (PRA). This movement is reportedly based in the north of Ituri, precisely in the village where Thomas Lubanga, the UPC’s leader, was born and is apparently led by Colonel Edison Muzoora, another UPDF officer, who defected and fled to Kigali. The Ugandan government has constantly underlined the fact that the regrouping of these “rebel” forces poses a serious security problem to the Ugandan State.

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<sup>7</sup> The former International Development Secretary. She resigned in June 2003 from the administration of Tony Blair to be replaced by Baroness Valerie Amos. Great Britain is providing political, military and particularly economic support to Rwanda and Uganda, two countries, however, which are involved in the Congolese conflict, and are presumed to be responsible for many human rights violations committed there.

<sup>8</sup> A former Ugandan Presidential candidate who was defeated and took exile in South Africa and the US on the grounds of persecution and political harassment. He is married to the Honourable Winnie Byanyima, who is a member of the Ugandan National Assembly and a leading member of the moderate opposition to the Museveni government, which inflicted overwhelming defeat on the candidate from the President’s movement in the constituency of the town of Mbarara during the parliamentary elections of 2001. Besigye and Winnie both went underground with the NRA (National Resistance Army) rebellion which brought Museveni to power in 1986. Since then, relations between the couple and the Museveni government have deteriorated. Winnie is the current leader of “Reform Agenda”, a political current opposed to the Museveni government, which the latter accuses of complicity with the rebel groups attempting to destabilise the country.

Moreover, the dissident attitude of Chief Kahwa, the UPC's former Defence Minister, who went over to Uganda, revealed what are claimed to be close links between the UPC and the PRA, and, above all, the military support provided to the UPC by its Rwandan ally. In order to counter the growing hegemony of the UPC over Bunia and part of Ituri, Uganda in January 2003 supported the setting up of FIPI<sup>9</sup>, an initially political platform comprising political groupings from all the ethnic communities in Ituri, whose main coordinator was Chief Kahwa.

Tensions between Uganda and its former UPC allies were at a peak in early March 2003. On 5 March, the UPDF officially returned to Ituri, invoking internal security and sovereignty issues. Apart from this official justification, Uganda was also concerned about medium- and long-term economic issues. Insecurity in the Ituri region is placing real constraints on cross border trade between the two countries. The economic exploitation which developed during the conflict – and which a panel of UN experts has accused Uganda of profiting from – was threatened by a UPC which was growing less and less malleable and cooperative. In addition, the discovery of oil in the basin of Lake Albert in Southern Ituri boosted Ugandan interests in the region. For Uganda, the oil extraction required a greater security than that which the UPC could guarantee.

The UPDF took control of the town of Bunia after fighting which claimed many civilian victims. Ugandan troops were also deployed in the area of Jugu in Mahagi and Aru. During this occupation, which was unanimously condemned by the international community, security in Bunia improved significantly. Despite general criticism of the return to Ituri by Ugandan forces, the civilians to whom Amnesty International spoke in Bunia, even in the refugee camps, and the community of humanitarian agencies viewed it as positive in terms of humanitarian action in the region. They all saw it as a stimulus to peace in Bunia, which suffered greatly during the seven-month reign of the UPC. Many considered the occupation a flagrant violation of international law, but at the same time, a situation in which civilians could be better protected. This was because the Ugandan occupants had, to some

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<sup>9</sup> The FIPI platform was made up of so-called political parties such as Floribert Njabu's FNI, a predominantly Lendu party, Chief Khawa's PUSIC, a predominantly Hema party, most of members of which are from the South (who have split from the UPC of Thomas Lubanga, who is a Gegere Hema from the North), the FPDC of honourable Unen Chan, a party dominated by Alurs and Lugbaras. For additional information on the FIPI, see the report entitled: "*Our brothers who are helping them to kill us*"; AI Index: AFR 62/010/2003, April 2003.



extent, been able to significantly curb the reprisals which their Lendu and Ngiti allies reportedly committed against Hemas.

This political and military upheaval occurred in a political context which had been transformed. The armed factions from Ituri who supported the UPDF in this victory are made up of members of all the different ethnic groups in the district. Even if the Lendu and Ngiti fighters were more numerous, the UPDF had also benefited from support by a sector of the Hema community, particularly those from the south, most of whom are from the area of Irumu, and of whom Chief Khawa had proclaimed himself spokesman.

From mid-April to early May, the UPC militia made several unsuccessful attempts to re-take the town of Bunia. The desire to re-conquer the town offered a foretaste of the situation to come when the stabilising Ugandan force withdrew without any credible, effective alternative solution to protect the civilian population.

### **C – The UPDF’s withdrawal unleashes a spiral of violence**

The sudden, rapid withdrawal of Ugandan troops from all the positions it had been occupying in Ituri was carried out in some confusion. It was clear that a disorderly retreat without a clear alternative solution would create an enormous security risk for the entire district, particularly Bunia, where the UPC had tried on numerous occasions to regain their previous positions. All observers feared this vacuum. MONUC was also aware of it, but had taken no precautions to mitigate its effects.

Uganda had come under enormous pressure to withdraw its troops. The international community’s repeated insistence on the need for a rapid, unconditional withdrawal from Ituri evidently angered the Ugandan authorities. According to a humanitarian aid official in Bunia, MONUC was speaking with a forked tongue on Uganda: “[t]here was an official, public insistence that the UPDF had to leave the Congo. But, unofficially, the thinking was the opposite”<sup>10</sup>.

In Ugandan government circles, “it was clear to people that withdrawal had to take place, but not at MONUC’s pace. We had to withdraw immediately and show that Uganda’s presence is essential to peace-keeping in Ituri. It was a reluctant withdrawal as a reprisal for United Nations harassment”<sup>11</sup>. The logistics were not even in place to carry out an orderly, planned withdrawal. However, the Ugandan

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<sup>10</sup> Amnesty International interview, Bunia, July 2003.

<sup>11</sup> Amnesty International interview, Kampala, 29 July 2003.

authorities brought forward their departure. The UPDF's 83<sup>rd</sup> battalion was the last to officially leave the Congo. The soldiers from this battalion "*marched for almost three weeks from Mongwalu to Bunia, then to Mahagi and finally to the border between the Congo and Uganda*"<sup>12</sup>.

*Deliberate spreading of rumours*

Several days before the official withdrawal of troops from Bunia, rumours were circulating in the town concerning the imminent chaos which this hasty departure would cause. These rumours circulated in the working class areas of Bunia and were deliberately kept alive and spread by senior officers in the Ugandan army, including and in particular, Brigadier General Kale Kaihura, Commander in Chief of Operations in Ituri.

General Kale Kaihura, who had led the military operations in March which led to the defeat of the UPC, publicly stated on Radio Candip<sup>13</sup>, that "there will be chaos" once the UPDF withdraws. Well-founded information gathered by Amnesty International shows that arms and munitions were distributed by the UPDF to the Congolese factions which were fighting before the final withdrawal. A humanitarian aid officer based in Bunia, who has closely followed all the recent developments in the conflict, revealed to Amnesty International:

*"The troops withdrew but the weapons were left behind to do the dirty work and create the chaos announced by Kale Kaihura. Those of us who had been closely following the situation for months knew that the Ugandans were hurrying to leave to make Bunia uninhabitable. They achieved their objective. Of course, MONUC also failed to carry out its responsibilities."*<sup>14</sup>

On 13 April 2003, talks under the aegis of the *Commission de Pacification de l'Ituri* (CPI), Ituri Pacification Commission, designed to lead to the adoption of an interim peace mechanism for Ituri, focused at length on the manner of the withdrawal of Ugandan troops. At the meeting general concern was already voiced about the risk of a power vacuum which could create lasting security issues. Regarding this withdrawal, which the international community was pressing for, "*the desire was expressed that it be gradual. The delegates regretted that the sending of a neutral*

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<sup>12</sup>*The New Vision*, Tuesday 20 May 2003.

<sup>13</sup> A local radio station in Mudzi Pela, a Hema-dominated town and stronghold of Thomas Lubanga and the UPC.

<sup>14</sup> AI interview, Bunia, July 2003

*force to Ituri had not yet come to fruition, and agreed that Ituri should not act as a base and haven for dissident groups desiring to destabilise Uganda”<sup>15</sup>. Uganda, which took part in the entire CPI conference, endorsed this principle.*

The Ugandan authorities took the UN Security Council by surprise. On 6 May Ugandan troops withdrew from almost all the positions that they held in Bunia, in contravention of the principle of a progressive withdrawal to which they had committed themselves during the meetings of the CPI.

This hasty departure rapidly created widespread panic in Bunia and the surrounding area, and triggered a mass exodus of civilians towards Uganda. Two important flows were observed following UPDF soldiers as they marched home. One is estimated to have been made up of over 18,000 non-Hema civilians who left the region stretching from Aru to Mahagi on a long, often dangerous march to Paidha and the surrounding area in Nebbi district on the Northern rim of Lake Albert in Uganda. The other comprised thousands of others, mainly Hemas, who had left Bunia, Kaseyni and Tchomia also marching for days and nights with Ugandan troops to take refuge on the Southern, Ugandan shores of Lake Albert, and in Budibugyo district and especially in the villages of Ntoroko, Rwebisengo, Kanara and Karugutu. The Ugandan government estimates that over 120,000<sup>16</sup> Congolese refugees arrived in the country as a result of the escalation of violence which followed the withdrawal of the UPDF.

Senior officers in the Ugandan army did not take pity on the thousands of civilians who suddenly found themselves vulnerable. Following the withdrawal, the UPDF expressed satisfaction: *“I am happy to be returning home after fulfilling our mission there”*, said Colonel Mawa Muhindo, a UPDF officer and Commander of the Mahagi military sector. *“The PRA can no longer attack us now. We seriously neutralised them”<sup>17</sup>.*

Many Ugandan officers stated that it was now up to the Congolese to ensure their own security and for the UN to support them. But they would also have been aware that that could not be easily achieved and that a return to violence was inevitable.

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<sup>15</sup> Final report of the Ituri Peace Commission, Bunia, 4-14 April 2003.

<sup>16</sup> *The New Vision*, Tuesday 20 May 2003.

<sup>17</sup> *The New Vision*, Tuesday 20 May 2003.

## **II – Chaos: the return of the UPC and the ineffectiveness of MONUC**

### **A- The return of the UPC and mass human rights abuses**

#### *Killings committed by Ngiti and Lendu fighters*

The chaos so widely predicted by Ugandan officers and feared by observers and vulnerable civilians swiftly spread throughout Bunia and Ituri. Scarcely had the Ugandans departed when reprisals recommenced. The UPDF withdrawal left behind in the town it had conquered the Lendu combatants with whom it had allied to take it.

The period from 6-12 May was particularly deadly for civilians living in the working-class areas of Bunia. Over a hundred people were massacred, mostly by Lendu and Ngiti soldiers, who were now the only masters in Bunia. The predominantly Hema areas, such as Mudzipela to the North of the town, were a particular target for reprisals. Civilians were massacred, either shot or knifed. Homes belonging to Hemas were targeted, ransacked and burned. A further population movement was triggered. Vulnerable civilians fled towards the airport where Uruguayan MONUC soldiers were camped. Thousands of people took refuge there during two days of violence. Humanitarian organizations were also targeted. The medical centres of the humanitarian agency Medair were shut down. Invoking the war effort, Ngiti militia confiscated vehicles belonging to *Cooperazione Internazionale*, an Italian humanitarian organization present in Bunia. *Action Agro Allemande*, a German agency active in Bunia and Ituri, was also ransacked several times. This violence and the mass violations were predominantly carried out by Lendu combatants and Ngiti elements associated with them.

This violence – reprisals against Hemas – was exacerbated by the UPC counter-offensive to retake the town. The fighting lasted six days, with enormous humanitarian consequences. According to an officer of the UN Office for the Coordination of Humanitarian Affairs (OCHA): “*We are experiencing one crisis after another... They are just using sticking plasters to stem the haemorrhage. But there is no proper care*”<sup>18</sup>.

On 12 May Bunia was taken once again by Lendu soldiers, triggering a nightmare for the non-Hema civilians. Systematic raids were carried out in the residential areas and non-Hemas were executed. Personal belongings, furniture and

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<sup>18</sup> Amnesty International interview with an OCHA officer, Bunia, July 2003.

property suspected of belonging to non-Hemas were destroyed, burned or simply extorted from them.

*“It’s an eye for an eye and a tooth for a tooth. But this has gone beyond simple revenge. The Lendus kill one Hema, the Hemas kill two and so on...”*, commented a MONUC military observer.

*Members of religious orders not spared during the inter-ethnic killings*

Raphael Ngona Bogo, a Hema Catholic priest, was killed in the Catholic parish of Mudzi Maria in Mudzi Pela area after arriving from Drodro to act as a witness to the massacres that had occurred there. He was killed in cold blood trying to leave his room following intense fighting. Apparently he was targeted because of his support for the UPC. He was buried twice. On the day of his first burial, fighting suddenly broke out and the crowd of faithful, who had gathered for the ceremony, took flight, abandoning his body.

A week after this assassination, two other priests were killed in Nyakasenza. One of them, Aime Ngona, who was suspected of being pro-UPC, had called his fellow priests a few minutes before he died. He informed them that they had been attacked and that they would all be killed if no one intervened. Father Jan Mole, then Superior of the White Fathers, immediately alerted MONUC, which did not react in time. He was killed a few minutes later. However, he only lived one kilometre from MONUC. When Father Mole finally arrived in Nyakasenza the priest was dead and the Cultural Centre’s patio was crowded with Hema civilians sheltering for their lives. Inside, in the parish hall, 18 bodies were found. The Lendu soldiers, who were seen to commit these killings, gave the order to MONUC that the bodies should not be removed. MONUC silently complied. The roads around the parish were also strewn with corpses.

*Mass killings of fleeing civilians*

The UPC’s return to Bunia, which was encouraged by this weakness of MONUC, was accompanied by grave human rights abuses. Reprisals became a management tool and non-Hemas were particularly targeted in the attacks. Moreover, apart from the Lendus and Ngitis, who are still traditional enemies, revenge also focused on the Nandes, from North Kivu, who were associated rightly or wrongly with Mbusa Nyamwisi and, more broadly on those in Ituri known as “Jajambos”<sup>19</sup>.

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<sup>19</sup> A term used by the Hema to describe those who are not from Ituri, foreigners. The term *Bakuyakuya* is also used locally to describe them.

In the working-class areas, where ethnic inter-mixing and mixed households were a fact of life, calls to people to kill their enemies replaced years of peaceful co-existence. The exodus of non-Hemas from Bunia began. Tens of thousands of civilians fleeing Sayo, Bigo and Mudzi Pela, after escaping summary execution, headed towards Erengeti and Oicha in North Kivu. In their path were many UPC militia checkpoints guarding almost all of the main exits from the town of Bunia. Dozens of people were killed as they tried to escape. Medical sources have reported that several wounded persons died on the operating table, due to either a lack of skilled staff or basic supplies. Many of the perpetrators of these crimes were child soldiers under the influence of drugs who were wandering the streets of Bunia and surrounding area. Those who managed to escape returned to Erengeti and Oicha in makeshift sites allocated to them. In July 2003 tens of thousands of people, many of them widows and unaccompanied children, were still there.

Henriette Vihamba<sup>20</sup>, is a 50-year old woman, who had been living in the Sukisa area of Bunia, and who has found refuge with her four children in Erengeti. On 12 May 2003, her husband and young brother had their throats slit. During her eight-day march through the forest to reach North Kivu, Henriette witnessed absolute horrors:

*“On the fifth day, our marching companions stopped at a checkpoint. I had taken flight with my children. They were all tired. The young boy had diarrhoea. The militia knifed three of my companions to death and cut them up in pieces. I saw them take out their hearts and eat them (...) I will never return to Bunia”.*

Butoa Maga was living in the Ngezi area of Bunia. She is a Muboa<sup>21</sup> from Buta, outside the Ituri region. Her husband was kidnapped and tortured to death by Hema militia. *“On 13 May, at three o’clock in the morning, they knocked at our door. They had what they called a top-secret list, stating that even non-Hema children born today had to be killed. My husband was tortured in front of my children. Then, we were ordered to walk in file towards an unknown destination. I was able to hide in the bush during the march. My three children disappeared. I decided to flee to Erengeti. I found one of them along the way and the other two had been killed”.*

On 12 May, at about two o’clock in the morning, UPC militia entered the Salongo area of Bunia. They were moving from door to door, knocking and forcing

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<sup>20</sup> Her name has been changed to protect her. The names of victims who have acted as witnesses have been changed.

<sup>21</sup> The word Muboa refers to an ethnic group found in the Eastern Province, and particularly in the Buta region and surrounding area. Buta is in the Bas-Uele district, one of the districts, like Ituri,

the occupants to open up. Kavura, a young woman of 35, confided to Amnesty International that her house had also been visited during that operation. The militia were separating the Hema from the others. The non-Hema from the borough were grouped together and bound without distinction by their hands and feet. Any person voicing objections was beaten up. Kavura and all her family found themselves in this group. Lined up one in front of the other, the group of some fifty people, many of them women and children, was escorted to Bakwanga, a neighbouring village about 10 kilometres from Bunia. Kavura was able to break away from the line, when the guard was not looking, and hid close by. A few minutes later, she heard lengthy gunfire. Kavura remained in her hiding place until five o'clock in the morning. After killing all of their prisoners, the militia fled. Grace, a five-year old girl, miraculously survived the massacre, with gunshot wounds to her head and chest. She lost all her relatives. Her wounds were rotting when Amnesty International found her at Oicha. She had problems speaking.

#### *The hell of Bunia*

From 7 May onwards fighting between the UPC and Lendu and Ngiti combatants for control of Bunia was very violent. According to a member of the political staff of MONUC which Amnesty International met in Bunia:

*"We had the impression that the soldiers were not fighting each other, but rather the civilian population. Missiles were launched haphazardly, without any thought to civilians. What is this war in which out of thirty people killed only two are military personnel? These people no longer respect the basic rules of warfare. This is a war against civilians and it is always the same!"<sup>22</sup>*

Ambushes were not only laid for those attempting to flee the town. Thousands of people who did not have time to leave the town were forced to take shelter in buildings being used by MONUC in Bunia. It was the only place in the town where people felt safe. In the midst of the violence, the UPC stepped up its incitement of ethnic hatred. Leaflets, statements broadcast on Radio Candip and door to door messages were used. Many people were victims of this incitement to hatred. Some were even reportedly kidnapped and killed as they sought protection within the MONUC buildings.

Safari, a Bira shopkeeper, who we found in a refugee camp in the grounds of MONUC's headquarters, gave this account:

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<sup>22</sup> Amnesty International interview, Bunia, July 2003.

*“The 6 to the 13 of May were days when we saw the kind of cruelty we could never have imagined. For days threats had been sent out to us saying that Lendus and those not from Bunia must leave or be killed. On the 7<sup>th</sup>, late at night, successive waves of young Hemas surrounded all the houses in Bigo. The inhabitants were divided into different ethnic groups. The Hemas were separated from the rest. After this selection, lines were formed and those who were considered non-Hemas were killed. I did not have the strength to cry for my family. I saw neighbours die. It was horrible. And, yet we had done nothing. I have never done anything to a Hema!”<sup>23</sup>.*

Safari saw his wife and three children decapitated in front of him. He was saved after feigning death in a pile of bodies of people who had been shot and sometimes then finished off with knives. Around forty people were reportedly killed in this mass killing. Total anarchy reigned in the town of Bunia. While the UPC was settling scores with the non-Hema population, Lendu fighters were also carrying out massacres as they fled towards Kpandroma and North Kivu.

On 16 May 2003, after a week of battles which had gone the UPC’s way, a new cease-fire agreement and Ituri peace process were signed in Tanzania. Unfortunately, however, it has not been respected, by any of the signatories.

## **B – The targeting of women: the cruel weapon of rape**

Although the violence was indiscriminate, it affected women most. Vulnerable, they are the most targeted group of people and are subject to abuse and rape, which sometimes results in their death. Rape has been widely used as a weapon of war. Lacking reliable statistics and witness statements, women’s organizations in Bunia estimate that dozens, if not hundreds, of rapes were carried out during these events.

The victims are chosen not for reasons of age or vulnerability but very often because they belong to an ethnic group involved in the conflict. Combatants from the different ethnic groups have all used rape against women, either to humiliate them or punish them for belonging to an enemy ethnic group, to break up a family, split the community or out of cruelty, believing that their crimes will go unpunished.

Therefore, rapes are carried out with complete impunity, and the rights of victims are trampled a second time when there is no intervention, as can be seen in the statement by Yvette, a 17-year old Alur girl whose family lives in Bunia:

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<sup>23</sup> Amnesty International interview, Bunia, July 2003.



“In mid-May 2003, when the fighting started again and my father was working in the mines in Mongbwalu, about 15 UPC militia forced their way into the house, searching for my father, because of his so-called connections with the Lendus. When they found me, they grabbed me and took me to a camp by the road leading to the central market in Bunia. I was beaten with sticks and raped repeatedly by several militias all night. In the early hours of the morning, I was released and managed to return home. My mother took me to hospital where I stayed for about a month, because I was seriously wounded during the rapes”<sup>24</sup>. *Since that day, Yvette has seen some of the militia who raped her walking freely and calmly around the town.*

“Very soon I was too frightened to leave the house and I didn’t feel safe in my area. It was then that my family decided to move to the airport camp”, concluded Yvette.

The case of Tatiana Ume and her sisters

Tatiana Ume is a 17 year-old teenager who is married with a little two-year old boy. She was living with her family in the Logo 200 area of Bunia. She is neither a Hema nor a Lendu. However, her story is a clear reflection of the hell of hundreds of women in this conflict. Ume’s mother is Nande<sup>25</sup> and her father Muboa.

On 10 May, following the withdrawal of the Ugandan military, the Hema UPC militia systematically combed Area 200 searching for non-Hemas. The news spread around the neighbourhood. Ume and what remained of her family decided to flee, after the killing of her husband and two-year old son, with machetes a few days before. On the evening of the 10<sup>th</sup>, a large crowd of thousands of inhabitants from the outlying areas of Bunia was leaving the town heading for North Kivu. Ume, who was then eight and a half months pregnant, followed this wave of fleeing civilians. She was accompanied by her mother and two of her sisters, Chantal (aged 14) and Yvette (12). She was following a column of close to 100 people without knowing exactly where it was going. After six days walking, the convoy that she and her family were following reached a checkpoint set up by Hema UPC militia.

Her mother’s throat was cut for failing to pay the \$US100.00 ransom demanded by the militia. She died immediately. Her sister Chantal was shot in the head for bursting into tears at her mother’s killing, and her twelve-year old sister was dragged off before her eyes into a nearby clearing where she was raped by a group of five armed militia. “I have not had any news of her since, because I was ordered to depart

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<sup>24</sup> Amnesty International interview, Bunia, July 2003.

<sup>25</sup> An ethnic group from North Kivu.

immediately if I did not want to suffer the same fate. Many people were raped and killed at that check point”.

Completely exhausted, Ume continued her forced march alone for six more days. On the seventh day, she went into labour and gave birth to a little girl in the bush, at the village of Gogo, at a place called Machine, with the help of unknown women, who were companions on the march. She lost a lot of blood and had to continue her long walk the next day with her new baby. She finally arrived in Oicha where she registered as a displaced person. Two days before our interview, her little girl, aged two weeks, had died of anaemia and bronchitis. Now she feels: “*today my life means nothing. My sisters were raped and killed. I have no more relations, I have no children, I have no parents, I have nothing. I only ask God to take away my life so I can find peace. I am good for nothing*”.

In many African societies, there is a taboo about discussing rape in public. The situation in Ituri is the same. Sexual violence is rarely reported, and the victims bear the physical and psychological scars of the attack and its consequences, including a deep sense of shame and isolation. Most women from Ituri chose to remain silent about the experience and even their own families do not help them overcome the ordeal. As a result, many do not receive any medical attention and develop sexually transmissible diseases and other problems that will remain with them for the rest of their lives.

Many of the female victims found by Amnesty International who do decide to speak about their situation, are faced with the reluctance of the family - who views a public admission as a loss of honour – and, above all, a lack of support structures to register their experiences. In fact, the CPI is often not regarded as efficient or reliable, and the absence of police and of a judicial structure can make their step seem futile.

Despite an awareness-raising programme by non-governmental organisations (NGOs) in Bunia about the need to seek medical attention as swiftly as possible, and the medical support afforded by *Médecins Sans Frontières*, many women continue to suffer in silence and isolation, deprived of any support from their families or the community.

The *Forum des Mères de l’Ituri* (FOMI), Mothers’ Forum of Ituri,<sup>26</sup> in conjunction with partner associations, is trying to set up support structures for dozens

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<sup>26</sup> A platform of women’s associations dealing with women’s issues in the Ituri conflict and development in general.

of female victims, but uncertainty about the immediate future and the recurrence of violence make it impossible to undertake long-term action.

The rapes must be the subject of specific investigation and the perpetrators, who are in some cases walking about completely free must be made to answer before the law for their actions. This is a challenge which the CPI and the transitional government must take up to show their commitment to these women.

### **C – MONUC: victim of a weak mandate or a lax attitude?**

*“MONUC did what it could”*: a member of MONUC’s security personnel.

The rare eye witnesses of this widespread violence have pointed to the great complexity of the situation and that the humanitarian action by MONUC, OCHA, Medair, *Action Agro Allemande* and *Médecins sans frontières* had greatly assisted them. Atenyi is a young Hema, who drives a taxi motorbike. He is a refugee at the airport camp whose three children and brother were killed by Lendu fighters in Sayo, a neighbourhood of Bunia. Atenyi is sure that he would not have been saved if his attackers had not taken flight when MONUC was alerted.

But MONUC has been generally incapable of ensuring the protection of many others. MONUC’s inability to protect civilian populations and the rapid withdrawal of Ugandan troops were the two key factors which plunged Ituri into an unprecedented cycle of violence in May 2003.

712 Uruguayan soldiers had been present in Bunia since April 2003. This number is insignificant compared to the Ugandan forces which withdrew. In Bunia and the surrounding area, the UPDF had massed over 2,000<sup>27</sup> equipped soldiers who knew the region well. MONUC was unable to quell the violence. Its troops were incapable of overcoming the vacuum left by the Ugandan army. It was not deployed in sensitive, strategic points in the town. No deterrent operation was undertaken. MONUC did not react powerfully and efficiently to the violence which was used to target, in particular, civilian groups purely because of their ethnicity.

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<sup>27</sup> The total number of Ugandan troops deployed in Ituri in March 2003 was 5,200, according to independent sources.

Hamstrung by a weak mandate, and often lacking personnel, equipment and the necessary international political support, MONUC's performance fell short of what was needed in terms of civilian protection. On occasions it did not intervene when civilians were being massacred, even outside its own doors. When, in mid-May, the UPC broadcast on the radio threats against civilians in the refugee camps in Bunia, MONUC rightly denounced this flagrant violation of the UN Security Council resolutions that had assigned it a specific mandate, under Chapter VII of the United Nations Charter, to protect civilians facing the imminent threat of physical violence. But, in practice, MONUC was consistently seen to be reluctant to implement this essential aspect of its mandate, with disastrous consequences for the civilian population.

It was difficult, without a doubt, for MONUC to impose peace in a war context such as that of Ituri, with a mandate under Chapter VI of the United Nations Charter. However, Amnesty International is still certain that many deaths could have been avoided, and even the forced displacement of tens of thousands of civilians, if MONUC had intervened effectively prior to and following the withdrawal of Ugandan troops from Bunia on 6 May, using dissuasion and the fine details of its mandate at that time, which did allow it to protect highly threatened civilian groups.

MONUC could not have been unaware that new ethnic killings were going to occur if it did not take swift, decisive action: the fact that it did not do so proves both its ineffectiveness and the lack of political will on the part of the United Nations Security Council to tackle the human rights crisis in Eastern DRC.

## **D – The weakening of the CPI**

These events weakened the CPI. Made up of political, military, economic and social forces active in Ituri, as well as representatives of the grass roots communities in Ituri, the CPI originated in the 6 September 2002 Luanda agreements, signed by the governments of the DRC and Uganda, on the withdrawal of Ugandan troops from the Congo. This agreement also made provision, *inter alia*, for a political process at the end of the crisis in Ituri, a scheme to secure the area's borders<sup>28</sup>.

From 4-14 April 2003 a conference of the CPI was held in Bunia under the aegis of the United Nations, represented by MONUC, and with the political support of Uganda, which sent a delegation. As a result of the CPI conference, an "*interim*

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<sup>28</sup> The CPI meeting was held in Bunia from 4 to 14 April 2003, under the auspices of the UN, represented by MONUC and with the political support of Uganda, which also sent a delegation.

*peacekeeping mechanism and interim Ituri administration*"<sup>29</sup> were set up. This arrangement involves five structures: a special 32-member Assembly; an interim five-member executive; a conflict prevention and verification commission; an armed groups' agreements committee and an interim human rights unit<sup>30</sup>.

The holding of the CPI conference was a success for MONUC which seemed to relaunch the difficult political dialogue in Ituri. For the time being, however, the executive bodies of the CPI, rightly recognised by the international community as the only representative political and administrative institutions in Ituri, have been practically stillborn. These newly created bodies did not have time to get up and running before the May confrontations occurred.

The UPC, just like the other armed groups, took part in the CPI talks. But its attitude towards this body was ambivalent, echoing its rejection of an inclusive political dialogue. Moreover, the UPC's leaders have always viewed the CPI as an imposition by Uganda and Kinshasa, "*designed to hold back their movement and undermine them in their action.*"<sup>31</sup>

The support for the CPI from Uganda can be considered controversial in that the UPDF seems to have used the forum to draw a veil on its occupation and to leave behind some sort of political structure in Ituri.

It is quite natural, then, that the UPC's arrival back in Bunia in May 2003, following the withdrawal of the Ugandans, created a nightmare for the members of the interim executive body, the interim parliament and all non-Hemas involved in these structures. But the UPC was also rejecting the CPI for economic reasons. The executive's mandate lays down that it must financially manage and administer the entire region of Ituri.

The UPC and other armed groups, therefore, would feel threatened that financial management of the areas they control might be transferred from them to the CPI. Opposition to the CPI for ostensibly political reasons was actually a question of the survival or disappearance of the armed groups. Like several other members of the CPI, Emmanuel Lehu, co-ordinator of the executive body and Petronille Vaweka, Chairman of the Interim Assembly, have barely survived threats and violence. They fled the killings and sheltered for months in MONUC's office buildings. In a context

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<sup>29</sup> Final report of the Ituri Peace Commission.

<sup>30</sup> Final report of the Ituri Peace Commission.

<sup>31</sup> Amnesty International interview with an UPC intellectual, Kampala, July 2003.

of extreme violence, Mr Lekhu had to remain in an adjoining location with his family and two-day old daughter when they were obliged to flee their homes. Thomas Lubanga set up a parallel administration to run the town of Bunia and Ituri bypassing the structures that had been democratically recognised. The *Force Multinationale Interiminaire d'Urgence* (FMIU), Emergency Interim Multinational Force, while there, re-established the authority of this structure which is important to Ituri. However, the UPC has always continued to undermine it. By attacking the elected CPI authorities and weakening its bodies, the UPC is attacking the entire Ituri peace-keeping process.

### **III – The Emergency Interim Multinational Force: a necessary, but not sufficient international response**

The escalation of violence in Ituri, particularly in Bunia, revealed to the world the fragility of the situation there and the risk of a power vacuum which could trigger new violence. MONUC did not have the “legal”<sup>32</sup> means to impose peace. The interim CPI administration considered that it had been made to look ridiculous by the leaders of the armed groups, and the Kinshasa government could not impose its authority in Ituri. The only ones laying down the law were the armed militia.

This context of total anarchy, combined with the spectre of genocide in Rwanda, had finally pushed the United Nations Secretary General into considering an urgent alternative for Ituri: the decision to entrust a peace-keeping operation in Bunia to an international force independent from MONUC. France was approached to head it. Although there was a real emergency, French military circles deemed the operation risky and extremely unlikely to succeed. The assessment document published on the matter already stated: “*the Bunia operation is a high risk one in political and military terms. It is sensitive and complex*”<sup>33</sup>.

Following difficult debates among the French army’s Heads of Staff, France accepted to lead this force in the name of the European Union, with a number of demands that the international community soon accepted, with the passing of Resolution 1484, which gave the new force a stronger mandate, but one which was limited in time and space. The main concern was “*to make the airport safe and protect Bunia until 1 September 2003*”<sup>34</sup>. The force was called the *Force*

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<sup>32</sup> It was still operating under Chapter Six of the United Nations Charter, and could not use force to impose peace at a distance from its buildings.

<sup>33</sup> *The Guardian*, Tuesday 10 June 2003.

<sup>34</sup> A summary of the Multinational Force’s mandate by Colonel Dubois, spokesperson for the force in Bunia.

*Multinationale Interiminaire d'Urgence* (FMIU), Emergency Interim Multinational Force and the code name for the operation was "Artemis". It has operated in a volatile and unpredictable context, and has proved extremely useful but insufficient.

### **A- The positive impact of Operation Artemis**

The first detachment of the French-led multinational force, comprising some 100 hundred soldiers from the marine infantry regiment, arrived in Bunia on 6 June 2003. The operation concluded 45 days later. The first goal of the multinational force was to make Bunia airport safe. An information campaign was then launched to explain that the armed groups had to be quartered and Bunia had to be a town "with no visible arms". The multinational force decreed that the armed groups' troops must be quartered – as the basis for stabilising the situation in Bunia – as laid down in the peace accords.

Following signs of discontent from the armed militia, particularly the UPC, most of the conditions demanded by "Artemis" were accepted by the different warring parties and the principle of quartering their troops proved effective. The UPC militia was quartered in Miala, Mandro, Rwampara, Chari and Centrale, places mainly held by Thomas Lubanga. The Lendu combatants were billeted in Lippy and Zumbe. The leaders of the armed groups were authorised to remain in Bunia with 30 guards, five of whom were authorised to carry arms. The French Head of Staff considered that "*confining the militia leaders to the town of Bunia was a strategy designed to control them better*".

One of the immediate results of these measures was an end to fighting in the centre of the town. The population was able slowly to return to their activities, and freedom of movement was observed in several parts of the town, although it did not exist throughout the town. This must have led several observers to rapidly conclude that Bunia had been made safe. Javier Solana, the European Union's Foreign Policy Commissioner, stated that, as part of its mandate, the force would endeavour to protect displaced people, contribute to the safety of the civilian population and of UN and humanitarian agencies' personnel, and make the airport safe. Of these objectives, only those referring to the airport and the UN members of staff were fully achieved.

## **B – Bunia: persistent insecurity**

### *Pockets of insecurity despite the “Bunia – weapon-free” operation*

*“When we arrived in Bunia, there was a weapon practically every 10 metres in the town. The militia were moving around and terrorising the civilian population”<sup>35</sup>*

It was necessary to remove all visible weapons from the town and ensure the free movement of goods and people. This decision was a strong signal by the multinational force that it was determined to protect civilians and make Bunia a place where people could still live in safety. The area of action under the force’s control, running from MONUC headquarters to the airport, was largely stabilised and made safe. Reconnaissance missions were organized, even outside Bunia, by the multinational force, and this assisted, to a large extent, in revealing even more to the international community the extent of the humanitarian disaster and mass human rights violations which were still being carried out in other areas of Ituri.

Despite the “Bunia: weapon-free” operation, arms were still hidden in houses belonging to UPC supporters. Attacks by armed elements against the civilian population and the force continued.

Violence also took another form. Many pockets of resistance organized around armed UPC elements remained very hostile to the international force which was otherwise accepted by the great majority of the population of Bunia. On 18 August 2003, French troops carrying out a day-time security patrol in the northern areas of the town of Bunia came under fire from elements of the Hema militia. They returned fire, killing three people. This incident, which occurred two weeks before the end of the force’s mandate, illustrates not only the precarious nature of security in Bunia and the surrounding area, but also, and in particular, the major challenge faced by the new force which has taken over from the FMIU.

### *An increase in kidnappings, ‘disappearances’ and killings in Bunia*

The town of Bunia is literally divided in two along ethnic lines. Trade between Hema and other communities remains practically non-existent. According to a member of the humanitarian aid community, “[t]he north of the town belongs to the Hema and the south to the Lendu.”

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<sup>35</sup> Amnesty International interview with Colonel Dubois, FMIU spokesperson, Bunia, July 2003.



Since they were prevented from circulating throughout the town with weapons, the UPC militia and Lendu combatants' ability to harm and intimidate people diminished considerably. Frustrated at becoming "members of the public like everyone else", members of the UPC excelled at night-time kidnappings and killings. Not all residential areas are now safe and the population, which is confined to refugee camps, is still too frightened to return home. Despite the night patrols, there has been an increase in kidnappings and disappearances. Between June and September local NGOs recorded almost 100 cases. Many other cases have not come to light and Hemas and Lendus still cannot enter certain districts.

On 4 August 2003, four Nande working as onion sellers in Bunia were kidnapped from their homes by the UPC on Kilomoto Avenue, in the Nguezi area of the town and taken to Miala. They were apparently executed, after being held for a week at a house that had been turned into a detention centre. Fatou, their fellow detainee, was also kidnapped by a group of young Hemas. She was raped and only freed when a ransom was paid. She refused to reveal the sum involved for safety reasons. According to Fatou, several other hostages are still being held in Miala.

### **C – Lack of security for refugees in the Bunia camps**

The inhabitants of Bunia and the surrounding area took refuge in two locations: the MONUC enclosure and the airport camp for the displaced. They were rapidly joined by thousands of displaced persons from the area surrounding Bunia (Fataki, Tchomia, Kasenyi), drawn there by the relative security which seemed to reign in Bunia following the deployment of the French troops comprising the multinational force. The displaced, who are from all the different ethnic groups, tell of the horrors they have endured.

Bujo Zakinga is a 13-year old Hema child who lost his parents in the Mudzi Pela area of Bunia. They were both killed by Lendu militia on 12 May 2003 as the family was attempting to escape from an attack. He knows nothing of the whereabouts of the rest of his family, and is currently living at the airport camp with the family of a schoolmate. He is hoping that security in the different areas of Bunia will improve so that a family can take him in.

The NGOs working in the camp estimated in mid-July that 15,000 displaced people were staying at the camp at Bunia airport<sup>36</sup>. Most of the refugees there are

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<sup>36</sup> The camp set up within the enclosure of MONUC's administrative building was dismantled at the end of July and most of its occupants transferred to the airport camp. Others, who still had some finances available, rented houses in the area surrounding the zones patrolled by the FMIU and MONUC's administrative buildings.

Bunia residents who fled the killings in the residential areas or who have been unable to remain at home because of the lack of security - despite the FMIU's presence. In view of the growing numbers of refugees in the camp, MONUC and the NGOs have attempted to encourage the inhabitants of Bunia to return home by distributing food in the residential areas. Although the refugees attend to their affairs during the day, returning to their neighbourhoods and abandoned houses, they prefer to return at night to the camp because the situation outside the centre of the town is always uncertain and many robberies, rapes and disappearances are still regularly reported.

The largest of the refugee camps is located near the airport, between the MSF hospital and a MONUC military camp that houses Uruguayan soldiers. Several NGOs have made a co-ordinated attempt to provide humanitarian assistance to the refugees, but there is no central management in the camp to register the continually growing number of refugees<sup>37</sup>. Without registration, data on the number of displaced persons and the size of their families are approximate and make it impossible to provide assistance tailored to individuals.

Lack of security is also a fact of life in the camp. The situation facing the refugees in the camp, and the population's refusal to return to their neighbourhoods underlines very clearly the persistent security problem which exists for the civilian population, which is further complicated by a lack of police and legal structures which could curb the continued ethnic violence. Despite regular searches, guns continue to be brought into the camp, and this tends to foster crime. Proper management and stricter, systematic checks are urgently needed to prevent the introduction of weapons, and their use against vulnerable groups. The displacement cycle experienced by the inhabitants of Bunia and their region will only end when the population sees a considerable improvement in security in Ituri. Despite the presence of French troops, the refugee camps are not safe, and are only the lesser of two evils. It is doubtless the least dangerous place in Bunia for thousands of displaced persons who have chosen to make their homes there, or who are still arriving.

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<sup>37</sup> Management of the airport camp was reportedly handed over to an NGO named Atlas Logistique in September 2003.

## **IV- The killings continue outside Bunia: the nightmare of refugees and the displaced<sup>38</sup>**

### **A- The violence moves further inland**

The continuation of the killings and the new and more serious wave of slaughter beyond Bunia during and after the French troops' deployment is a strong sign that the international community must invest more in Ituri and that the new Ituri Brigade is facing enormous challenges. It also demonstrates the limited scope of Operation Artemis. But the FMIU's action cannot be judged on the basis of situations which fall outside its remit. According to the humanitarian aid community in Bunia approached by Amnesty International and the heads of the Operation Artemis, as reported by Refugee International, almost 600 people were killed in Ituri, outside Bunia while the Operation Artemis was underway in the town.

*7Nizi: 22 July 2003*

With no significant international military presence outside Bunia, horrifying killings continued to be perpetrated throughout the district. On 22 July, in the town of Nizi, to the north of Bunia, Lendu and Ngiti militia killed some 22 civilians. Many bullet-riddled bodies had been cut up with knives and machetes and the internal organs and genitals removed. These killings were apparently perpetrated by a new coalition of Lendu combatants of the *Front des Nationalistes Intégrationnistes* (FNI), Nationalist and Integrationist Front, and soldiers of the *Force Armée du Peuple Congolais* (FAPC), Armed Forces of the Congolese People, under Commander Jerome. The two armed groups still enjoy support from Uganda.

*Tchomia and Kaseyni*

The first attacks in Tchomia go back to 31 May 2003, and were reportedly the work of Lendu combatants. Over 300 people were killed there and dozens of others wounded and taken to hospitals in Budibugyo in Uganda. But on 15 July, while the multinational force was already in Bunia, Lendu militia from Loga and Zombe reportedly attacked Tchomia. The assault lasted approximately ten hours. At least 80 people were killed and dozens of others were wounded and transported to Uganda to receive medical attention, according to the local Red Cross. Eighty per cent of the

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<sup>38</sup> On Monday 6 October 2003, a massacre by unknown militia took place in Kachele, a small village 100 km from Bunia. At least 23 of the residents were killed, most of them reportedly Hema women, children and old people.

soldiers from the *Parti de l'Unité et la Sauvegarde de l'Intégrité du Congo* (PUSIC), Party for Unity and the Safeguarding of Congo's Territorial Integrity, found there by an inter-agency mission were children. One of them was a young girl called Henriette whose parents had been killed and whose "*pretty flowery dress contrasted with the atrocities and the two Kalachnikovs that she was carrying*"<sup>39</sup>.

According to humanitarian sources, a fifth of the town was destroyed, houses burned, and the main hospital completely destroyed. Three quarters of the population of Tchomia had left the town. Those who remained were either abandoned children, old people or simply people who did not have the US\$3.00 fare to cross Lake Albert for Uganda. The schools were shut and the situation was the same in Kaseyni, the neighbouring town. The town has had no electricity since February 2003, and the survivors, who are obliged to remain, barely have any more food. These two towns which are close to the border with Uganda are controlled by the PUSIC under Chief Kahwa.

#### *Fataki*

In July and early August, the town of Fataki, which is 120 kilometres from Bunia, was subject to a series of attacks against Hema civilians. They were reportedly carried out by groups of Lendu combatants. At least 60 people were killed and over a hundred others wounded.

The attacks caused a mass exodus from the town. Houses were burned and property pillaged to dissuade the fleeing population from returning. The few people who do return to recover what has not been pillaged "*are targeted by sharp shooters lying in wait for them*"<sup>40</sup>.

#### *Dala*

On 21 July Hema civilians were attacked by a group of Lendu combatants at Dala, 25 kilometres from Iga Barriere, a village very near Bunia. Over 50 people were killed and dozens of families fled towards the Bunia refugee camps. Most of the people fleeing, who were questioned by Amnesty International, reported summary executions, torture, and rape by the assailants.

Attacks of this type have also been perpetrated in Drodro Largo and Bogoro, leaving dozens of people dead, hundreds of homes burned and clinics razed to the

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<sup>39</sup> Amnesty International interview, Bunia, July 2003.

<sup>40</sup> AFP, 14 August 2003.

ground. Aru and Mahagi, controlled by Commander Jerome - who is protected by Uganda - have not been spared. Lendu combatants reportedly committed most of these killings.

The killings, which took place just as the French-led multinational force seemed to be celebrating the return of security in Bunia, are a brutal reminder that peace has not returned to the district and violence has been displaced from the central areas of Bunia to outlying parts of the district. The Ituri Brigade's mandate allows it to guarantee a return to security in these pockets of violence outside Bunia. This is a challenge that the force will have to assume.

### **B – The nightmare of the refugees at Lake Albert: Ntoroko, Rwebisengo and Karagutu**

Since April 2003, tens of thousands of Congolese refugees from the Bunia region have arrived in canoes or on foot fleeing the killings, and have taken up home in the villages adjacent to the banks of Lake Albert. They left behind less fortunate neighbours and friends, many of whom died in the wave of killings in Tchomia, Kasenyi and the villages around Lake Albert.

Many of the refugees are in very precarious situations. Having fled atrocities, they find themselves in a new situation, which is just as vulnerable, where they are not guaranteed even a minimum of security.

*“We escaped a brutal death only to rush headlong into slow death. I lost five of my children in the fighting in Tchomia, and I do not want to lose my remaining ones”* commented Siwako, the father of a Hema family who Amnesty International found in Ntoroko.

In mid-October 2003, the vast majority of the refugees are still in Ntoroko, Rwebisengo and Karagutu, where their ethnic links with the local Ugandan population are helping them to survive as they await the distribution of humanitarian assistance. No reception camp has been set up for them, although in Ntoroko there is a place available where they can erect rough tents which serve as shelter to many families who are living in very tenuous conditions. There is not even basic medical assistance, food rations or decent housing. Elsewhere, refugees are being housed by the local population, or are using the last of their savings to rent a room.

At the start of the crisis, a two-week supply of food and non-food rations (including medication and “start-up kits”) was handed out by NGOs. Another round of distributions was organized when the Ugandan government took the steps that were

needed to house refugees in the Kyaka II camp<sup>41</sup>, around 60km from Lake Albert. This decision was prompted by the fear that the constant in-flow of Congolese refugees into the region could overwhelm the already limited local structures. The Ugandan government also spoke of the need to move the refugees away from the Congolese border to avoid waves of attacks or forcible recruitment by armed groups<sup>42</sup>.

According to the Ugandan legislation, all refugees present in Uganda must be housed in camps approved and itemized by the national authorities. To enable refugees to make their own living in these camps, Uganda has introduced a gradual “provision of assistance” programme<sup>43</sup>. However Amnesty International recalls that Uganda has ratified the 1951 United Nations Convention on the Status of Refugees and has the obligation to respect the right to freedom of movement guaranteed to refugees under article 26 of this convention.

This programme, which is unique to Uganda and has been praised by the UN High Commission for Refugees (UNHCR), suffers from serious logistical problems and a clear lack of effective communication with the refugees. In fact, most of the refugees we met expressed serious fears about the possibility of being moved to the Kyaka II camp, the reception camp where the Ugandan government, with assistance from the UNHCR, plans to house them. Rosa, a Hema widow and head of a family of six children, expressed vehement reluctance to go to Kyaka II. This is a common opinion among member of the refugee community who Amnesty International met:

*“Once in the camp, we will be prevented from going home! In Ntoroko we have neither food nor medicine, but I refuse to go to the camp. I might as well go back to die in Tchomia!”*

The reasons given by the refugees for refusing a transfer so categorically were: that families would be broken up and it would be difficult for them to be reunited; the hope that the conflict would not last long; fear of losing their freedom; the stigma

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<sup>41</sup> The first official refugee camp to be recognised by the HCR in the region. Previously it was home to Rwandan, Sudanese etc. refugees. According to the refugees, it has a reputation as a place where the living conditions are harsh for refugees, and where these are insufficiently protected.

<sup>42</sup> OAU Convention on Refugees.

<sup>43</sup> Under this programme, anyone with refugee status in Uganda is placed in a camp and given a plot of land to farm to develop her ability to meet her own needs. Food rations are distributed by the World Food Programme (WFP), and are gradually reduced, until relative self-sufficiency is achieved. Those seen as vulnerable (widows who are heads of households, the old and disabled) continue to receive maximum food rations.

attached to going to live in a camp, and, finally, the difficulty they would face as cultivators since most are engaged in fishing and livestock raising.

However, with their lack of food supplies, medical attention and the normal support provided by NGOs, the Congolese refugees living on the banks of Lake Albert have already suffered or witnessed grave rights abuses. Their situation is precarious and they are vulnerable to indirect, yet nevertheless real pressure from the Ugandan government.

The Ugandan law which regulates refugees in the country goes back to 1960<sup>44</sup>, is not relevant to the current refugee problem in Uganda, and the level of protection it affords them is not in accordance with international standards. It is, therefore, essential for the new law to be adopted to ensure real protection and assistance to refugees in Uganda. The Ugandan government must also publish a transparent statement on its policy on the camps and access to humanitarian aid, so that the refugees can have access to the latter<sup>45</sup>.

To date a limited number of refugees has accepted to go to Kyaka II. They have done so either out of choice, or because they are obliged to do so given the impossibility of surviving in the camp without humanitarian assistance. The men and women we met in Ntoroko, Rwebisengo and Karugutu, who are living in precarious reception conditions, can consider themselves “lucky” to have survived the atrocities that brought them from the other side of Lake Albert.

Living in a makeshift shelter on a piece of wasteland made available to Congolese refugees by the town of Ntoroko, Nedi, who is 14 years-old, timidly told Amnesty International how she witnessed the murders of her mother, who was six months pregnant, and her younger sister, by Lendu militia in May 2003 in Tchomia. The three were by the edge of the lake when Lendu militia from Zumbe attacked the town. Nedi was able to hide in a bush, but the militia grabbed her mother and cut her stomach open with a knife, and then threw her body and that of her little six-year old sister into the lake. She was prevented from fleeing by another group of militia who shot at her and wounded her in the hip. She was taken hostage with a group of civilians and taken to the Lendu camp in Zumbe. That was how she escaped death. There she met Esther, a cousin of her own age. The two little girls were held prisoner

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<sup>44</sup> Control of Alien Act, 1960.

<sup>45</sup> A draft law has been under debate since 1998. The bill has now gone before the Cabinet (prior to submission to Parliament).

at the camp for a month and forced to work for the militia. Nedi and Esther escaped when the militia decided to transfer the hostages to Beni. During the five-day journey, Nedi was beaten several times and raped twice. After their escape, they managed to find Esther's family which had recently arrived in Ntoroko.

Amnesty International is extremely concerned by the attitude of the Ugandan government which seems to be using hunger as a weapon to force refugees who have been traumatised by so much violence to move to a place where they do not feel safe.

### **C -The precarious living conditions of the displaced in Oicha and Erengeti**

The journey by those fleeing Bunia for Oicha and Erengeti was long and dangerous. The displaced told Amnesty International horrible tales of the harsh march that lasted weeks. The Bunia-Erengeti route was full of checkpoints of the UPC militia, who were carrying out rapes, beatings and killings. Many people were wounded, and the long march, as well as the lack of food, drinking water and medical care weakened them even more. When they arrived, the survivors were found in a state of great need and vulnerability.

The precarious security situation and relative or total lack of humanitarian assistance place the displaced in an even more vulnerable position in terms of human rights violations. In most cases, they are in even more precarious conditions than in Bunia. Many of them marched for days and nights to take refuge in Oicha and Erengeti. In fact, theirs is a series of unending flights. While many of the displaced have recently fled the Bunia atrocities, many others have been there since the Mambasa and Nyankunde killings at the end of 2002.

Unlike in Bunia, there is no regular food distribution. It does not meet the needs of the displaced who complain of food being scarce. The last round of distribution had taken place two weeks before Amnesty International's visit in July 2003. During the delegation's stay, no one was able to inform us of the next date for distribution, and no more food was distributed before the delegation left.

This lack of humanitarian assistance for a population already greatly affected by the conflict and which urgently requires medical assistance, drinking water and food, has created a delicate, potentially dangerous situation for the displaced. They are more exposed to potential abuse and exploitation by the local population, which could use the displaced as low cost labour. This situation increases their vulnerability in a context in North Kivu province in which scattered armed militiamen are still out of the control of their commanders.



In July, over 80,000 displaced persons registered in Erengeti, Oicha and a number of small unlisted settlements. This is a number which far exceeds the autochthonous population which fears that it is simply going to disappear. It is also making the logistical situation more difficult to manage, in a context in which co-operation among the different humanitarian players is complicated.

## **D – The dangerous impact of regional sponsors: Uganda and Rwanda**

The complexity of the crisis in Ituri – and the regional challenges of which it is a part – means that regional powers such as Rwanda and, above all, Uganda, have a key role to play in solving it.

Since the UPC's loss of Bunia, and, particularly, the signing up of the RCD-Goma to the peace process, relations between the UPC and Rwanda have diminished considerably. However, local NGOs continue to report the presence of Rwandan military instructors in the UPC army.

Today Uganda<sup>46</sup> remains the main regional player in the Ituri conflict. Uganda shares a border with the DRC in Ituri and, from this point of view, appears to be a neighbour which is making and breaking "rebellions" in Ituri to suit its interests. The succession of armed groups that have controlled Ituri since the beginning of the crisis clearly shows their degree of dependence on Kampala. What is driving the conflict is not so much the internal interests of the Congolese factions, but more the ambitions and desires of Uganda.

At recent meetings of the armed groups' agreements committee, all the leaders of these groups undertook to de-militarise and confine their troops and endorsed the principle of demobilising child soldiers. That said, many arms transfers are still taking place. On 21 July 2003, an aeroplane chartered by Commander Jerome, which was carrying arms destined for the Mongwalu front<sup>47</sup>, was intercepted in Beni by the RCD-ML, who informed MONUC. Commander Jerome of the FAPC is still being supported by Uganda. Statements by Congolese refugees in Ntoroko indicate that

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<sup>46</sup> On 30 September 2003, the Ugandan army announced that it had sent additional troops to the border with the Democratic Republic of the Congo (DRC) following "reliable reports", it said, of an imminent attack by a rebel Ugandan group.

<sup>47</sup> Mongwalu is a region rich in gold. It was controlled by the UPC which was reportedly ousted at the end of June by a FNI-FAPC coalition. Fighting there continues.

Chief Kahwa, leader of PUSIC, is frequently visiting the region. Uganda is providing political and military support for his movement.

Amnesty International remains concerned about this situation and is worried that such visits are being used to hold political meetings in the camps; to use psychologically affected refugees, and recruit vulnerable children and adults into the army. Floribert Njabu, the FNI leader, who is suspected of involvement in several killings, including those in Nizi, and Chief Kahwa are both living in Kampala.

The Ugandan government officially demonstrated support for the peace process in Ituri and the DRC when it signed the Lusaka agreements and endorsed the conclusions of the CPI conference. However, by continuing to sponsor the different armed groups still operating in Ituri outside the framework of the peace talks, Uganda remains a dangerous element.

## **V – The challenges facing the “Ituri Brigade” and the International Community**

### **A- Resolution 1493: imposing peace, protecting the civilian population**

On 28 July 2003, the United Nations Security Council extended and stepped up MONUC’s mandate. It was turned from a simple observation mission into a peace building mission in Ituri and the two Kivus. It was also provided with the explicit capacity to use force, where necessary, to protect the civilian population and encourage humanitarian action. The total contingent planned for the Ituri Brigade numbers 5,000 soldiers, compared to the 1,400 who took part in Operation Artemis. Although this number of troops is not yet in proportion to the size of the country or the scale of the challenge, it is larger in number than the multinational force and its intervention capacity far outstrips that of the latter. Making due allowances, this new mandate could be expected to succeed or, in the worst case, to maintain the status quo.

According to an officer from the Bangladeshi battalion of the Ituri Brigade: *“[i]f the civilian populations are threatened, we can protect them. If armed groups*

*appear, we can challenge them and demand they lay down their arms. If they refuse, we are in a position to respond.*"<sup>48</sup>

The official reaction of the UPC, stated by its representative in Kampala, is that the movement is waiting to see what impact this new MONUC force will have on the ground. It will have to be judged by its action<sup>49</sup>. The UPC has accused MONUC of conniving with the Kinshasa government. The new force has been in place for less than a month and already there have been very many incidents between it and the UPC.

On 14 September 2003, the Ituri Brigade proceeded to reintroduce the "Bunia: weapon free" operation. As a result of unannounced searches, a large cache of arms and munitions was found buried at the homes of leaders of the UPC. MONUC reported that this arms cache comprised 14 AK 47 machine-guns, six Claymore mines, one rocket launcher and nine rockets, and a stock of munitions of different calibres. They were impounded and many of the movement's senior figures, including Floribert Kissembo and Rafiki, who are the UPC's Chief of Staff and the Head of Information Service respectively, were arrested and detained at the airport military camp. The next day the crowd from Mudzi Pela converged on MONUC armed with clubs, machetes, and sticks calling for them to be freed. The protest was broken up by MONUC's troops shooting into the air. Three people were reportedly killed when the crowd scattered, and several people were wounded. The following day, a MONUC surveillance helicopter fired on a UPC vehicle carrying armed soldiers that was heading towards the town, and three people were killed.

As well as having to deal with the acts of provocation that elements hostile to peace, on all sides, will doubtless carry out to test its resolve, MONUC must show all Congolese and the international community that it is capable of carrying out the job entrusted to it by the UN Security Council, while itself scrupulously respecting international human rights standards. On 4 September, while carrying out an investigation at the site of an incident in which a person in Bankonko was killed, Willy Bengwela, an *Agence nationale de renseignement* (ANR), National Intelligence Service, leader and Special Security Advisor to the Coordinator of the CPI Interim Administration, was arrested by MONUC forces. Mr Bengwela alleged that his hands and feet were tied, that he was manhandled and beaten and that he was held at the airport camp for three days. He reported that at the airport camp he was subject to ill-

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<sup>48</sup> MONUC: A mandate to succeed, Refugee International, Clifford B. & N. Pearson, 16 September 2003.

<sup>49</sup> *The Monitor*, Wednesday, 3 September 2003.

treatment and that he was freed only after being forced to sign a document stating that he had not been mistreated.

This incident and many others speak of a need for reconnaissance and investigation missions to include soldiers who understand French, and human rights requirements, and who are able to communicate with the population in their own language. A Chapter Seven mandate is most certainly not enough to create security. The challenges to be met by the Brigade are, therefore, enormous, and this new international force will require more than tanks and men to meet them.

In addition to all the difficulties linked to the violence and insecurity in Bunia, the Ituri Brigade will have to overcome the mistrust which exists between it and the population. It must convince people without abusing them, protect them without leaving itself vulnerable and reassure people without weakening or compromising itself.

## **B – A political settlement is essential to Ituri**

*“There is no military solution for Ituri. There is only a political solution which needs to be supported, backed up, and even imposed by force”<sup>50</sup>.*

Amnesty International notes that a military response to the crisis is needed to protect the civilian population, in the context of a United Nations-mandated international force, which respects human rights. However, this military response must be accompanied by a political process to create a lasting framework for national dialogue and meet the need for justice for the common law crimes that have been committed and for the war crimes and other crimes against humanity. The United Nations Security Council clearly gave this mandate to MONUC in Resolution 1493.

None of the political and military forces at war today in Ituri has signed the Lusaka agreements or the Sun City accords which led to the establishment of the transitional government. The armed groups’ agreements committee set up as one of the CPI bodies has created an appropriate framework for this debate. Amnesty International is convinced that the latest meeting of this committee, in Kinshasa on 16 and 17 August 2003, which was attended by the new transitional leaders, was definitely a step in the right direction.

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<sup>50</sup> Amnesty International interview with Colonel Dubois, Bunia, July 2003.

Amnesty International recognises that there will be no lasting peace in Ituri until a political framework for talks is provided to the warring sides, to allow for a process which takes human rights into account.

### **C – Rebuilding the police and judiciary in Ituri**

In Ituri the fact that the legal system is not operating correctly is negatively impacting on the peace-rebuilding process, and also helping to provide impunity for perpetrators of human rights abuses, that is to say those who are guilty of common law crimes, murder, killings, rape, recruitment of child soldiers and other serious crimes. To be convinced of this it is important to consider the problems created by the inadequacies of the legal structures, the impact of this on the outbreak of inter-ethnic conflict, as well as the problem of impunity.

The lack of a police force and particularly of a judicial police force is detrimental to the protection of rights and freedom in the area. Order has not been re-established, and the obligation to afford protection is left up to the population itself, with all the risks of hasty justice inherent in such situations. There will be no effective justice without effective action by a professional police force. MONUC, through Civpol, is already helping to create the seeds of this force which is needed to strengthen the CPI's authority. "*I represent the Executive in Ituri but without justice or the police I have no teeth*", recognised Emmanuel Lekhu, Coordinator of the CPI's Executive. But the transitional government has also the responsibility to make reforms of this nature, and make Ituri a priority.

#### *The lack of legal structure and infrastructure in Ituri*

As is the case throughout the country, the problem with the legal system had already arisen in Ituri even before the outbreak of inter-ethnic conflict in eastern DRC<sup>51</sup>. In Ituri, a district inhabited normally by over 4.5 million people, there is only one court, with head offices in Bunia. However, because of the distances involved, it is inaccessible to the vast majority of those to be tried. Traditionally, the population living in areas furthest from Bunia, particularly Aru, Mahagi and Mambasa, has not been able to have its cases heard by a court within a few kilometres of their place of residence. People living in Bunia, or in the towns or villages nearby, were also faced with the problem of the slow turning of the wheels of justice owing, *inter alia*, to a

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<sup>51</sup> According to the RDC's administrative and political divisions, Ituri is a district. It forms part of the Eastern Province, whose capital is Kisingani, and comprises five territories. Under the law regarding the organization and powers of the judiciary, current in the RDC, the main town in all districts must have a regional court. This law establishes that all territories must have at least a tribunal de paix. The case of Ituri is a departure from this principle (the same applies elsewhere).

lack of legal personnel<sup>52</sup> (judges, barristers and public officers); the absence of operating resources; and the lack of motivation on the part of staff owing to the non-payment of salaries. All the legal personnel was scattered and the infrastructure totally destroyed. Even judges and lawyers have taken refuge in the North Kivu camps for displaced persons at Beni Oicha and Erengeti. The slightly luckier have either simply fled to neighbouring countries or headed for Europe.

Apart from written law jurisdiction, in Ituri there are customary law courts at group, community and territorial level, whose disappearance will depend on the effective introduction of peace tribunals. In the past, customary law courts have ruled on cases for which they did not have a remit, owing to the vacuum created by the poor functioning of the legal system. But today, the marked mutual hatred which exists on the part of the ethnic groups makes it absolutely impossible for such justice based on customary law to be effective. The necessary mutual trust does not exist which would make this type of law a practical and useful means of curbing common crime, which has been extremely widespread in the district since the upsurge in the conflict. Yet justice is very necessary for reconciliation.

#### *The impact of justice on inter-ethnic conflict*

The inter-ethnic conflict which led to the Ituri drama was sparked in 1998 by a property dispute between a few Lendu cultivators and a number of Hema cattle farmers. One example is the case of the stockbreeder Kodjo Senga<sup>53</sup>, who clashed with approximately 100 cultivators at a place 25 kilometres from Fataki in Jugu territory.

In this case, as in others, the deficient legal system contributed to the continuation of violence and recourse to private revenge. It is essential that a legal system be set up in Ituri to settle the thousands of cases of property extortion,

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<sup>52</sup> Concerning the number of members of the legal service in particular, there were four judges and four members of the State Counsel for the entire population of Ituri.

<sup>53</sup> In order to expand his holding, the cattle breeder had requested incorporation of a neighbouring village inhabited by over 100 people. The law establishes an appropriate procedure for such cases, namely the agreement between the individual working the holding and those with interests in the land concerned. Kodjo Senga, the Hema farmer in question, had reportedly circumvented the law by obtaining a property title but not the agreement of the farmers to remove their land from them. The case went to court (a regional court, and later an appeal) and there was a ruling in favour of the cattle breeder. The outraged farmers decided to use violence to defend their rights. This triggered a wave of violence against Kodjo's property, but also, as a result, against that of other cattle breeders who were associated with the initial cattlebreeder because they were from the same ethnic group.

pillaging and theft, and the great harm done to the civilian population in the context of the conflict.

*Impunity for common crimes: a threat to durable peace in Ituri*

The first serious inter-ethnic violence occurred in Ituri at a time when the district was under the political control of the RCD, and was, therefore, outside that of the Congolese State. The legal system, as well as most public services, had been weakened, *inter alia*, by their separation from the central hierarchical structures based then as now in Kinshasa. Regarding the legal system, in particular, the situation became delicate when, due to the split in the RCD, it became difficult for those being tried from Ituri to follow the progress of their cases at the Court of Appeal in Kisangani, which was in thrall to RCD-Goma, while Ituri was controlled by RCD-ML. This meant that a number of serious crimes could not be properly prosecuted. Moreover, the rebel leaders' hold over the judiciary meant that the latter was insufficiently independent from the perpetrators of crime, above all in cases where the latter were linked to certain leaders. This already inadequate system has completely deteriorated since the recent developments in the conflict.

During its mission to Ituri, Amnesty International has gathered many witness statements concerning flagrant cases of pillaging, extortion, and armed robbery, followed by murder. In the majority of cases, victims or their relatives recognise and can often identify the perpetrators, who in some cases are walking around in full daylight with their spoils. Houses and all types of property have been seized from their owners, who are either killed or forced into exile. If there are any legal successors, these are silenced by death threats and constant harassment. Several people have suffered destruction of their property by third parties, but no legal action can be considered to allow them to recover what is legally theirs. Such action<sup>54</sup> is being committed not only by soldiers, but also by civilians, acting with complete impunity, under the protection of the leaders of armed groups, or by bands of uncontrolled robbers.

With rare exceptions, then, no cases have been brought to justice over the violence perpetrated in the context of inter-ethnic conflict. That is creating a general sense of frustration and desire for justice on the part of all communities in Bunia. Without remedies, this situation can only lead to new violence.

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<sup>54</sup> "Justice Plus", a local NGO in Bunia, has recorded several dozen cases of rape and extortion (in some cases followed by murder) of items ranging from the most basic, such as clothing, to property of great value such as houses, land and cattle, etc.

It is necessary to achieve a return to normality for the legal system in order to prevent an escalation in the violence in Ituri<sup>55</sup>. Common crimes must be dealt with by the local legal system and war crimes by the international. The International Criminal Court (ICC) and the transitional government are also responsible for making this a fundamental priority.

### **D- Zero impunity for war criminals: the ICC and the international legal system**

The ICC was set up on 1 July 2002, the date of entry into force of the Rome Statute. Its Prosecutor and the Special Rapporteur on Human Rights in the DRC have both stated that a number of crimes committed in Ituri against the civilian population could fit the remit of the Court. In fact, these actions either by local armed groups acting alone, or by the same groups with direct or indirect support from foreign (Ugandan and Rwandan) armies, do seem to fit the definition of war crimes and crimes against humanity adopted in the Rome Statute, to which the DRC is a signatory.

Since the start of the inter-ethnic conflict in Ituri in June 1999, and despite the atrocities, which have been widely decried, no-one has been prosecuted, found guilty or much less sentenced either as perpetrator or joint perpetrator of serious crimes against the civilian populations. This situation is reinforcing the reign of impunity, and encouraging the leaders of the armed groups, who are calmly continuing to perpetrate odious crimes.

The serious nature of the crimes committed in Ituri, on the one hand, and the deficient operation of the Congolese legal system, on the other, make action by the ICC one of the rare international initiatives which can kick start the fight against impunity and respond to the growing need for justice on the part of the population of the DRC.

Amnesty International is delighted with the ICC Prosecutor's decision to make Ituri a priority case for its tribunal<sup>56</sup>. This position has had a positive psychological effect on public opinion. But it has not yet been translated into any pre-trial

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<sup>55</sup> Congolese lawyers believe that it is necessary to set up tribunaux de paix in Ituri district's five territories and allocate a sufficient number of members of the national legal service. Bunia's regional court must, in turn, have a large number of legal service members to ensure the effective administration of justice.

<sup>56</sup> As stated by the ICC Prosecutor on 16 July and 9 September 2003.



investigation work. On the ground, different armed groups are stepping up attacks on civilian populations with complete peace of mind, aware of the fact that no legal steps have been instituted against them for their past crimes. Amnesty International believes that action by the international legal system, through the ICC, is the key to kick starting the fight against impunity for war crimes and crimes against humanity, particularly in Ituri, but also, more generally, in the DRC.

However, this must in no way detract from the role the DRC's legal system has to play in fighting impunity. It is essential that the transitional government, with the support of the international community, set up a global programme to rebuild the national legal system, so that the national courts have the resources required to take cognizance of the violations of international human rights law and international humanitarian law.

In view of the need for national dialogue and in order to set up, on an inclusive basis, the transitional institutions envisaged by the Sun City accords, in April 2003, President Joseph Kabila decreed an amnesty for "war acts" and certain crimes committed during the five-year conflict.

It is regrettable that impunity should be sanctioned in the name of national unity. Amnesty International is concerned about the consequences of impunity endorsed through the peace process. It is vital that investigations be opened into the presumed perpetrators of war crimes and crimes against humanity, even if they hold government office, and that they be punished by law, if the legal system finds them guilty.

It is crucial to keep up pressure on the different transitional players, and to draw the international community's attention to the crimes committed in the DRC, particularly in Ituri, in order for the ICC to carry out its work appropriately, honouring the memory of the tens of thousands of known or anonymous victims. Only equitable justice can allow a peace process initiated in the transition to take root with human rights values, for sustainable unity and development.

## **Conclusions**

The laborious, difficult peace process of over five years has led to the establishment of a transitional government in the DRC. This step forward has inspired great hope. Yet the country remains fragile. Today it is at a crossroads where it will either recreate itself or lose its way. The situation in Ituri remains a test for this process, which could go in either direction.

The international community has supported the peace process, and in so doing has demonstrated the importance it places on the well-being of the Congolese people and a return to a society in which fundamental human rights are respected for and by everyone. It has also voiced concern about the need for reconciliation among the Congolese. But it is crucial that justice also be delivered to the millions of known and unknown people who have died in this conflict. The need for unity must take account of the duty to remember and the right to justice necessary to all credible, lasting reconciliation processes.

Amnesty International believes that the transitional process must include a framework for strong and impartial national and international justice so that the culture of impunity cannot bring into question all the new hopes. Amnesty International believes that reconciliation without justice cannot serve the Congolese, and could engender new conflict.

Crimes committed in Ituri should not go unpunished and, if justice is necessary for the victims, it is also essential for the entire Congolese people, which have been affected by so many atrocities. At a time when the transitional government is starting to function, it is urgently necessary for strong signs of a commitment to build a more just society in the DRC. Independent judicial mechanisms, both national and international, must investigate all the war crimes and crimes against humanity and the perpetrators, whoever they may be, must be made to answer for their deeds in law.

From this standpoint, the transitional government must entirely re-build the legal system and co-operate with the ICC, setting up the structures needed for the investigations. If the DRC wishes to respect its international commitments, now is the time for it to do so, and the international community has a duty to support the efforts of the Congolese people in that task.

To this end, Kofi Anan has said “*all States in the region must respect each others’ sovereignty. Support for armed groups and the illegal extraction of the Congo’s resources have to end. A tradition of good neighbourliness must be established as well as respect for and the protection of civilian populations and all citizens. These principles must guide the political action to support the peace process*”.

The fight against impunity, therefore, is the response which the new government and the entire Congolese people must bring to these years of conflict, so

that a culture and society based on fundamental human rights can be reborn. It is an urgent challenge which, above all, must be taken up in Ituri.

## **Recommendations**

Amnesty International insists on the need for concrete measures to halt the abuses to which civilian populations are subject, and for which all players in the conflict, to differing extents and at different levels, could be held responsible. It is essential for all the belligerents seriously, and on the basis of universal principles of international law, to commit themselves to respect human rights, and to promote their application in Ituri. Amnesty International is convinced that only a peace founded on justice and law will be able to give hope back to the millions of persecuted civilians. These recommendations are addressed particularly to the armed groups operating in Ituri, MONUC, the transitional government, the regional governments involved in the conflict, the ICC and the international community.

### **1 – To the armed groups: the UPC, FNI, PUSIC, FAPC and Lendu and Ngiti combatants**

International humanitarian law, in the form of the Geneva Conventions, clearly defines the rules of war to which all combatants must adhere:

Article 3, common to all the Geneva Conventions<sup>57</sup> establishes the obligation to protect civilians and non-fighting combatants during times of war, and addresses the problem of the responsibility of armed groups towards civilians in times of conflict. Amnesty International reminds the armed groups involved in the conflict in Ituri that they are obliged to protect civilians and urgently calls on them:

- to bring an immediate end to the killing of civilians, to illegal homicide, rape, and other attacks on human rights carried out against civilians and combatants who have ceased to participate in the hostilities;
- to publicly recognise the crimes committed by their forces and to fully and unconditionally collaborate and co-operate with all independent enquiry commissions, including those of the ICC, to reinstate victims rights;

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<sup>57</sup> For further information on the responsibilities of the parties to the conflict, as laid down by the Geneva Conventions, see the above Amnesty International documents on Ituri and economic exploitation in Eastern DRC, *AI Index: AFR 62/010/2003* and *Index AI: AFR 62/006/2003*

- to swiftly end harassment and human rights abuses against personnel from the humanitarian NGOs and human rights activists and ensure that humanitarian organizations can gain safe, unrestricted access to all areas under their control, and in which the Ituri Brigade has not yet been deployed;
- to immediately halt the recruitment of child soldiers and to co-operate with MONUC and other appropriate organizations to continue the process of disarmament, demobilisation and reintegration of these children. They must also immediately and unconditionally confine their forces in the zones accepted with the FMIU;
- to pursue political peace talks in the framework of the armed groups agreements committee foreseen by the Ituri Pacification Commission, publicly committing to safeguard human rights and ensuring that their combatants halt all abuses; and to swiftly give firm instructions to their soldiers, who are continuing to perpetrate crimes, that such action will not be tolerated, and they will be punished by law;
- to recognise and support the activities of the human rights unit foreseen by the ICC as one of its interim bodies, and to make this structure a touchstone of the political process and national and international legal systems which Ituri so greatly needs;
- to fully respect the embargo decreed by United Nations Security Council Resolution 1493 concerning arms transfers to the region, to immediately halt arms purchases and to make weapons stocks available to MONUC for inspection.

## **2 – To MONUC**

Amnesty International is aware of the crucial role that MONUC must play in protecting and respecting the rights of civilian populations in a conflict situation such as that of Ituri. As a result, Amnesty International urges MONUC to:

- fulfil the spirit and letter of its new mandate, not only by rapidly deploying its troops in all sensitive areas of Bunia, but also by stepping up such deployment in the territories beyond Bunia, which are still affected by violence and sometimes inaccessible to security patrols and humanitarian workers;
- have available a sufficient number of liaison officers, human rights personnel and humanitarian affairs officers who speak French and/or Swahili to facilitate communication with the local population and prevent misunderstandings which could degenerate into conflicts and human rights violations;

- train its international military personnel, the civilian police and legal personnel in human rights and the application of laws in the context of conflicts such as that in Ituri;
- step up its support for the political process by following the meetings of the armed groups agreements committee, and forging a context conducive to respect for human rights, and particularly women's and children's rights;
- allow the establishment of independent investigation commissions on all abuses reportedly committed by soldiers from the Ituri Brigade while carrying out their mission and set up, for reasons of justice, internal structures for co-operation with such commissions;
- assist in effectively establishing and training the civilian police force managed by the CPI in Bunia, and gradually throughout Ituri, both to prevent attacks on the physical integrity of unarmed civilians, and the very frequent robberies and extortion of private property. The police must encourage the free movement of goods and people which still exists in Ituri and keep order;
- assist with the urgent reconstruction of the legal system in Ituri, so that an enquiry can be carried out into all human rights violations, and the presumed perpetrators can be brought before the competent courts;
- facilitate the investigation work of the ICC announced by its Prosecutor, by making available to it the information and logistical support it requires, particularly in Ituri.

### **3 – To the transitional government and the CPI**

The transitional government must put in place medium- and long-term mechanisms to permit access to effective justice and greater protection of civilians in Ituri. As part of the demands for transitional justice which Ituri also urgently requires, Amnesty International makes the following recommendations to the transitional government:

*On the need for a professional police force in Ituri, the Transitional Government, alongside the CPI should*

- set up a civilian police force with the necessary resources and training, in close co-operation with MONUC and the support of the international community, as soon as security conditions permit;

- promote the police's role in applying laws, with a clear distinction between its role and that of the army. Civilian police units responsible for applying the laws must come under civilian control;
- make a clear, public definition of the roles, responsibilities and official powers of the different branches of the police and the security forces;
- ensure that all sectors of the police receive human rights training and instruction on how to carry out their mission without being politically influenced;
- guarantee that all police units' procedures for arrest, investigation and detention are tracked by independent representatives of the legal system

#### *Rape and other forms of gender violence*

The DRC government, with material and technical assistance from the United Nations and the International Community, involvement of the CPI and local players, must give priority to caring and supporting victims of sexual violence. In particular, it must:

- investigate cases of rape and violence against women in the context of the conflict in Ituri by all involved parties, so that those alleged to be responsible can be brought to justice;
- set up health and counselling programmes for victims of sexual violence in co-operation with international and Congolese organizations already supporting such programmes, and providing specific assistance to them. If necessary, governments of donor countries and United Nations bodies should facilitate access to medical care abroad for victims;
- establish a legal support programme for victims of sexual violence, and allow them to achieve full legal redress. In particular, measures should be taken to protect the dignity, private lives and psychological well-being of victims bringing cases of sexual violence;
- launch and support public awareness-raising campaigns and training programmes for members of the security forces to eliminate violence against women in the DRC;
- ensure that judges, prosecutors, the police and all staff working in the criminal justice system are trained to deal with victims of sexual violence.

*With reference to the ICC and the national judiciary, the Transitional Government should:*

- place on the statute books as soon as possible the law implementing the Statute of Rome, as recommended by Amnesty International in its document entitled *International Criminal Court, list of principles to be respected for the effective implementation of the International Criminal Court (AI index: IOR 40/011/00, August 2000)*. This legislation must provide the national courts with the powers necessary to judge the war crime of recruiting and using child soldiers, whenever and wherever they were committed, and not only crimes following July 2002;
- give priority to ensuring that the legal system once again is able to take cognizance of common crimes committed during the conflict, with the assistance of the international community. This is essential to rebuild the social fabric of Ituri, now torn by feelings of vengeance and injustice.

*With Reference to Internally Displaced People:*

- Encourage the transitional government to respect and implement in practice the provisions of the guiding principles on internal displacement ([http://www.reliefweb.int/ocha\\_ol/pub/idp\\_gp/idp.html](http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html)) with special emphasis on the right to life (principle 10), the right to dignity and physical integrity, including protection against sexual violence (principle 11), the right an adequate standard of living (principle 18 ; water, shelter, healthcare) and the right to medical care (principle 19).

#### **4 – To the Ugandan government and army**

- firmly order the UPDF and its allies to respect minimum standards of behaviour regarding human dignity enshrined in international human rights and international humanitarian law. Such instructions should be backed up with basic instruction in international humanitarian law and international human rights commitments;
- ensure that international human rights law and international humanitarian law on the protection of civilians and dignified treatment of those who have laid down their arms are respected at all times;
- inform all members of the UPDF that they have the right and the duty to disobey orders which could lead to human rights violations;
- use its influence with the armed groups it is backing to ensure they allow and facilitate the unfettered distribution of humanitarian assistance in all zones in their control, and ensure and facilitate access to such zones by international human rights and humanitarian organizations;

- assist in investigating as soon as possible and with entire impartiality allegations of abuses of human rights committed in the zones controlled by the UPDF and its allies while its troops were still in Bunia and ensure that those responsible for such abuses are brought to justice. The enquiries and court cases should always respect international standards of justice and capital punishment should never be handed down or carried out;
- facilitate enquiries by international organizations into information concerning human rights violations committed in the DRC, and fully co-operate with them;
- immediately cease – in accordance with UN Security Council Resolution 1493 – movements of military, security and police equipment; arms; personnel and training to armed political groups in the DRC, who are known to have carried out violations of fundamental rights, and desist from providing any related logistical and financial support to such groups;
- bring its influence to bear on the armed groups it is protecting to ensure these cease from recruiting into the armed forces all persons under the age of 18, in accordance with the African Charter of Rights and Welfare of the Child, and co-operate with MONUC and other appropriate organizations to achieve the disarmament, demobilisation and reintegration of child soldiers;
- improve the living conditions of Congolese refugees around Lake Albert by taking concrete measures to protect them against any violations of their rights by:
  - desisting from using humanitarian assistance as a means of putting pressure on refugees to limit their freedom of movement;
  - increasing coordination of humanitarian action between the office of the Prime Minister in charge of refugees, local structures of intervention and NGOs on the ground ;
  - promptly adopting the law governing refugee status which includes protection standards contained in international refugee law in close cooperation and in total transparency with UNHCR and NGOs that have worked on this legislation since 1998.

#### **5 – To the Rwandan government**

- immediately desist – as required by UN Security Council Resolution 1493 – from providing military, security and police equipment, arms, personnel and training to armed political groups in the DRC who are known to have carried out abuses of basic rights, and cease all concomitant logistical and financial support to these groups;
- use its influence on the armed groups it is protecting to ensure the cessation of recruitment of all persons under the age of 18 in the armed forces, in accordance with the African Charter on the Rights and Wellbeing of the Child, and co-operate with MONUC and other appropriate bodies to achieve the disarmament, demobilisation and reintegration of child soldiers



## **6 – To the United Nations and the international community**

Amnesty International calls on the United Nations Security Council to continue backing the peace process in the DRC, by supporting legal reform in Ituri, as part of the effort to rebuild the national judiciary, and to participate in mobilising resources required for national reconstruction. Amnesty International recommends that the UN and the wider international community should:

- insist that all parties to the conflict adhere to international humanitarian law in order to ensure the protection of civilian populations and permit and facilitate the unfettered distribution of humanitarian aid;
- set up a structure to follow up the work of the United Nations working group on the extraction of the DRC's natural resources, made up of experienced researchers, to follow up on violations of human rights and international humanitarian law in the DRC, particularly those which have taken place since August 1998, *inter alia* in Ituri, in a context of economic exploitation. Such a follow-up structure should have at its disposal appropriate material and human resources to carry out an exhaustive enquiry and take the necessary measures, particularly in terms of bringing to justice those responsible for abuses. MONUC should be called upon to facilitate and guarantee the safety of the researchers;
- pursue and broaden the enquiries carried out by MONUC and the UN High Commission for Human Rights into allegations of human rights abuses in the region. The results of these enquiries should be made public to satisfy the requirements of the ICC's work;
- demand an obligatory commitment on the part of the governments and armed groups involved in the conflict in Ituri to ensure they co-operate with these enquiries and facilitate them, and they bring to justice the perpetrators of the abuses of basic rights identified in the enquiry;
- bringing to justice those combatants and leaders or commanders shown by the enquiry to have committed, ordered or tolerated human rights abuses - including in their countries or the countries which support them;
- in accordance with Resolution 1493, demand that UN member states prevent the movement of military, security, and police equipment; of arms, personnel and formations which could be used to commit abuses of fundamental rights by all non-government bodies with armed forces in Ituri. Such a curb, particularly with reference to allied logistical and financial support, should be maintained until such time as it can be reasonably shown that such movements will not enable human rights abuses or violations of international humanitarian and human rights law to be carried out;

- support measures designed to bolster justice, reconciliation and the promotion of human rights in Ituri, in particular, by supporting, promoting and protecting the work of independent human rights organizations and activists in the Ituri region.

Finally, **all parties to the conflict** must undertake to fully co-operate with the International Criminal Court's Prosecutor in his preliminary examination of the situation in the DRC and in all subsequent inquiries. If the ICC accusations proceed, these parties should seek to ensure that any person suspected of committing crimes is brought for trial before the ICC.

**Rwanda** must, as soon as possible, ratify the Statute of Rome and introduce a law bringing it into effect.

**Uganda** must introduce a law bringing the Statute of Rome into effect.

**The governments of the DRC, Rwanda and Uganda** should look favourably on any extradition request by the Prosecutor.

## **Events in Ituri which may interest the ICC**

- a) On 9 August 2002, the UPC, supported by the Ugandan army, established itself in Bunia after driving out the *Armee du Peuple Congolais* (APC), Army of the Congolese People, the armed wing of the RCD-ML. The fighting which preceded the defeat of the RCD-ML caused the death of almost 100 civilians. The attack on the APC's headquarters was prepared several days earlier by the UPC and the Ugandan army, despite the fact that several civilians were resident in the neighbourhood.
- b) On 5 September 2002, following clashes between the UPC and the APC supported by Lendu militias, over 1,000 people were killed in Nyakunde (located 45 km from Bunia). Several hundred people were wounded and there was much damage to property – in particular Ituri's foremost clinic, the Evangelical Medical Unit, which was destroyed. The killings and destruction reportedly were largely the work of the APC, the armed wing of the RCD-ML.
- c) Between November and December 2002, several civilians were killed and others wounded by members of the MLC, during clashes between the APC and the *Armee de Liberation du Congo* (ALC), Army for the Liberation of Congo, the armed wing of the MLC. Several reliable sources reported acts of cannibalism by members of this armed group. Over 100 people were killed and several dozen

wounded. This action was part of a deliberate policy by MLC militia against civilians considered, rightly or wrongly, enemy supporters.

- d) Since the beginning of 2003, the violence has continued in Bunia and elsewhere in Ituri, and has caused enormous loss of life and property. There was, for example, the attack on Bogoro on 24 February 2003 (leaving over 100 dead); clashes in Bunia on 6 March 2003 (at least 50 dead) and the attack on Drodro on 3 April 2003 (over 150 dead). All these actions seem to spring from the pursuit of one common objective on the part of the Ugandan army and Lendu militia, namely to drive the UPC out of Bunia and Ituri. The Ugandans' reason was the rapprochement between this group and Rwanda, while what was driving the Lendu groups was a desire to weaken the positions of their traditional enemy.
- e) Following 3 May 2003, the town of Bunia was the scene of great violence carried out in turn by the rival groups, the UPC and the FNI. The toll was over 400 dead, almost 1,000 wounded and the exodus of hundreds of thousands of people. The town was systematically pillaged, and several humanitarian and religious buildings destroyed. The French military estimate that there were 600 deaths, outside Bunia, between June and September 2003.
- f) Recruitment appeals, the recruitment itself and systematic use of child soldiers by all the militia operating in Ituri are a problem which might greatly interest the ICC.

## **Acronyms used**

AAA: *Action Agro Allemande*

ALC: *Armée de Liberation du Congo*, Army for the Liberation of Congo (the armed wing of the MLC)

APC: *Armée du Peuple Congolais*, Army of the Congolese People

ICC: International Criminal Court

CPI: *Commission de Pacification de l'Ituri* Ituri Pacification Commission

FAC: *Forces Armées Congolaises*, Congolese Armed Forces (the DRC government army)

FAPC: *Force Armée du Peuple Congolais*, Armed Forces of the People of Congo

FIPI: *Front pour l'Intégration et la Paix en Ituri*, Ituri Peace and Integration Front

FLC: *Front pour la Libération du Congo*, Front for the Liberation of Congo

FMIU: *Force Multinationale Interimaire d'Urgence*, Emergency Interim Multinational Force

FNI: *Front des Nationalistes Intégrationnistes*, National and Integrationist Front

FPDC: *Front Populaire pour la Démocratie au Congo*, Popular Front for Democracy in Congo

FRPI: *Front de Résistance Populaire de l'Ituri*, Ituri Popular Resistance Front

MLC: *Mouvement pour la Libération du Congo*, Movement for the Liberation of Congo

OCHA: Office of Coordination of Humanitarian Affairs

PRA: People's Redemption Army

PUSIC: *Parti de l'Unité et la Sauvegarde de l'Intégrité de Congo*, Party for Unity and the Safeguarding of Congo's Territorial Integrity

RCD: *Rassemblement Congolais pour la Démocratie*, Congolese Rally for Democracy

RCD – Goma: *Rassemblement Congolais pour la Démocratie - Goma*, Congolese Rally for Democracy - Goma

RCD-ML or RCD-Kis/ML: *Rassemblement Congolais pour la Démocratie - Mouvement de Libération*, Congolese Rally for Democracy – Movement of Liberation

UPC: *Union des Patriotes Congolais*, Union of Congolese Patriots

UPDF: Ugandan People's Defence Force, Ugandan Army

