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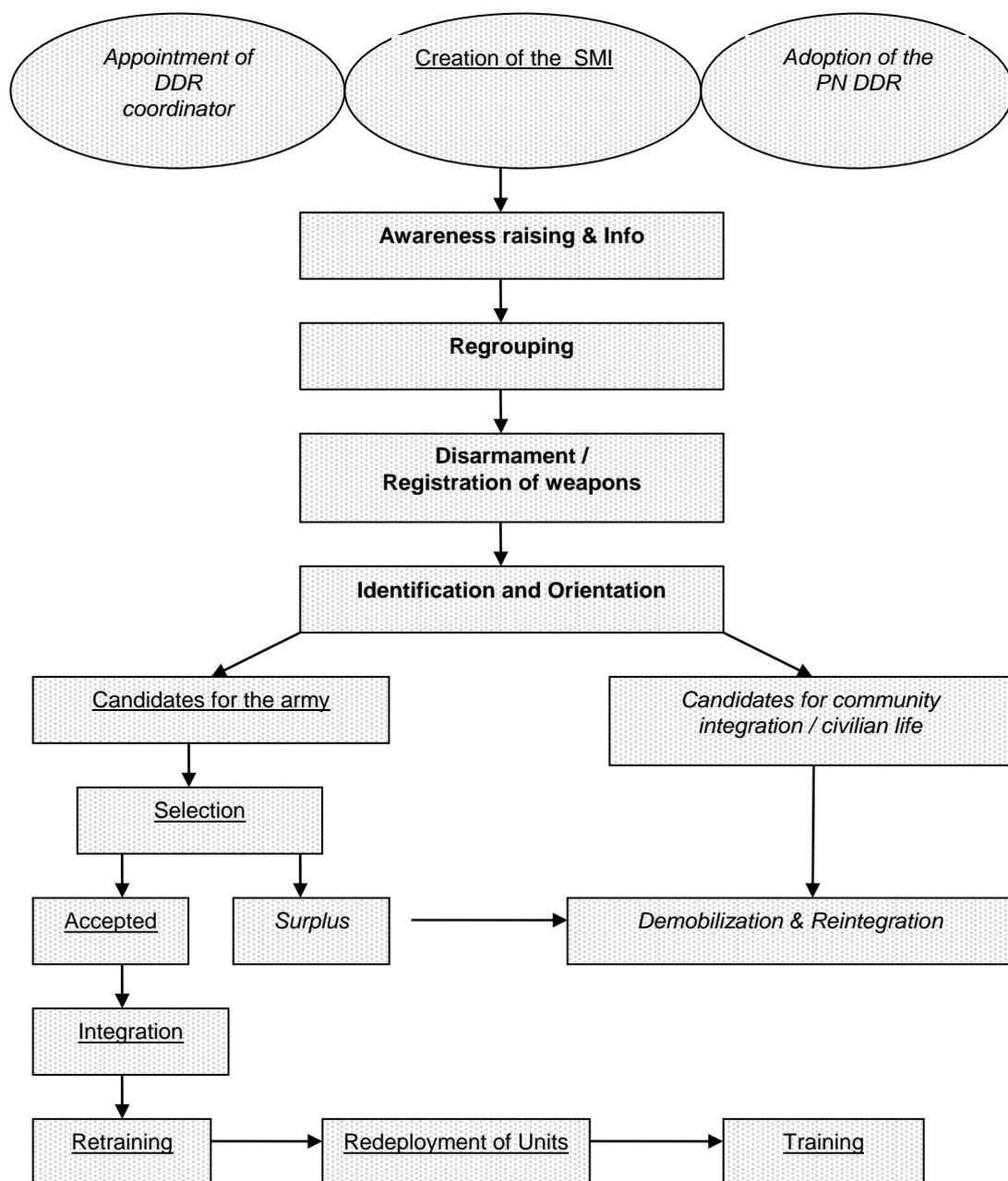
2 *DDR and Reform of the Army*

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**Symbiotic diagram of the DDR and army integration processes.**

This diagram shows how the processes of disarmament, demobilization and reintegration (DDR) and Army reform are interdependent. The success of one depends on the success of the other, especially with regard to Awareness-Raising, Regrouping, Disarmament and Identification/Orientation activities. These are the activities that form part of the *Tronc Commun*, or combined core. Army integration stages are underlined; DDR stages are *italicized*; and Tronc Commun activities are in **bold**. These have been seriously compromised by the Emergency Plan. (© AI)



## ACRONYMS USED IN THIS REPORT

CONADER	Commission nationale pour la démobilisation et la réinsertion <i>National Commission for Demobilization and Reintegration</i>
DCR	Démobilisation et Réinsertion Communautaire (Programme DDR en Ituri) Demobilization and Community Reintegration (DDR Programme in Ituri)
DDR	Désarmement, Démobilisation et Réinsertion <i>Disarmament, Demobilization and Reintegration</i>
FAC	Forces Armées Congolaises Congolese Armed Forces (former government army)
FAPC	Forces Armées du Peuple Congolais Armed Forces of the Congolese People
FARDC	Forces Armées de la République Démocratique du Congo Armed Forces of the Democratic Republic of Congo
FLC	Front pour la Libération du Congo Front for the Liberation of Congo
FNI	Front des Nationalistes Intégrationnistes Front of the Nationalist Integrationists
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
GR	Garde Républicaine Republican Guard (ex-GSSP)
GSSP	Groupe Spécial de la Sécurité présidentielle Special Presidential Security Group (now known as Garde Républicaine)
ICC	International Criminal Court
MLC	Mouvement pour la Libération du Congo Congo Liberation Movement

MONUC	United Nations Organization Mission in the DR Congo Mission de l'Organisation des Nations Unies en RD Congo
PPRD	Parti pour la reconstruction et le développement Party for Reconstruction and Development
PUSIC	Parti de l'Unité et la Sauvegarde de l'Intégrité du Congo Party of Unity to Safeguard the Integrity of Congo
RCD-Goma	Rassemblement Congolais pour la Démocratie- Goma Congolese Rally for Democracy – Goma
RCD-ML	Rassemblement Congolais pour la Démocratie - Mouvement de Libération Congolese Rally for Democracy – Liberation Movement
SMI	Structure Militaire d'Intégration Military Integration Structure
UDPS	Union pour la Démocratie et le Progrès Social... Union for Democracy and social progress
UNDP	United Nation Development Programme Programme des nations unies pour le développement
UPC	Union des Patriotes Congolais Union of Congolese Patriots

# **Democratic Republic of Congo**

## **Disarmament, Demobilization and Reintegration (DDR) and the Reform of the Army**

### **INTRODUCTION**

The civil war in the Democratic Republic of Congo (DRC) in which various regional countries took part has largely subsided, though large areas of the country, especially in the east, remain deeply unstable and insecure. After years of a bitter and disastrous conflict, a Global and All-Inclusive Peace Agreement was signed in December 2002 in South Africa. This led to the establishment in June 2003 of a transitional power-sharing government, composed of representatives of the former government and a number of Congolese armed groups that had been involved in the conflict. The transitional government had the responsibility<sup>1</sup> of uniting the country in preparation for national elections.<sup>2</sup>

By June 2003 it was estimated that there were between 300,000 and 330,000<sup>3</sup> fighters in the DRC. One of the objectives of the peace agreement was the disarmament, demobilization and

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<sup>1</sup> Under the terms of the Global and All-Inclusive Peace Agreement, the transitional government was assigned five major objectives: (1) reunification, the re-establishment of peace, reconstruction of the country, restoration of territorial integrity and the re-establishment of the state's authority over the whole of national territory; (2) national reconciliation; (3) the formation of a restructured and integrated national army; (4) the organization of free and transparent elections at all levels with a view to the establishment of a democratic constitutional regime; and (5) the establishment of structures aimed at creating a new political order.

<sup>2</sup> The first round of national elections took place on the 30 July 2006. A run-off between Joseph Kabila and Jean-Pierre Bemba was organized on 29 October 2006 and at the time of writing this report the results remained unknown.

<sup>3</sup> The actual number of fighters remains unknown, but estimates suggest that the number of fighters range from 300,000 and 330,000. Refer to Programme National de Désarmement, Démobilisation et Réinsertion du gouvernement de la RDC p.21

reintegration (DDR) into civilian life of an estimated 150,000<sup>4</sup> former fighters and the integration of the remainder into a unified national army, the *Forces Armées de la République Démocratique du Congo* (FARDC), (Armed Forces of the Democratic Republic of Congo).

However, the transitional government has been beset by factionalism and a series of political and military crises. Progress towards unification has been slow on almost every front, including that of military integration, and the country, to some extent, remains divided into different zones of *de facto* military and political control.<sup>5</sup>

In three years of transition, from 2003 to 2006, and despite the presence of a thinly-spread UN peacekeeping force, known by its French acronym, MONUC,<sup>6</sup> conflict has continued and serious human rights abuses are still being committed. By early 2006, it is estimated that 3.9 million people have died since 1998 as a result of the direct and indirect consequences of the ongoing conflict.<sup>7</sup> Between 1.4 and 1.66 million people, most of them women and children, are now displaced within the DRC, and an additional 1.3 million 'returnees' are in need of urgent assistance.<sup>8</sup>

The political parties making up the transitional government have obstructed the implementation of major reforms and the transitional government has been seriously

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<sup>4</sup> The figure of 150,000 is again an estimate because the actual figure of fighters remains unknown. Two partial censuses on the number of fighters in the DRC were conducted ; one by the South African military in conjunction with the SMI which suggested that between 30% and 55% of the fighting forces were "fictitious" or "phantom" ("fictif / fantôme") ; another by the FARDC High Command which indicated a 30% fictive rate. Source: EUSEC (European Union advisory and assistance commission on security sector reform in the DRC) analysis report, *Administration de la solde et des vivres au sein du ministère de la défense et des forces armées de la RDC*, 31 August 2005, Annex C section 1(b), and AI interview with EUSEC officials, Kinshasa, November 2005.

<sup>5</sup> *North-Kivu: Civilians pay the price for political and military rivalry*, Amnesty International September 2005 (AI Index: AFR 62/013/2005)

<sup>6</sup> *Mission de l'Organisation des Nations Unies en RD Congo*, United Nations Organization Mission in the DR Congo.

<sup>7</sup> International Rescue Committee (IRC) (2006) 'Mortality in the Democratic Republic of Congo: a Nationwide Survey', *The Lancet*, Vol. 367, Issue 9504, 7 January 2006, pp44-51, See also [www.thelancet.com](http://www.thelancet.com)

<sup>8</sup> Action Plan 2006, Democratic Republic of the Congo, UNOCHA, p.28.

undermined by political, military, ethnic and economic rivalries inherited from the war.<sup>9</sup> The transitional parliament has promulgated important pieces of legislation such as the nationality law, media law, business investment law and the electoral law. However, these laws have often been difficult to implement because of the inefficient 1+4 structure of government<sup>10</sup>, and the fact that large areas of the DRC continue to escape effective government control.

The integration of the former fighting forces into a unified national army (FARDC) with a single, uniform and accountable chain of command is indispensable not only to the stability of the DRC post the 2006 elections, but also for the improvement of human rights. The demobilization and army reform programme is taking place in a context characterized by serious human rights violations, an apparent lack of political will and ineffective control of troops.

The way that reform of the army is being conducted is symptomatic of a chaotic transition and risks compromising the whole political process and the country's future stability. Urgent measures are required to create a framework that incorporates effective vetting mechanisms to exclude from the army those reasonably suspected of committing human rights violations until cleared by an independent and impartial investigation. In addition, the army reform programme must ensure that FARDC personnel are provided training in human rights and international humanitarian law.

A failed army reform programme risks a new cycle of political and military crises that may lead to an escalation of violence and a deterioration of the humanitarian and human rights

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<sup>9</sup> The main political parties involved in the transitional government include the PPRD of Joseph Kabila, the MLC of Jean-Pierre Bemba and the RCD-Goma of Azarias Ruberwa, all of which are former belligerents. The main civilian political opposition party, the UDPS of Etienne Tshisekedi Wa Mulumba did not take part in the transition and boycotted the national elections. .

<sup>10</sup> This is the formula used for sharing presidential power. It involves one president of the republic and four vice- presidents from the other political and military signatories of the Global and All-Inclusive Peace Agreement. By virtue of this agreement, Joseph Kabila is head of state. The four vice-presidents are from the RCD-Goma, MLC (two former armed groups), civil society and the former *Mouvance Présidentielle*, Presidential Party.

situation in the war-torn country. The August 2006 fighting in Kinshasa, following the release of the presidential election provisional first-round results, between the Garde Républicaine (GR), Republican Guard controlled by President Joseph Kabila and a faction of the FARDC controlled by Vice President Jean-Pierre Bemba, which left 23 dead, clearly demonstrated the fractious nature of FARDC, and the urgency of an effective and sustainable army reform and integration programme.

This report identifies human rights concerns arising from a case-study of the Disarmament, Demobilization and Re-integration (DDR) and army reform programme in among others, the Ituri, Katanga and Kivu regions of the DRC. It details Amnesty International's concerns over the human rights implications of a flawed and/or failed DDR and army reform programme, the way the reform is being conducted, the quality of the integrated soldiers and their conduct once deployed.

This report is the product of Amnesty research covering most of the regions involved in the reform and the DDR operations, including the Kivus, Ituri and Katanga. It is also based on information collected by the organization in Katanga, Kasai and other districts of eastern DRC, such as Haut and Bas Ouélé. It sets out specific recommendations to all the major actors, including the Congolese government, armed groups, MONUC and intergovernmental organizations involved in peacekeeping in DRC.

### **CONTEXT: DISARMING TO REFORM – THE INSEPARABLE LINK BETWEEN DDR AND REFORM OF THE ARMY**

The army has always played a predominant role in Congolese politics since the country gained independence from Belgium in 1960. Since the beginning of the most recent conflict in 1998, the country experienced unprecedented militarization, an increased illegal flow of arms and the mushrooming of armed groups, ethnic and sometimes “community” militias and

paramilitary groups, almost all of which included thousands of children in their ranks.<sup>11</sup> Most of the estimated 300,000-330,000 fighters were recruited during the successive phases of the conflict. Needless to say, apart from weapons handling, almost none of them received training in human rights and international humanitarian law. In that sense "*they represent a permanent threat to the civilian population if they are not demobilized or integrated into the national army and then retrained.*"<sup>12</sup>

Reorganization of the national defence forces and the creation of an integrated and reformed army that respects human rights and international humanitarian law is one of the priority objectives of the post- conflict period. This reform is indeed more than just a simple military activity: it forms part of a range of preconditions for peace and stability in the DRC and remains at the heart of the human right agenda. The institutional and individual observance of human rights cannot be attained without the implementation of a national disarmament and demobilization programme which offers a meaningful opportunity for social reintegration to the DRC's former fighters.

Building on the provisions contained in the Global and All Inclusive Agreement, UN Security Council Resolution 1522<sup>13</sup> states that "the reform of the security sector, including disarmament, demobilization and reintegration (DDR) of former combatants, the effective restructuring and integration of the armed forces of the former Congolese belligerents and the establishment of a national police force are key element for the success of the transition process in the Democratic Republic of Congo."<sup>14</sup>

Within the framework of reconstruction in a post-conflict period that is often difficult to manage, DDR and the creation of a new army are two fundamental objectives that are

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<sup>11</sup> See the recent Amnesty International report, *DRC: Children at War – Creating hope for their future* (AI Index: AFR 62/017/2006, October 2006) for an analysis of the DDR programme as it is applied to children.

<sup>12</sup> This view was expressed to Amnesty International by a military expert in Bunia in 2005.

<sup>13</sup> Resolution S/Res/1522 (2004) adopted 15 January 2004

<sup>14</sup> This report will not deal with the aspect of police reform

intimately related to each other. While DDR is an essentially civilian project and army reform is a military initiative there is nevertheless a fundamental link between the success of both. This inherent link is recognized in the national documents and operational plans governing the DDR and Army Reform programmes, which set out a “*tronc commun*,” or combined core for the two programmes. The process under the “*tronc commun*” requires all fighters whether they are to enter the DDR programme or be recruited into the new army, to follow identical procedures, which involve awareness-raising, disarmament, identification and orientation.

On 12 November 2004 a law regulating and organizing the unified army (FARDC) came into force. Article 45 of the *Loi portant organisation générale de la défense et des forces armées*, Law on the General Organization of Defence and the Armed Forces, recognized the key national military entities to take part in the process of integration into the FARDC. These entities include the *Forces Armées Congolaises* (FAC), the former government army; the armed groups the *Rassemblement Congolais pour la Démocratie* (RCD), Congolese Rally for Democracy-Goma, the *Mouvement de Libération du Congo* (MLC), Congo Liberation Movement, the *Rassemblement Congolais pour la Démocratie/Mouvement de Libération* (RCD/ML), Congolese Rally for Democracy/Liberation Movement, the *Rassemblement Congolais pour la Démocratie/National*, Congolese Rally for Democracy/National, and the *Mayi-Mayi* “Patriotic Resistance” fighters. Also included were the ex-*Forces Armées Zairoises* (ex-FAZ), the government army of former President Mobutu, the ‘Tigers’ (*les Tigres*) and other military and paramilitary groups determined by the government. These last included the armed groups of Ituri and the *Mayi-Mayi* armed groups operating in Katanga province.

## I DDR – AN ESSENTIAL PRELUDE TO ARMY REFORM

The DDR programme is a complex and long term exercise. According to the DRC national DDR strategy plan, proper DDR must be preceded by *awareness-raising*, followed by the

*grouping* and *identification* of fighters, leading to their integration into the unified army or reintegration into civilian life.<sup>15</sup> The plan also required all fighters including former government forces to participate in the *tronc commun* process. Described by many experts in DDR including Belgian cooperation military experts, United Nations Development Programme (UNDP) and the *Commission nationale de désarmement, demobilisation et réinsertion* (CONADER)<sup>16</sup> officials as the most complex operation due to the size and the constraints of the country, the national DDR and Army Reform programmes did not start on time as scheduled and has been continually plagued by serious difficulties. Donors pledged US\$ 200 million towards the civilian component of the DDR programme. The US\$200 million was a joint contribution from the World Bank (50%) and the donor community (50%) under the MDRP<sup>17</sup> framework. This sum has now apparently been exhausted.<sup>18</sup>

In December 2003, a presidential decree<sup>19</sup> provided the legal framework for DDR activities in the DRC. CONADER, a governmental agency - was consequently established to manage the DDR programme for both child and adult fighters. CONADER is therefore the official national agency tasked with implementing the DDR component of the reform programme. It is present in all provinces throughout the country. In addition to the civilian component

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<sup>15</sup> National DDR Plan, draft revised on 3 March 2004, p.23.

<sup>16</sup> *Commission nationale de désarmement, demobilization et reinsertion* (National Commission for Disarmament, Demobilization and Reinsertion)

<sup>17</sup> The Multi-Country Demobilization and Reintegration Program (MDRP) is a multi-agency effort that supports the demobilization and reintegration of ex-combatants in the greater Great Lakes region of Central Africa. The main contributors are the World Bank, the European Union, and a group of donor countries including the Netherlands, the United Kingdom, Belgium, Canada, Germany, France, Sweden, Norway, and Italy.

<sup>18</sup> Refer to the UN SG 22<sup>nd</sup> report 21 September 2006 para 62. Further World Bank funding is conditional on a WB assessment of CONADER operations and an MDRP donor meeting due to take place in mid-November 2006. The SG report says that 85,000 fighters have still to pass through the DDR process.

<sup>19</sup> Decret 03/042 of December 2003 creating CONADER. This presidential decree is the main and fundamental legal framework for CONADER. 7 other specific laws followed to outline, organizations, functions, modalities and responsibilities etc. of CONADER. However CONADER was not yet fully functioning countrywide when the Ituri programme started.

(demobilization and reintegration) it also jointly manages the *tronc commun* activities with the SMI (*Structure Militaire d'Integration*) the Military Integration Structure.<sup>20</sup>

Other governmental institutions tasked with implementing the DDR programme were also established by presidential decree. The *Comité Interministériel chargé de la conception et de l'orientation en matière de désarmement, démobilization et réinsertion*, Inter-Ministerial Steering Committee on DDR, responsible for coordination and management of the programme at ministerial level, and the *Comité de Gestion des Fonds de Désarmement, Démobilisation et Réinsertion* (CGFDR), DDR Financial Management Committee, responsible for financial management and procurement.

At the levels of government and CONADER Kinshasa headquarters, there have been serious problems with coordination. From an early stage, there was a lack of clarity between the three governmental institutions leading DDR, the Inter-Ministerial Committee, the CGFDR and CONADER, which “led to competition and conflict, particularly between CONADER and CGFDR, and has led to delays specifically in the procurement process and consequently in the implementation schedule of the program”<sup>21</sup>. Similar problems persisted, even after the CGFDR was shut down in May 2005 in an attempt to remedy the situation.

## **II DEMOBILIZATION AND COMMUNITY REINTEGRATION (DCR) IN ITURI: A FORE-RUNNER OF THE NATIONAL DDR OPERATION**

The north-eastern district of Ituri, symptomatic of the situation in eastern DRC as a whole, is a region devastated by war. It experienced many serious bouts of inter-ethnic violence that caused the death of tens of thousands of civilians and forced hundreds of thousands of people to flee their homes and take refuge in insecure camps for internally displaced persons (IDPs).

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<sup>20</sup> La CONADER dans le processus DDR. [www.CONADER.cd](http://www.CONADER.cd).

<sup>21</sup> MDRP Quarterly Report, January – March 2005.

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Armed group attacks in Ituri often targeted “opposing” ethnic communities and included women and children as active participants in the violence. The proliferation of ethnic and community-based armed groups in Ituri is the result of the vacuum created by the collapse of state authority in the region since the beginning of the war. It was believed that the programme would contribute to addressing these issues and lay the ground for a country-wide demobilization exercise and for effective reform of the army.

The DDR programme in Ituri, known as the *Désarmement et Réinsertion Communautaire*, Disarmament and Community Reintegration (DCR) programme, was launched in September 2004 as an interim strategy (*stratégie intérimaire*) before the national DDR programme was fully designed and implemented. Ituri was the first region in which CONADER, with the leading implementing role of UNDP (agence chef de file du MDRP),<sup>22</sup> started the disarmament and demobilization programme. Ituri was targeted because it was one of the regions worst affected by the conflict and none of the armed groups operating in this war-torn district were signatories to the Global and All-Inclusive Peace Agreement. Some robust MONUC armed peacekeeping operations in Ituri in 2004, sometimes conducted jointly with DRC government forces, had only partly disrupted the armed groups’ activities and several areas in the district remained firmly in the control of the armed groups.

The main objectives of the Ituri DCR programme were to demilitarize the region, disarm the combatants, curb the proliferation of weapons and ensure its pacification (“*assurer la décompression militaire de la région*”).<sup>23</sup> The programme aimed to disarm and reintegrate into civilian life the bulk of 15,000 members of the Ituri armed groups. The armed groups targeted by the programme included the *Front des Nationalistes Intégrationnistes* (FNI), the *Union des Patriotes Congolais* (UPC), the *Parti de l’Unité et la Sauvegarde de l’Intégrité du Congo* (PUSIC), the *Forces Armées du Peuple Congolais* (FAPC), the *Front Populaire pour*

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<sup>22</sup> UNDP was asked to play that particular role at a particular moment when CONADER was not yet fully established as the national implementing agency of DDR.

<sup>23</sup> Plan Opérationnel pour le Désarmement et la Réinsertion Communautaire en Ituri (Plan DRC) (Version approuvée le 20 Janvier 2004 et actualisée le 9 Février 2004. p. 13.)

*la Démocratie au Congo* (FPDC) and the *Front de Résistance Populaire de l'Ituri* (FRPI). Their leaders told Amnesty International that they were put under pressure by the transitional government and MONUC to sign an Act of Commitment (*Acte d'engagement*) to support the disarmament programme.<sup>24</sup>

The DRC Operational plan<sup>25</sup> envisaged three phases: *awareness-raising, disarmament and community reintegration*. Five demobilization reception centres<sup>26</sup> (*Centres de transit et d'orientation - CTOs*) were opened to receive applicants for demobilization. The sites chosen to accommodate the CTOs were all located in the strongholds of the armed groups involved in the programme. MONUC provided the security to the CTOs. According to officials from CONADER this strategy was intended to ensure an easy enrolment of militias into the programme. However, those centres remained islands of security in an environment of generalized insecurity.

#### **A. Despite Violence and Intimidation, an Overwhelming Desire to Disarm**

Many armed group senior commanders, determined to maintain their hold on power and safeguard their economic interests, were hostile to the DCR programme. On the basis of its research, Amnesty International believes that most of the leaders of the Ituri armed groups, including the FAPC, FNI, FRPI and UPC, resorted in differing degrees to killing, intimidation and other human rights abuses to prevent their members from joining the programme. Former fighters who had joined the DCR programme and were interviewed by Amnesty International said that several junior armed group members who publicly expressed their sympathy for the DCR programme were killed and others tortured on the orders of their commanders. Many others were intimidated.

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<sup>24</sup> In interviews with AI in Bunia and Yambi Yaya in February 2005, Jerome Kakwavu of FAPC and Floribert Njabu of the FNI echoed the anger of their groups claiming that the text of the agreement had been drafted by the government alone and “*dumped*” on them without giving them any opportunity to read and comment before signing it.

<sup>25</sup> Plan Operationnel pour le desarmement et la Reinsertion Communautaire en Ituri- Plan DRC, p.15.

<sup>26</sup> At Aveba, Nizzi, Kwandroma, Mahagi and Kasenyi. Two others were opened later at Aru and Bunia.

The Bosco Taganda<sup>27</sup> wing of the UPC, for example, openly opposed the programme and continued to carry out a campaign of murders, abductions and other serious abuses in the territories of Irumu and Djugu.<sup>28</sup> NGO personnel and individuals involved in awareness-raising for the DCR programme were harassed, some kidnapped and killed. Several CONADER officials were also taken hostage and tortured by hostile armed group members.

One serving fighter told Amnesty International that during the night of 15-16 February 2005, two FAPC commanders ordered the killing of **Roger Chaolin**, a FAPC fighter from the Beaudouin camp in Mahagi. He was reportedly followed and killed by his colleagues on the way to a transit centre. In the same camp, **Colonel Masoki** was reportedly killed by his comrades on the orders of their sector commander for being favourable to the programme. Another FAPC company commander, **Uruber**, was also deliberately killed after being detained at Kudikoka, 12km to the west of Mahagi, by a FAPC intelligence officer. Uruber was taken to the Sii camp where he was reportedly killed by that same intelligence officer. The fighter also stated: "*After gouging his eyes out, he told him to flee and then shot him in the back.*"<sup>29</sup>

Nevertheless, despite this less than auspicious context to the programme, there was a spontaneous and massive favourable reaction from ordinary members of the armed groups. The community reintegration component of the programme, which involves the funding of small income-generating activities and vocational training for the demobilized, attracted thousands of fighters, who expressed their wish to lay down their arms and return to civilian life. The voluntary disarmament phase of the programme, officially completed in June 2005,

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<sup>27</sup> UPC Defense Minister radically opposed to DDR and the integration in the FARDC. He now leads a breakaway faction of UPC with an estimated 2,000 fighters.

<sup>28</sup> Ituri district is in Orientale Province and is composed of five territories – Aru, Mahagi, Djugu, Irumu and Mambasa.

<sup>29</sup> Statement collected by AI and Lipadho in Mahagi, February 2005. Many similar witness testimonies were collected by Amnesty International.

saw 15,811 militia men making their way to reception centres.<sup>30</sup> This included 4,525 children. Of the 15,811 fighters, only 780 of them applied for integration into the army, with the remaining number opting for community reintegration. Of the adult fighters, almost 11,000 chose to return to civilian life. Hundreds more were forcibly demobilized in the course of MONUC or joint MONUC/FARDC operations.

However, after the relative success of the awareness-raising and disarmament phases of the DCR programme, the final phase, community reintegration, was the most chaotic and problematic.

#### **B. The Anger of Demobilized Fighters: A Threat to the DDR Programme and Army reform**

One of the programme's major objectives was to defuse the military situation in the Ituri region. However, until March 2006, almost a year after the end of the voluntary disarmament phase, more than 10,000 demobilized ex-fighters were still waiting for the major reintegration programmes in Ituri to begin, largely because of poor coordination and management of the DCR programme.

Many demobilized fighters were entered into COMREC<sup>31</sup> projects, which aimed to employ the ex-fighters in labour-intensive, medium-term community labour projects, while they awaited the start of proper long-term income-generating activities or vocational training which would enable them to reintegrate successfully in their communities. Demobilized fighters interviewed by Amnesty International complained about the income they received from such projects, arguing that it was not enough to cover their and their families' needs. In

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<sup>30</sup> All figures are CONADER's official figures as at June 2005, when the first phase of the voluntary DRC ended in Ituri. They were provided to AI by officials in Ituri. See also CONADER's annual report 2005 No 019/CG/DK/05.

<sup>31</sup> Community Reintegration of Ex-Combatants

some cases, some demobilized fighters complained that they did not know how to do the jobs offered to them.

On 14 October 2005, an agreement was signed between the United States Agency for International Development (USAID) and CONADER for an economic reintegration project for 11,200 demobilized fighters in Ituri, at a cost of US\$ 6,436,693. The project, which is ongoing, includes three components of the reintegration programme: the repair of infrastructure, training for employment and income-generating activities. Payment of a monetary sum, called a *filet de sécurité* (security net) to cover initial living expenses after demobilization, also began very late in Bunia and other regions of the DRC— more than 10 months after the demobilization of the most fighters. The identification of local partners to support reintegration also began 10 months' late.

As delays in providing reintegration support became pronounced, protest movements were organized by demobilized fighters in all the towns where reception centres were located. In Aveba, Mahagi, Kwandroma and Kasenyi hundreds of demobilized fighters protested against the slowness of the reintegration programmes. However, protests were strongest in Bunia and in the surrounding area. On 21 May 2005, about 50 demobilized militia men, delegated by their colleagues, went to the CONADER office at Bunia where they volubly denounced the slowness of the programme's community reintegration component. Some are reported to have asked for the return of their weapons claiming they had been tricked by the programme coordinators. Amnesty International conducted interviews with 57 of these demobilized militia men,<sup>32</sup> almost all of whom expressed dissatisfaction and disillusionment with the reintegration programme process. Typical was this complaint of Peter Ucan, a former FNI fighter who was demobilized in Aveba:

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<sup>32</sup> Most of the former militia men who protested were members of PUSIC and UPC, which was formed from the Hema ethnic group. They claimed to be the voice of hundreds other who could not join them but who supported their cause.

*“These people have tricked us. We risked our lives to hand in our weapons, because our chiefs who owned these weapons are angry with us. Some of our friends have been killed because they joined the programme. Now, we can no longer live in our villages, because people are looking for us to kill us. We are incapable of feeding our families and cannot even pay the rent. The solution is for these people to give us our weapons back. If we have these weapons, people will respect us.”<sup>33</sup>*

CONADER denies responsibility for the delays and problems that have characterized the DCR reintegration programme. It argued<sup>34</sup> that the management of the financial aspects of the DCR reintegration programme was the responsibility of the UNDP, according to the DCR Operational Plan. The UNDP funds national agencies and is therefore not a project implementing agency. However that is the role it was asked to play by the DRC government and the MDRP partners<sup>35</sup> in the DCR programme, with special responsibility<sup>36</sup> for the reintegration aspect of the projects. UNDP officers say there was a change in the intervention that implied that the UNDP itself was responsible for project implementation, and this caused them considerable difficulty in getting staff with requisite experience and technical knowledge. In addition, they say UNDP had difficulty putting in place the necessary procedural infrastructure to facilitate the tendering system, obtaining necessary materials, establishing standards, identifying local partners and co-ordinating project funding.<sup>37</sup>

According to UNDP officials in Bunia and Kinshasa interviewed by Amnesty International, UNDP project managed due to the limited capacity of local NGOs to manage funds allocated for the projects. In addition, the officials also pointed blame at the slow and complex procedures for the disbursement of funds within the UN system, and the absence of an effective banking system in Ituri. UNDP officials also said they were forced to carry large

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<sup>33</sup> AI interview with Peter (not his real name) a former member of the FNI armed group, Bunia January 2006

<sup>34</sup> AI interview with CONADER officials in Bunia, September 2005.

<sup>35</sup> Programme National de Désarmement, Démobilisation et Réinsertion p 11

<sup>36</sup> AI interviews with UNDP officials in Bunia and Kinshasa) February and March 2005.

<sup>37</sup> Idem

amount of cash with all the security risks it entails and the negative consequences it has on the management and the delivery of the reintegration projects awaited by ex-fighters.

There are reports indicating that due to CONADER's failure to provide demobilized fighters with community re-integration projects, some of them rejoined armed groups that had remained hostile to the programme, including the UPC, the FRPI, and especially the MRC.<sup>38</sup> However, in June 2006, following military operations by FARDC and MONUC against hostile militia groups such as the MRC and FNI, a new CTO was reopened in Bunia to respond to new influx of militia fighters.

### **C. Political Ambiguity and the Failure to Address Impunity**

Problems with the DCR programme were aggravated by the transitional government's incapacity to maintain peace and stability in eastern DRC and also by the ambiguous and contradictory discourse employed at the beginning of the process. For example, during a visit to Ituri in December 2004, General Ondekane, the then DRC Minister of Defence, declared that certain armed groups in Ituri could be directly integrated into the FARDC without registering at the reception centres, as required by the programme's operational plan. This was the beginning of bypassing all vetting activities in forming the new army, an issue that will be examined later in this report.

In December 2004 the transitional government appointed the most influential Ituri armed group commanders to senior posts (generals and colonels) in the national army.<sup>39</sup> The transitional government apparently hoped that by integrating these armed group commanders

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<sup>38</sup> AI and local NGOs' interview with MRC, and FNI, FRPI officials.. The resurgence of armed groups in Ituri and the continuing threat they and other groups pose to the national DDR and army reform process is described later in this report.

<sup>39</sup> These include Germain Katanga, leader of FRPI, appointed General in the FARDC; Jérôme Kakwavu, President of FAPC, appointed General in the FARDC; Floribert Kisembo Bahemuka leader of the UPC – Kisembo Wing (or UPC-K), appointed General in the FARDC; Bosco Taganda appointed General in the FARDC, Rafiki Saba Aimable, chief of Security in UPC appointed Colonel in the FARDC, and Salumu Mulenda of FAPC, appointed Lieutenant-Colonel in FARDC.

into the FARDC they would gain their confidence and encourage their members to sign up for the DCR programme. The appointments were made despite the fact that many of the armed group commanders were allegedly responsible for war crimes, crimes against humanity or other serious human rights abuses.<sup>40</sup> These appointments had however very little positive impact on the process. Some of the appointees including Bosco and Rafiki declined the offer and they continue to oppose the DDR and army reform in Ituri.

#### **D. The Balance Sheet of the DCR programme: Lessons Unheeded**

The DCR programme in Ituri was implemented in an environment where the national DDR programme had yet to be rolled out countrywide. Yet the DRC government, CONADER, the SMI and the international community failed to heed the many learning points offered by the DCR programme. As a result, the DCR operation in Ituri has not laid a strong foundation for the reform of the DRC army.

Despite the highly insecure context in which it took place, the DCR programme did achieve some of its goals including the demobilization of a targeted number of fighters, and the dismantling of the ethnic armed groups. It has also brought about relative security in a large part of the district enabling a relatively peaceful conduct of the presidential and parliamentary elections held in July and October 2006.

However, the programme was beset by major problems, many of which stemmed from poor technical, logistical and financial coordination and management by CONADER and the UNDP, particularly in establishing reintegration activities and ensuring delivery of the

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<sup>40</sup> Shortly after these appointments were announced, the DRC government arrested UPC leader Thomas Lubanga and FNI leader Floribert Njabu on charges of genocide, war crimes, and crimes against humanity. In March 2006, Thomas Lubanga was transferred to The Hague to face trial at the International Criminal Court (ICC) He was formally charged on 28 August with committing war crimes under Article 8 of the Rome Statute, including, “enlisting, conscripting and using children under 15 years of age to participate actively in hostilities”. This was the ICC’s first ever arrest. Floribert Njabu remains in detention in Kinshasa.

promised financial support to the demobilized. These serious inefficiencies have been carried forward into implementation of the national DDR programme, which is managed solely by CONADER.

The DCR programme also failed to curb the proliferation of weapons, and some armed groups operating in the region remained resistant and hostile to demobilization. Difficulties in ensuring a sustainable reintegration of ex-fighters into civilian life or the military integration of ex-militia into FARDC remain a major challenge to the process.

Many demobilized fighters, in Ituri and elsewhere, have become deeply disenchanted with the lack of reintegration opportunities. Far from having promoted the effective demobilization and reintegration into civilian life of former fighters, the DDR programme has engendered frustration. The inefficiency of and problems faced by UNDP and CONADER in adequately managing reintegration in Ituri casts a pall over - and does not bode well for - the continuity of the national DDR programme.

Indeed, the situation obtaining in Ituri is typical of the DDR process elsewhere in the DRC. The 21<sup>st</sup> report of the UN Secretary-General on MONUC echoed this concern and indicated that thousands of disgruntled ex-fighters across the country continued to experience late payment of stipends in orientation centres, presenting an ongoing threat to security and stability in the DRC.<sup>41</sup> The UN Secretary-General also noted the delays in implementing the reintegration programme due to serious shortcomings in the management of CONADER, including the alleged misappropriation of funds<sup>42</sup>.

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<sup>41</sup> 21<sup>st</sup> report of the UN Secretary-General on MONUC, S/2006/390, p 11, 13 June 2006.

<sup>42</sup> UN document S/2006/390, 13 June 2006, paragraph 50.

### **III CONTINUED ARMED GROUP RESISTANCE TO DDR AND ARMY REFORM**

A number of armed groups in Ituri and elsewhere, distrustful of reform and anxious to maintain their sources of income and power have continued to defy government authority. These groups continue to represent a serious threat to the success of the DDR and army reform programmes.

#### **A. Ituri Armed Groups**

The *Mouvement des Révolutionnaires Congolais* (MRC) is an Ituri armed group formed in Uganda in 2005. Initially, its main base was at Aveba, in Ituri. It reportedly recruited its members from among the community of refugees in Uganda and also from members of armed groups hostile to the DRC programme in Ituri. According to Congolese and Ugandan local human rights organisations, the movement is believed currently to have around 600 men led by former PUSIC, FRPI, FNI, UPC and RCD-ML officers.

Another Ituri armed group, led by Peter Karim, whose fighters were drawn mainly from the *Front Nationaliste et Intégrationniste* (FNI), Nationalist and Integrationist Front, initially close to the MRC, also resisted DDR in Ituri and fought against FARDC and MONUC forces. According to reports from local NGOs both the MRC and Peter Karim's group committed many human rights abuses against civilians.

On 28 May one Nepalese peacekeeper was killed and seven others were held hostage following a gun battle between Monuc troops and Peter Karim's men. Intense negotiations led to their release<sup>43</sup>.

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<sup>43</sup> MONUC press release 8 July 2006, <http://www.monuc.org/News.aspx?newsID=11680>

On 26 July 2006 in Kambutso in Ituri, the MRC signed a peace agreement<sup>44</sup> with the transitional government and committed to demobilize its troops in return for a “general amnesty” for its fighters and a position as colonel in the FARDC for its leader, Mathieu Ngoyolo. However Colonel Kakolele, one of the senior members of the group has not endorsed the agreement. Peter Karim agreed a peace accord with the transitional government in Ddoy on 13 July 2006. He agreed to disarm his group on terms similar to those accorded to MRC, including also appointment as colonel in the FARDC.<sup>45</sup> These accords were rushed through within days of the first round of presidential elections in July 2006, reportedly to enable the free movement of people to the polling stations. However, despite the peace accords, it was reported that these groups continued to recruit new fighters. The appointments of Mathieu Ngoyolo and Peter Karim as FARDC colonels were confirmed by the DRC Minister of Defence, Adolphe Onusumba, in October 2006. “The objective of these nominations is the pursuit of peace,” Adolphe Onusumba told the press,<sup>46</sup> although it remains unclear whether these agreements will mark an end to armed group abuses in Ituri or herald a significant improvement of the human rights situation in the region.

## **B. *The Mayi-Mayi***

A few radical *Mayi-Mayi* groups do not wish to be demobilized and integrated into a unified army that includes the RCD-Goma, which they describe as a “servant in the pay of Rwanda.” The other reason behind this reticence to join the demobilization and integration process is economic. Anarchy and the vacuum of state authority resulting from the war led to all armed groups, including the *Mayi-Mayi*, adopting a culture of economic exploitation. Most of these armed groups profit from the extraction of natural resources and extortion from the local civilian population.

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<sup>44</sup> *Accord entre le GoRDC et le Mouvement Révolutionnaire Congolais (MRC) en présence de la Monuc, Kambutso, 26 Juillet 2006*

<sup>45</sup> *Compte rendu de la rencontre entre une délégation du gouvernement et du Colonel Peter Kharim Udaga, en présence des représentants de la Monuc et des notables locaux, Ddoy Ituri, 13 July 2006*

<sup>46</sup> IRIN “Two Militia Commanders appointed army colonels” 11 October 2006

Two important factions of the Mayi Mayi are in particular opposing the DDR and army integration process. First is the Kivu-based *Mayi-Mayi*, called the *Patriotes-Resistants* in the Global and All-Inclusive Agreement documents. Second is the Katanga *Mayi-Mayi*, which remains engaged in open armed confrontation with the FARDC and are responsible for massive human rights abuses.

### The *Mayi-Mayi* in the Kivu

From 1998 to date the *Mayi-Mayi* in the Kivu provinces have organized themselves with a nationalist agenda against what they called the "Rwandan invasion". The first *Mayi-Mayi* group to rally to integrate and join the army reform programme was led by General Padiri Karendo.<sup>47</sup> Appointed commander of the 9th Military Region of Orientale province and based at Kisangani, he controls an extremely important jurisdiction that includes the turbulent district of Ituri. However, Colonel Chiba, one of his deputies during the conflict, is still not participating in the army integration process. Chiba reportedly has more than 2,000 men under his command outside the integration process.<sup>48</sup> Several other *Mayi-Mayi* commanders, including Commander Odylon Kurhenga Muzimu, leader of the Mudundu 40, a group that despite its *Mayi-Mayi* credentials allied itself with the dissident RCD-Goma forces of Jules Mutebusi and Laurent Nkunda, also reportedly remain opposed to the reform.<sup>49</sup> Other *Mayi-Mayi* that joined the military integration process have also fled the integration centres because of the very difficult and miserable living conditions at the reception centres and military integration centres.

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<sup>47</sup> AI Interview with the DRC Ministre of Defence, Kinshasa March 2005

<sup>48</sup> See « *Qui arme les Mayi-Mayi, Enquete sur uine situation originale* », Charles Nasibu Bilali, GRIP

<sup>49</sup> Another commanding officer who poses a problem is General Dunia, a *Mayi-Mayi* chief, who later worked with Kabila senior. General Dunia had refused to go to Kinshasa to participate in the reunification of the army. According to sources close to him, General Dunia is unconvinced that the war is over and that he cannot leave his stronghold in the Ubwari peninsula in South-Kivu province.

### The *Mayi-Mayi* in Katanga

The Katanga *Mayi-Mayi* are not signatories to the Global and All-Inclusive Accord and they refuse to submit to the authority of the transitional government. The *Mayi Mayi* were mostly recruited and maintained by Laurent-Désiré Kabila when in 1996 he marched on Kinshasa, toppled President Mobutu from power and declared himself president. They were subsequently strengthened in 1998 during the crisis of power between Kabila and his erstwhile ally, the Rwandan army. Over the years they have acquired an unofficial and publicly unacknowledged special and government protected status in the province. With the accession of Joseph Kabila to the presidency, confidential sources in the DRC believe relations have not been broken but have slightly deteriorated.

A parallel DDR programme, initiated by the PAREC<sup>50</sup>, a church based NGO, led by Pastor Mulunda, has also contributed, despite its results, to make the *Mayi-Mayi* situation more confusing in Katanga and compromise CONADER's work in the region. Described as a 'weapons for bicycles' programme, this initiative has been interpreted as a political manoeuvre outside the national DDR framework, but sustained and endorsed by the President of the DRC allegedly for electoral purposes.<sup>51</sup>

The Katanga *Mayi-Mayi* groups are reported to be responsible for serious human rights abuses against civilians. The Katanga *Mayi-Mayi* are opposed to integration of the national army and have increased their atrocities against civilians.<sup>52</sup> Two *Mayi-Mayi* factions led by Jean Pierre Chinja Chinja and Kyungu Muntanga Wa Bafunkwa Kanonga Kalunga Mbikavu,

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<sup>50</sup> *Programme Ecumenique de Paix, Transformation des Conflits et Réconciliation*, Ecumenical Programme for Peace, Conflict Resolution and Reconciliation.

<sup>51</sup> Pastor Mulunda has at many occasions, including in an interview with "Le Soft International", (Le soft online, 25/12, 2005) expressed his support to Kabila.

<sup>52</sup> Communiqué de presse No 2M5/CDH/025 " *Les autorités politico administratives et judiciaires entretiendraient-elles l'impunité face à l'insécurité créée par les Mai-Mai sur l'axe Mitwaba-Mpweto-Malemba-Nkalu ?* » released in Lumumbashi on the 28 october 2005.

better known as Gédéon, were allegedly responsible for the worst atrocities in this province.<sup>53</sup> At Mitwaba, during several attacks, from August to October 2005, Gédéon's men are reported to have burned entire villages, tortured and murdered civilians raped women and forced tens of thousands of people to flee for their lives. The FARDC troops deployed to put an end to the *Mayi-Mayi* attacks also pillaged and looted belongings of the population.<sup>54</sup> Until recently, the silence of the authorities on the crimes committed by *Mayi-Mayi* and governmental forces betrays the FARDC's military weakness and suggests the existence of a culture of impunity.<sup>55</sup> Although Chinja Chinja has been in provisional custody since July 2005, and *Gédéon* surrendered to the authorities on 12 May 2006 with around 200 of his fighters, the majority of whom were reportedly children; neither has yet been brought to justice.<sup>56</sup> Moreover, more than 5000 of his men are still armed in the region and constitute a threat to demobilization, integration, army reform and the political process. Since November 2005 the transitional government has increased its pressure on these groups by deploying troops without being able to dismantle them. The FARDC brigades have also been accused of committing serious human rights violations, including rapes and extrajudicial executions, against civilians. According to MONUC Human Rights Division's findings<sup>57</sup> in Mitwaba, North-Katanga, 97 civilians were killed, wounded, or inhumanly treated in the period of early 2005 through March 2006. MONUC officials said they had addressed recommendations to the Minister of

<sup>53</sup> The communities of Mitwaba and Mpweto in the Haut Katanga district were massacred. The crimes spread to include groups of Bangwe and Mondwe, and Kyumba in the territory of Malemba Nkulu, in Haut Lomani. According to CDH, a Katangan NGO, the political and legal authorities dare not even visit these places, because of the excessive and unprecedented violence there.

<sup>54</sup> See MONUC "Special investigation mission into human rights violations and abuses committed in the Territory of Mitwaba, Katanga Province" ([www.monuc.org/downloads/mitwaba\\_human\\_rights\\_jun06.pdf](http://www.monuc.org/downloads/mitwaba_human_rights_jun06.pdf)).

<sup>55</sup> It is more than a year since the inhabitants of Kilwa, located in the Moero sector, Pweto territory, Haut Katanga district, Katanga province, suffered pillage, summary executions, rapes, kidnappings, extortion, arbitrary arrests and detention by the soldiers of the 62<sup>nd</sup> Brigade of the FARDC, but no perpetrator has yet been brought to justice. There have been large-scale atrocities (rapes, burnings, pillaging, extortion, cannibalism, murders, etc.) in North Katanga at Ankoro, Kitenge, Kabongo, Malemba Nkulu, and Kilwa in southeast Katanga.

<sup>56</sup> See ASADHO/Katanga press release, 003/2006, « *Le gouvernement de la RDC encourage l'impunité au Katanga* », 20 June 2006. See also Press Statement No 2M5/CDH/025 " *Les autorités politico administratives et judiciaires entretiendraient-elles l'impunité face à l'insécurité créée par les Mai-Mai sur l'axe Mitwaba-Mpweto-Malemba-Nkulu ?* » released in Lumumbashi on the 28 October 2005.

<sup>57</sup> <http://www.monuc.org/News.aspx?newsID=10901> > MONUC) NY, May 3 2006.

Defence, including replacing the 63rd Brigade by an integrated FARDC brigade and prosecuting identified perpetrators. However, Refugee International, following a field mission in August 2006 to the region, has recently indicated that the situation has improved.<sup>58</sup>

### **C. Weapons still in circulation in Ituri and across the country**

One of the most serious shortcomings of the DDR process both in Ituri and nationally has been the lack of independent verification of disarmament: large quantities of arms are believed to have been left behind in rural areas by military units moving to the regroupment centres, stockpiled for possible future use. According to an MDRP report, “Of the very low number who started the process, many did not appear with weapons. Furthermore, there was a complete absence of heavy weaponry.”<sup>59</sup>

During the voluntary disarmament phase of former armed factions in Ituri, thousands of weapons were collected and given up to the DDR military structure. These weapons included assault rifles, grenades and anti-personnel mines. However, according to the Eighteenth report of the United Nations Secretary-General on the Situation in the Congo, 70% of the 6,200 weapons collected were defective and not in a serviceable condition.<sup>60</sup>

An alarming number of weapons are reported to be still in circulation in the region and the recurrent attacks by armed groups hostile to the process reflects a region still afflicted by uncontrolled and disturbing militarization.<sup>61</sup> Floribert Njabu, leader of the FNI in an interview with Amnesty International before his arrest, not only expressed his doubts about the objectives of the disarmament programme, but also confirmed that the Ngiti and Lendu communities still have stocks of weapons, allegedly for their own security, and that the

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<sup>58</sup> Letter calls for increased attention to disarmament & demobilization in the DRC, Refugee International (RI) 15/082008

<sup>59</sup> “MDRP Quarterly Report July-September 2005.

<sup>60</sup> Eighteenth Report of the Secretary General on Monuc S/2005/506, 02-08-2005, p 5

<sup>61</sup> AI Interview with the Commander of Ituri Brigade, Bunia February 2005

defective weapons that are being exchanged for cash with CONADER and MONUC account for only a small part of the available arsenal.<sup>62</sup>

The RCD-Goma has not handed in any of its heavy weapons and North-Kivu continues to be a venue for the relatively large distribution of weapons to the civilian population

This situation is a major obstacle to the reform of the national army and could result into future conflict. Amnesty International is concerned about the DDR and army reform process if the flow of weapons in circulation remains uncontrolled and the repeated violations of the arms embargo remain unresolved.

#### **IV. A COMPROMISED INTEGRATION PROCESS: AN UNCERTAIN REFORM**

##### **A. The context**

According to the Global and All Inclusive Peace Agreement, the DRC army reform<sup>63</sup> process is one of the five major objectives of political transition, crucial for the political stability and the improvement of the human rights situation in the country. More than all the other reforms, it is based on political consensus and is an essential indicator of the failure or success in bringing the conflict to an end. Rather than the mere technical and logistical integration of the different parties to the conflict, it needs to be a long-term project, with all the structures for implementing and supporting it espousing human rights ethos, transparency, accountability and professionalism.

In accordance with the spirit of the army reform programme, the Ministry of Defence's Operational Plan and the Law on the General Organization of Defence and the Armed Forces,

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<sup>62</sup> AI Interview Yambi yaya,, Bunia, February 2005

<sup>63</sup> In this document, "reform" and "integration" are used to mean the rebuilding of the DRC national army (FARDC). The members of the new army are referred to as "soldiers", members of armed groups as such or "fighters". The word "combatant" is used uniquely to mean soldier in operational zone considered as armed conflict situation as set out in International humanitarian law.

the formation of an integrated army presupposes the establishment of structures, the appointment of organizers, the integration of troops, the implementation of the demobilization programme and continuous training.<sup>64</sup> Before integrating the troops, the Minister of Defence sought first to integrate the General Staff of the armed forces that signed the Global and All-Inclusive Agreement.<sup>65</sup> This involved the creation of a new General Staff structure for the army and a command structure for the various military regions; the SMI - to be responsible for the reform of the new army; and finally,<sup>66</sup> the unification of the Military Justice system.<sup>67</sup>

## **B. A Crisis of Confidence and Opposition to the Reform: The Case of RCD-Goma**

### **1. The hostility of the former RCD-Goma's military command**

Although significant progress has been made in creating an environment that is generally conducive to army reform, the way in which some of the objectives outlined have been achieved poses a serious problem to the success of the reform as a whole.

According to Congolese and foreign military experts, the appointment of the Commanders-in-Chief from the various armed groups to lead the Military Regions (*Régions Militaires*) where the armed groups were based and used to control, represents a danger to the policy of reunification and integration which is one of the main objectives of the reform of the army. For example, the centre of power and military stronghold for the RCD-Goma former armed

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<sup>64</sup> Speech by the Minister for National Defence, Demobilization and Ex-Combatants, at the national COJESKI conference on peace and peaceful coexistence during the DRC elections, Kinshasa, 18 May 2005.

<sup>65</sup> *Idem*

<sup>66</sup> *Idem*

<sup>67</sup> See Loi No 04/023/ du 12 Novembre 2004. on “*the General Organisation of Defense and Armed forces*”. During the war, each armed group had its own justice system. This certainly prejudiced the human rights situation and access to justice in all parts of the country. The most needed reform of the military justice system should take into consideration many human rights issues, ranging from the fight against impunity for perpetrators of violations of human rights, to fair trial guarantees, to ensuring that military judicial system are able to work in a fully independent, impartial and competent manner, to excluding the death penalty from its verdict.

group was and remains North-Kivu province, bordering Rwanda. Yet the Military Region of this sensitive eastern province was still entrusted to a former RCD-Goma commander, arguably giving too much influence to the regional military authorities of this armed group over the integration operations that are supposed to be the SMI's responsibility. Such a decision was certainly enabled by the explicit and formal non-dissolution of the former belligerents' forces,<sup>68</sup> which retain organic links with certain leaders of the former armed factions. This organic link is arguably the source of the malfunctioning in the chains of command suffered by the reform.

Although the RCD-Goma is a partner in the transitional political process and a number of commanders in its former armed group are now part of the decision-making structures of the FARDC, some members of this former armed group reportedly remain unenthusiastic about integration into the new army. Some RCD-Goma officers declined offers of senior command positions in the FARDC. In January 2005, the FARDC General Staff appointed General Obed Rwibasira, Colonel Jules Mutebutsi and Colonel Ciro Nsimba respectively to the commands of the military regions of North-Kivu, South-Kivu and Bandundu. They replaced Laurent Nkunda, Elie Gichondo and Eric Ruhorimbere, who were initially offered these posts but declined them. Since then, General Obed Rwibasira was transferred to the 7<sup>th</sup> Military Region following reported breaches of military discipline, while Jules Mutebutsi is now a fugitive from justice after the 2004 Bukavu mutiny<sup>69</sup> that he led with Laurent Nkunda, who himself has since been dismissed<sup>70</sup> from the army and is the subject of an arrest warrant on charges of war crimes and indiscipline. Laurent Nkunda remains at large and is prosecuting sporadic attacks against the transitional government from his base in rural North-Kivu. Unintegrated brigades of the FARDC, composed mainly of ex-RCD-Goma fighters, have collaborated with Nkunda and joined in these attacks. This open dissidence by a large proportion of the senior military leadership of the former RCD-Goma army is a real threat to

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<sup>68</sup> Dr Ebengo, reflections published in *Potentiel*, Edition 3370, Thursday 30 March 2005.

<sup>69</sup> For more information on the clashes at Bukavu, see the AI report: *DRC. North-Kivu: civilians pay the price for political and military rivalries* AI, AFR 62/013/2005, September 2005.

<sup>70</sup> By decree no 05/076 taken by the Head of State, 8 September 2005, dismissing a FARDC officer. (All the listed officers are/were members of RCD Goma)

integration, so much so that it affects the registration and effective participation of soldiers from this group in the integration and reform process.

There are indications that the RCD-Goma's hostility to the process is not superficial or temporary. The RCD-Goma is divided between a faction willing to keep faith with the DRC's political transition and a faction that has become increasingly hostile to it. The latter "hardline" element has shown a willingness to resort to military force. Driven by a deep mistrust of the government in Kinshasa and fears that the Banyarwanda<sup>71</sup> community in eastern DRC may be the target of Kinshasa-inspired ethnic violence, the hardline wing sees its interests lying in the maintenance of firm RCD-Goma military control over its last remaining bastion in North-Kivu. Such hostility runs much deeper than the refractory behaviour of a few dissidents and illustrates the distrust, if not outright opposition, shown by RCD-Goma political leaders to the integration of the army and the political process as a whole. "*South-Kivu has been taken from us but we will not let them do the same with North-Kivu because that would mean our political death*"<sup>72</sup> a founder member of the RCD-Goma informed Amnesty International.

## 2 Waves of defections and refusals to swear allegiance

Besides Ituri, the most intractable difficulties with the army reform programme have been encountered in the two Kivu provinces and part of North Katanga province. These areas are the strongholds of the RCD-Goma and *Mayi-Mayi*,<sup>73</sup> two armed groups that fought each other during the conflict and that still harbour intense distrust towards each other, despite the peace agreements. They are both opposed to army reform for different reasons. RCD-Goma still

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<sup>71</sup> Congolese Hutu and Tutsi of Rwandan origin whose mother-tongue is Kinyarwanda

<sup>72</sup> Amnesty International interview, Kinshasa, February 2006.

<sup>73</sup> The *Mayi-Mayi* is a collection of small armed groups claiming the same name who, during the DRC conflict, shared a common military position of support for the Kinshasa government and resistance against the Rwandan and Ugandan-backed armed groups in the east. They participated in the transitional government, but in reality have little political coherence. The *Mayi Mayi* movement in Kivu remains clearly different from the *Mayi Mayi* groups in Katanga.

accuses the *Mayi-Mayi* of being close to the Kinshasa<sup>74</sup> government and of colluding with the FDLR,<sup>75</sup> a Rwandan insurgent armed group in the Kivu provinces. On the other hand, an element within RCD-Goma appears intent on keeping some of its fighters under a separate chain of command in case the political transition fails. It has already threatened to withdraw from the transitional process several times.

During September 2005, when efforts to advance army integration intensified in all the integration centres, particularly at Luberizi in South-Kivu and Mushaki in North-Kivu, successive waves of desertions took place from the ranks of the ex-ANC, the former military wing of the RCD-Goma. According to military authorities of the 8<sup>th</sup> Military Region, hundreds of soldiers, for reasons which still remain unclear, fled the military integration centres where they were stationed. There were at least five cases of mass desertion. At the end of two search operations, MONUC located more than one hundred deserters, all members of the ex-ANC, and returned them to the 8<sup>th</sup> Military Region Headquarters at Goma. These operations also retrieved hundreds of weapons.<sup>76</sup> Some of the deserters alleged that they had been influenced by group leaders that were radically hostile to the army unification process and who were close to Laurent Nkunda. According to MONUC, “*the soldiers themselves, that is, the great majority of the troops that ‘deserted’, in inverted comas, did not know exactly what they were doing. One can speak of manipulation by certain officers.*”<sup>77</sup> According to local human rights NGO monitors interviewed by Amnesty International, the

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<sup>74</sup> General Padiri, a *Mayi mayi* leader, close ally to Joseph Kabila has been appointed head of the 9<sup>th</sup> Military region which includes Kisangani and Ituri.

<sup>75</sup> This armed group, which is composed mainly of Rwandan Hutus, has been operating in eastern DRC since fleeing Rwanda in the wake of the 1994 genocide, in which some of its members participated. Despite repeated attempts to dislodge the force through arms or persuasion, the FDLR remains a sizeable force which has been responsible for numerous war crimes, crimes against humanity and other human rights abuses in eastern DRC, and a frequent source of tension between Rwanda and the DRC.

<sup>76</sup> *Goma : de nouvelles désertions enregistrées au sein de la 8eme region militaire*, Radio Okapi, 12 September 2005 <http://www.radiookapi.net/article.php?id=2863>

<sup>77</sup> MONUC’s military spokesman, Lieutenant-Colonel Thierry Provendier, *FARDC : la Monuc ramène 500 soldats déserteurs à la 8e région militaire*, 20 September 2005, <http://www.radiookapi.net/article.php?id=2921>

elements hostile to integration are scattered among the villages near Shabunda, Walikale and Rutshuru in the two Kivu provinces, where they commit serious human rights abuses.

During the first phase of integration and retraining, more than one thousand fighters from the former RCD-Goma deserted the Mushaki integration centre, apparently after manipulation by senior RCD-Goma officers. Senior officers from SMI and other personnel working in the Centres de brassage advised Amnesty International that desertions and acts of sabotage had become more frequent and increasingly seem to be part of a well-defined strategy to thwart army reform. On 7 January 2006 the convoy of the commander of the 5th FARDC integrated brigade, Colonel She Kasikila, formerly of the Mayi-Mayi, was attacked in Rugari on the Goma/Rutshuru road, less than 35km from Goma, the capital of North-Kivu. Five people were reportedly wounded in the attack. The attackers were reportedly identified as belonging to a former RCD-Goma brigade based in Rutshuru territory, North-Kivu which is opposed to being integrated into the FARDC.<sup>78</sup>

### **C. Distrust of the Army Integration Programme: A challenge to overcome**

Over 150 residents of Ituri and Kivu interviewed by Amnesty International were pessimistic about the long term success of the army integration and reform programme and the future human rights situation in the region. Many people in North-Kivu and Ituri, as in many other parts of the DRC, apparently fear losing the protection of ‘their’ local military force, drawn from their own towns and villages and to whom they have strong ethnic ties, to be replaced possibly by soldiers of another ethnic group. Marie-Claire, a Hema shopkeeper in Iga Barrière, a suburb to the north of Bunia, considered to be a stronghold of the Thomas Lubanga UPC, expressed her concern about the capacity of the army to protect the civilian population:

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<sup>78</sup> AI interview with victims, 15 February 2006. It was also reported on 15 January 2006 by CREDDHO, *Centre de recherche sur l’Environnement, le développement et les droits de l’homme*, a local Human rights NGO based in Nord Kivu

*“The UPC, which protected us against the Lendu, is being demonized. But we are not sure if our country's army can protect us. Even those who came from Kisangani<sup>79</sup> began to violate human rights after behaving well at first. They pillage, they hit you and they rape because they are not from here. They live off the population. It would be better to send soldiers from our own ethnic group who will be able to protect us.”*

It also appears from interviews held with FARDC soldiers that soldiers and former members of armed groups who chose integration into the new army are afraid of being sent, before or after integration, to regions where they will not be accepted by the local population, although this is precisely the reason for creating a genuinely integrated national army which is capable of transcending ethnic divisions and loyalties and acting impartially on behalf of all the Congolese people.<sup>80</sup> Several battalions belonging to the former RCD-Goma armed forces are reported to have refused to be sent to Centre de Brassages centres far from the Kivus, where they believe they are more secure. According to SMI officials, more than 70% of RCD-Goma troops are opposed to being sent across the country to Kitona and Kamina, where the 2<sup>nd</sup> and 3<sup>rd</sup> FARDC Brigades were integrated and retrained. This is an issue which both the SMI and the FARDC General Staff have failed to address and which may yet undermine the army integration and reform programme.

In the Centres de Brassage, there reportedly remains deep distrust between soldiers from different factions and ethnic origins. On the night of 7 February 2006 at Kitona integration and retraining centre in Bas-Congo, the death of a soldier sparked a systematic attack on Banyamulenge<sup>81</sup> soldiers, who were accused of killing the man. Many Banyamulenge were

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<sup>79</sup> Reference to the first brigade trained by the Belgians at Kisangani and which has been stationed in Ituri since 2004.

<sup>80</sup> Amnesty International: *DRC. North-Kivu: civilians pay the price for political and military rivalries* AI, AFR 62/013/2005 –September 2005.

<sup>81</sup> Banyamulenge are Congolese of Tutsi heritage. The majority of Banyamulenge soldiers served with the RCD-Goma armed forces, most of whose military and political leaders were also drawn from the Banyamulenge community. The Banyamulenge originate in South-Kivu but have Rwandan

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reportedly wounded during the attacks. Some politicians, including RCD-Goma's leadership claimed that the centre's commander was party to the attacks. A civil society member of the transitional parliament believes *"it is difficult to understand that Congolese soldiers refuse integration of their army, as is being done in North Kivu, but it is even more difficult to believe that soldiers who accept it are targeted for elimination on ethnic grounds with the full knowledge of the centre's military structures, as in Kitona."*<sup>82</sup>

Manu and Fred,<sup>83</sup> two former RCD-Goma fighters who were among troops integrated at Mushaki and later deployed to Ituri as members of the FARDC's 4th integrated brigade, do not hide their concern, which they say is *"shared by most of their brothers in arms of Banyamulenge origin."*

*"I am here to serve my country but I am afraid (.). As soon as there is a political crisis, we will be the first to be killed. That has already happened in the past. (...) if I had the choice, I would have preferred to stay and do my job in Kivu, for my own safety!"*

*"I am not very happy here as I find it difficult to have confidence in my Commander, who is a commander from the former government army. (...) Despite the life at the integration centre, we are still considered to be foreigners (...)"* added Fred.

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antecedents. Longstanding ethnic divisions, combined with the RCD-Goma and Rwandan role in prosecuting the DRC conflict, have aggravated popular suspicion and hatred amongst the DRC's other ethnic groups against the Banyamulenge.

<sup>82</sup> National Forces/Civil Society, in a communiqué released in Kinshasa on 8 February 2006. *Communiqué : « Condamnation des actes de lynchage d'une catégorie des militaires dans le Centre de brassage de Kitona/Bas-Congo (RD Congo) sur base ethnique. »* The author is also "Executive Secretary of CPDD asbl – He is also National President of Shikama-Banyamulenge ( Mutualité Banyamulenge).

<sup>83</sup> Not their real names. Interview conducted at Bunia, 2005

## V A FLAWED MILITARY INTEGRATION ENVIRONMENT

### A. Role of the SMI

The legal framework of the SMI was enabled by presidential decree.<sup>84</sup> The SMI is part of the General Staff of the Armed Forces. It is an integrated structure<sup>85</sup> including elements of the former FAC and other forces that were signatories to the Sun City peace accord.<sup>86</sup> The SMI's mission is to decide on, and implement the integration programme including raising awareness, the grouping, identification, selection, housing and training of the former fighters. Some activities are jointly implemented with CONADER, as part of the *tronc commun*. At the organizational level, the SMI office has a coordinator, two assistants and four supervisors. The first assistant is responsible for specific operations. The second assistant is responsible for administration and logistics. Each assistant supervises two commissions. In addition, there is a general secretariat and a planning unit. Further, the SMI is represented in each military region.

### B. The *tronc commun*, the emergency plan and distortion of the reform

#### 1. The emergency plan and the *tronc commun*

Whether intending to accept demobilization or to integrate into the new army, all fighters were required to follow a shared path known as “*tronc commun*.” Under the process, firstly, units of the various armed forces are assembled at regroupment centres (*centres de*

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<sup>84</sup> Presidential decree n° 004/014 of 26 January 2004 on the creation and operation of the SMI.

<sup>85</sup> AI Interview with Col Fungula Katutu, Deputy Coordinator of SMI in charge of Administration and Logistics, February 2005, Kinshasa.

<sup>86</sup> The first group comprises the ex-government, ex-RCD-Goma, ex-MLC, ex-RCD-N, ex-RCD-ML, and ex-Mayi-Mayi. The second group includes Ituri armed groups who were signatories of the *Actes d'engagement*. The third group is composed of armed groups that are not signatories to the peace accords implemented in the east of the country, and who do not recognize these agreements despite having accepted them, for example, the Katanga *Mayi-Mayi*. The final group are the Congolese combatants in exile (ex-Tigers in Angola, comprising 12,000 men and the ex-DSP, with 800 men).

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*regroupement*), operated by the military, where they are disarmed. Units may spend several weeks at these centres while awaiting entry to the next stage of the process, the orientation centres (*centres d'orientation*, also known as COs) are operated by CONADER.

On entry to the orientation centre, adults are asked to choose between entry into the FARDC or demobilization, and according to their choice are directed to separate compounds in the orientation centre. For adults, the choice is a voluntary and personal one, except for persons judged physically incapable of serving in the army, for example on health grounds. These persons are directed into the demobilization stream. The process also envisages that a further category of persons considered “morally unsuited” are also demobilized, although Amnesty International knows of no case where an individual has so far been refused entry into the FARDC on “moral” grounds. As a matter of particular concern to Amnesty International, the authorities have taken no steps to exclude perpetrators of human rights abuses from FARDC ranks.

After a stay in the orientation centre of approximately two weeks<sup>87</sup> adults opting for enrolment in the FARDC are moved to integration centres (*centres de brassage et recyclage*, or CBR) operated by the military, for basic training of around 45 days and integration into a newly-formed FARDC brigade.<sup>88</sup>

Contrary to the principles underlying the concept and programme of the *tronc commun*, the national demobilization programme conducted by CONADER,<sup>89</sup> which was supposed to be carried out at the same time as the army reform, was launched in July 2004 and became operational very late in December 2004. This was eight months after the beginning of the DCR in Ituri. This was due in part to the complexity of the mechanisms for disbursing the funds allocated to the programme by the World Bank, lack of clarity in the division of roles

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<sup>87</sup> Two weeks is the time that ex-fighters are expected, per the terms of programme to stay in the centres, though, as discussed below there are usually serious delays in the process.

<sup>88</sup> [See the National DDR plan, adopted in 2004](#)

<sup>89</sup> With the exception of the plan specifically designed for Ituri, the national DDR programme has been truncated, resulting in the need to improvise implementation of *tronc commun* activities.

between CONADER and the UNDP, but more particularly CONADER's inefficiency. According to SMI officials, and against the wish of certain former armed groups, including the RCD-Goma, the delays suffered by the army reform process led to the formulation of an **emergency plan** for the reform. This plan, which diluted the principles of identification and the simultaneous nature inherent in the two processes of DDR and army reform, was conceived by South Africa and has served as an operational framework for the formation of the first six integrated brigades.

With regard to the general scheme for implementing the process, the awareness-raising and disarmament operations formed part of the *tronc commun*. The *tronc commun* combines elements of the processes of demobilization and the integration of ex-fighters into the new army. In other words, ex-fighters applying for integration into the new army, and those requesting demobilization and reintegration into civilian life both go through the same preliminary process of regrouping, identification and disarmament. The next stage is orientation and is the point at which applicants are divided. Those who have satisfied army selection criteria go to a military integration centre prior to joining a newly integrated unit, while others are eligible for reintegration into civilian life.<sup>90</sup>

The *tronc commun* process has been beset by considerable difficulties. In practice there has been a lack of coordination between the different structures involved, resulting in improvisation at various levels. The fundamental principles of the *tronc commun* envisage that SMI and CONADER military integration activities should take place simultaneously, indivisibly and jointly. These basic principles, which would have allowed more rigorous and systematic identification and filtering of applicants for the army and for demobilization, are reported to have largely been sidestepped and sometimes deliberately ignored by the military authorities responsible for integration. It is also reported that the programme adheres to its transit schedules but fails to give the applicants full and reliable information about the

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<sup>90</sup> Disarmament, Demobilization and Reintegration in DRC *An insight into the fundamental concepts and practical aspects of the process*. Centre Paix, Défense et Démocratie du réseau SADSEM, 2004.

process. At Mubambiro, a *tronc commun* reception centre, hundreds of applicants for demobilization, most of them former *Mayi-Mayi* and ex-ANC (RCD-Goma) fighters, had to wait months before receiving their demobilization kits. At Kabare and Livungi, hundreds of demobilized soldiers faced a similar experience.

Local human rights organizations, including *Justice Plus* and *Héritiers de la Justice*, have expressed concern at the renewed upsurge in pillage, extortion and crime which they allege is committed by ex-soldiers or ex members of armed groups who have not been re-integrated in their community or integrated into the army, respectively.

Many of the soldiers interviewed by Amnesty International in South and North Kivu, and particularly at Nyaleke spoke of their disappointment at the lack of information and at the level of disorganisation. Mambo, a former member of the RCD-ML armed group, sent from Beni to Luberizi, said:

*“Nothing is ready but we are asked to come here and it will soon be two months that we have been here with our families, without facilities or food and we don’t even know where we are going. I have been told that we are going to join the national army but nothing seems to be happening. We are all disappointed...”*

In April 2005, a Belgian-Congolese mission composed of the DRC Minister of Defence and the Belgian Mission in Congo, evaluating CONADER activities in South Kivu, observed the way the system was malfunctioning and expressed serious concerns about the failure to respect the standards established for integration and demobilization procedures. This mission concluded “it was necessary to make the SMI understand the incoherence and dangers of conducting orientation activities for soldiers outside the Orientation Centres, especially in the presence of their commanders.”<sup>91</sup> However, over a year after these recommendations were made, and despite this reminder, the army has continued to recruit applicants for integration

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<sup>91</sup> Joint mission report published in CONADER’s Newsletter, Edition of June 2005

without them participating in the *tronc commun* activities. This raises doubts and discredits the origin, profile and probity of those who are integrated in this way, especially their capacity to respect human rights when on duty.

## 2. Multiple and parallel chains of command

An integrated and effective chain of command is essential to the proper functioning of an army. It is “an authority and accountability system which links the office of the Chief of Staff to the lowest level” of the armed forces, and is “intended to be a pre-emptive instrument of command – allowing commanders actively to seek information, give direction, and oversee operations. It is a fundamental aspect of the structure and operation of the ... military, and ensuring its soundness is therefore a paramount responsibility of command.”<sup>92</sup> The political and military leaders of the DRC, however, have yet to assume this “paramount responsibility” and establish an authoritative single chain of FARDC command. As witnessed by AI, throughout the country, and particularly in the east, the official chain of command is often fragmented, unclear, and frequently in competition with “parallel” command structures, usually based on former armed group or ethnic loyalties.<sup>93</sup>

Like North-Kivu, all of South-Kivu province remains insecure. The proliferation of armed groups and FARDC units that are badly led and poorly controlled by the military hierarchy presents enormous problems of insecurity for the civilian population. Amnesty International has documented many cases illustrating this situation in the army. The Kanyabayonga incident<sup>94</sup> illustrates the security problem caused by the existence of different, parallel and opposing chains of command within the army.

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<sup>92</sup> Canadian Armed forces definition cited in the analysis of the Report of the Somalia Commission of Inquiry, <http://www.dnd.ca/somalia/vo10/v0s11e.htm>

<sup>93</sup> North-Kivu: Civilians pay the price for political and military rivalry, Amnesty International September 2005 AI Index: AFR 62/013/2005

<sup>94</sup> On 11 December 2004, clashes erupted between FARDC forces composed of ex-RCD-Goma fighters and other FARDC forces at Kanyabayonga, a strategic town between the territories of Lubero and Rutshuru in North-Kivu, on the border of zones controlled by RCD-ML and RCD-Goma. The clashes

There is evidence that people of South-Kivu province became increasingly concerned after the return to the high plateaux of Minembwe,<sup>95</sup> in September 2005, of armed men from Burundi and Rwanda and hostile to the integration process.

On 29 October 2005, two FARDC units nearly fought each other at Ntayobera market, in the Minembwe plateaux in South Kivu. Clashes were only avoided after the intervention of Banyamulenge ‘wise’men<sup>96</sup> in the region. According to the local human rights NGO, *Héritiers de la Justice*, the disagreement arose because one of the two of the units was opposed to taking local people hostage for ransom, acting as tax collectors or live at the expense of the local people. The intervention of the ‘wise men’ allowed the armed men to pull back from outright battle. However, these two units of the same army are subject to two different command structures and have continued to hold a confrontational attitude to one another. Unfortunately, the Minembwe incident is not an isolated case and still continues. Many other accounts collected by Amnesty International show the existence of these parallel command structures within units that have supposedly been integrated.

On 5 August 2006, Congolese army soldiers of the 9<sup>th</sup> integrated Brigade fought those of the 83<sup>rd</sup> (non-integrated) Brigade, loyal to Laurent Nkunda, in the town of Sake, 30 kilometers east of Goma, the provincial capital, killing 2 civilians and injuring 13 others. Thousands of Sake residents sought refuge in Goma and other neighbouring towns following the attack, which came just days after the DRC’s historic elections. The battle in Sake is the latest in a series of incidents between soldiers loyal to the Congolese government in Kinshasa and those

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occurred after an attempt by government FARDC troops to retake the town controlled by the FARDC (exRCD-Goma) contingent. Fighting lasted nine days and claimed dozens of civilian victims until a ceasefire was concluded on 21 December.

<sup>95</sup> Minembwe is a series of plateaux in the territories of Uvira and Fizi, refuge of Commander Masunzu who has been at the head of RCD-Goma in the region for a long time. Masunzu is currently a senior officer of the Congolese army.

<sup>96</sup> « Wise men » refers to elders of the community.

who support Nkunda. In February 2006 forces loyal to Nkunda attacked the town of Rutshuru, causing thousands of civilians to flee.

### **C. A Compromised Army Vetting Process**

Civilians in eastern DRC, especially women, have suffered and continue to suffer atrocities at the hands of the military and armed groups.<sup>97</sup> Unfortunately, as the Beni prison incident (see below) revealed, reintegration in the army of former soldiers or members of armed groups is not accompanied by an effective vetting mechanism that identifies and excludes individuals who have or are reasonably suspected of having committed violations or abuses of human rights and international humanitarian law. The integration process is supposed to screen out those unsuited for the army, whether by virtue of age, physical condition or for ‘moral’ reasons.

The national DDR Plan and the SMI guidelines and provisions contained in the Joint Operational Plan (*Plan d’Operations Conjointes*), state the criteria which enables the authorities to exclude from the army integration process those who have abused human rights and/or those with regards to whom there are reasonable grounds for suspecting that they committed war crimes, genocide and crime against humanity. The vetting criteria also excludes children aged under 18, and any person who may be physically unfit and morally upright from being integrated into the FARDC.<sup>98</sup>

The vetting system in place has not been complemented by a robust judicial reform exercise which would have led to the trying of fighters reasonably suspected of committing serious human rights abuses, thus preventing them from entering the integration process. If such a system was in place, elements of the FARDC (ex-RCD-Goma) brigade at Mushaki camp who

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<sup>97</sup>. See the Amnesty International report *Democratic Republic of Congo: Mass rape – time for remedies*: AFR 62/018/2004), 26 October 2004.

<sup>98</sup> National DDR Plan,, p25. It is described in greater details in the Joint Operational Plan (Plan d’Operations Conjointes)

allegedly committed unlawful killings and other abuses at Nyabiondo, North-Kivu, in December 2004, and also the FAPC contingent sent to Luberizi after committing atrocities against the civilian population at Mahagi, Aru and Ariwara would have been excluded from the FARDC.

Amnesty International is concerned that even prisoners serving prison sentences for crimes under international humanitarian law have been integrated into the new army. According to instructions given by the 10th (North-Kivu) Military Region, all military personnel detained and sentenced for less serious military crimes<sup>99</sup> were to be released so they could take part in the integration process. In early March 2005, in accordance with these instructions, the Beni Military Prosecutor prepared a list of 35 military prisoners, all of whom were held at Beni central prison for release. Later that month the deputy commander of the Military Region, accompanied by the Beni Military Prosecutor, arrived to supervise the release of the 35 prisoners and their transfer to integration centres. The military prisoners were assembled in the prison yard and the names of 35 of them were read out and they were informed of their release. Then, without any consultation with the Military Prosecutor, the commander made it known that he needed a total of 50 soldiers and chose 15 other prisoners at random to make up the numbers. The Military Prosecutor opposed this decision by the Colonel but, unfortunately, could do nothing to annul it. All of the 15 chosen in this way were soldiers serving long sentences or had been condemned to death for serious crimes, including rape and murder. The Military Prosecutor later wrote an official letter of protest to the military hierarchy of the 10th Military Region and to the senior Military Prosecutor. Amnesty International understands there was no response.<sup>100</sup>

Successful military integration which incorporates training on, and seeks to engender a culture of human rights is key to ending the large number of human rights abuses being committed by a range of unaccountable military forces. It is important that the formation of

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<sup>99</sup> These less serious crimes included, for example, insulting a superior officer and public drunkenness.

<sup>100</sup> AI interview with prison official and HR organizations in Beni, March 2005

the integrated army is a process that is coordinated with efforts to halt impunity for crimes under international law and other human rights abuses. Perpetrators should not be placed in positions where they could repeat the abuses.

To help prevent this, the integration process should include a rigorous and impartial vetting mechanism, even while the emergency plan is being implemented. The new army is essentially composed of members who belonged to the former armed groups, and soldiers of the former national army, most of whom have been implicated in serious violations of human rights and international humanitarian law. This means that the identification and selection of candidates for integration should take place in a rigorous, transparent, coherent and impartial manner so that those found to have committed grave violations of international humanitarian law or human rights law cannot join the new army. Such a screening mechanism should work alongside independent and impartial investigations and other measures to bring perpetrators to justice. Such measures form an essential component of the creation of a national army that can be an agent of support for human rights.

#### **D. A balance sheet of the integration process**

##### **Appalling Conditions in the Centres de Brassage**

The situation and living conditions at the centres remains precarious and inhuman. Apart from Kamina and Kitona, which are relatively well equipped and supplied, the others that have been operational during implementation of the emergency plan are places where one DDR expert says, "a human being cannot survive for a long time even if they are endowed with superhuman capacities for adaptation."<sup>101</sup> Luberizi and Mushaki were desperately short of water, electricity, food and medical supplies. Even illnesses such as cholera, and malaria which are usually treatable are killing the soldiers who are crammed into unhealthy makeshift

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<sup>101</sup> AI interview with an official of Centre de Brassage, December 2005.

shelter. These conditions have caused the death of dozens of soldiers in the centres. Joint evaluation missions<sup>102</sup> to North and South Kivu and the eastern province by MONUC, donors, General Staff, SMI and CONADER held in March and April 2005 and December 2005 have made recommendations to deal with this situation. This led to the speeding up of the *Projet d'Appui à la Mise en place des CBR*, Support Project for the Establishment of Integration and Retraining Centres, funded by the European Union (EU) and implemented by the UNDP. The project's objective is to make two Centres operational, namely Luberizi, a temporary centre and 'Colonel Lukusa' at Kisangani, selected as a permanent centre in the new *Plan Stratégique National pour l'Intégration des Forces Armées*, National Strategic Plan for the Integration of the Armed Forces. Although these efforts are important and welcome, some people including the officials of Centres de Brassage complain that they are insufficient to meet the current needs.

The army reform plan<sup>103</sup> drawn up by the Ministry of Defence and implemented by the SMI, enabled the creation of 16 military integration and retraining centres.<sup>104</sup> These centres were selected on the basis of their capacity to accommodate up to 4,000 soldiers. By April 2006 only six<sup>105</sup> of these centres were operational.

Unlike the DDR programme, the army reform programme has suffered from lukewarm support from the international community, especially by the international financial institutions. In response, the Congolese government turned to bilateral cooperation to fund the

<sup>102</sup> *Rapport de la mission d'évaluation conjointe MONUC-bailleurs-EMG-SMI-CONADER au Nord Kivu, Sud Kivu et Province Orientale* » du 8 au 13 Avril 2005

<sup>103</sup> Annexe du *Plan Stratégique National pour l'Intégration des Forces Armées*, Annex to the National Strategic Plan for the Integration of the Armed Forces.

<sup>104</sup> The planned centres were to be at N'Zumu, in the 1<sup>st</sup> Military Region; at Kitona (2<sup>nd</sup> Military Region); at Bokala and Gbadolite in the 3<sup>rd</sup> Military Region of Equateur; at Katende in the 4<sup>th</sup> Military Region of Western Kasai; at Katenda and Lucha in the 5<sup>th</sup> Military Region of Eastern Kasai, at Kamina and Mura 6<sup>th</sup> Military Region of Kabanga, at Luama (Kindu) in the 7<sup>th</sup> Military Region of Maniema; in the 8<sup>th</sup> Military Region of North-Kivu at Mushaki (Goma) and Nyaleke (Beni); in the 9<sup>th</sup> Military Région of Lukusa at Bunia; in the 10<sup>th</sup> Military Région of South Kivu at Luberizi.

<sup>105</sup> Nyaleke, Mushaki, Luberizi, Kamina, Kitona and Col Lukusa at Kisangani. The Mushaki centre was subsequently transferred to Rumangabo, selected to become a permanent centre for training and housing.

programme and ensure technical support.<sup>106</sup> In an experimental initiative, the government integrated and trained the 1<sup>st</sup> Brigade with Belgian support in March 2004 at Kisangani. This brigade was deployed in Ituri in late 2004 where security needs were greatest and where the limited deployment of MONUC forces had failed to restore security. The 2nd Brigade was integrated and trained at Kitona with the cooperation of Angola in March April 2005, and the 3rd Brigade was trained at Kamina with support from South Africa and Belgium in May-June 2005. In addition, during 2005 and in accordance with the emergency plan, and with technical and logistical support from Belgium and MONUC, the Congolese government integrated three other brigades at Mushaki, Nyaleke and Luberizi. They were all deployed in Ituri, in the Kivus and Kassai.

1. “Deuxieme et Troisième vagues”: Same story

The training of the second and the third batches (*la Deuxieme et la Troisieme vague*) of troops started following the release of the national strategic plan<sup>107</sup> for the FARDC. The aim was to have 12 additional brigades integrated and trained to make a total of 18 before the elections scheduled for 30 July 2006.<sup>108</sup>

According to the *Centre de Coordination des Opérations Conjointes* (CCOC), Coordination Centre for Joint Operations, the training of troops for the second batch was completed when the target of six brigades was attained. However, training and integration of the third batch has been marred by serious financial and logistical difficulties. The lack of coordination between the military and CONADER, compounded by a lack of vehicles for transport of units, has meant frequent and often lengthy delays in moving people between the regroupment, orientation and *brassage* centres. Disarmed fighters can be stuck for days or

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<sup>106</sup> The 2005 budget allocated US\$ 36,566,292 for integration. According to SMI officials, this sum is insufficient because the cost of the process was estimated at US\$ 202,215,000. The SMI office and the 10 regional units should cost US\$11 million, the census US\$ 1,414,000.

<sup>107</sup> *Plan Stratégique National pour l'Intégration des Forces Armées*, National Strategic Plan for the Integration of the Armed Forces, August 2005.

<sup>108</sup> *Idem*

weeks awaiting entry to an already full orientation centre. When Amnesty International visited Kabare orientation centre in March 2006, for example, around 200 disarmed fighters were encamped by the roadside awaiting entry to the centre. Some had reportedly been there for several days, and more were arriving each day. In addition, apparently most of the few ex-fighters who gathered at the Centres d'orientations chose to return to the civilian life in lieu of integrating into the army.

Sources also told Amnesty International that the voluntary principle is in some cases being flouted by military commanders alarmed at the high proportion of fighters opting for demobilization. In response, it is reported that some commanders "instructed" their units to apply wholesale for integration into the FARDC. In addition, the integration officials are allegedly resorting to forced recruitment. In May 2006 in Kalemi, over 50 young boys, all of them ex-Mayi Mayi, who had opted for demobilization and reintegration into civilian life in Kalemi, were reportedly transferred without their consent, to the Nyaleke CBR in North-Kivu for integration into the army. This occurred while they were waiting for their demobilization package. They are said to be between 15 and 17 year of age.<sup>109</sup>

At the end of July 2006, CONADER announced it has suspended its demobilization activities and was in the process of closing all its orientation centres, and that all joint operations that take place in the centres had been suspended due to lack of funding.<sup>110</sup> As an alternative measure, CONADER apparently intends to make use of "mobile intervention teams" when the need arises. Amnesty international is concerned that there is a high risk that this new arrangement may compound the situation by ignoring the need to properly identify would-be conscripts into the FARDC and in the process compromise further the reform of the army. By September 2006 the number of *integrated and deployed* soldiers is reported to be

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<sup>109</sup> « Enrôlement forcé par les FARDC au centre de brassage de Nyaleke Nord Kivu », GLRP/CONGO 26, June 2006

<sup>110</sup> Information published by IRIN, DRC 7 July 2006. These reports have also been confirmed by AI.

approximately 35,166, i.e. the size of 12 brigades. But the Minister of Defence<sup>111</sup>, in the meantime, announced that the SMI had integrated 14 brigades.”<sup>112</sup>

## **VI. AN ARMY RIFE WITH CORRUPTION, WITH LITTLE RESPECT FOR HUMAN RIGHTS**

### **A Endemic corruption and poorly-paid soldiers**

The FARDC has to contend with widespread corruption, which undermines the process of integration, itself already compromised by major logistical and organizational problems. Against a background of weak management, during the war and the transitional period, corruption manifested itself in the mass misappropriation of public funds and salaries, under-the-counter payments and organized influence-peddling involving influential individuals at various levels of the army hierarchy.

Several donor countries have expressed concern at this situation. After the public expression of concern by the French embassy, MONUC, and other diplomatic missions in Kinshasa, the UK Secretary of State for International Development also expressed his concern by condemning the manner in which soldiers' wages were administered by the FARDC. “*The census carried out by the South African military has proved that there are far fewer soldiers than we have been led to believe. And if more money continues to be taken to pay more soldiers than actually exist, then one might ask where the surplus money is going*”,<sup>113</sup> said Hillary Benn.

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<sup>111</sup> *Sortie officielle du premier bataillon intégré de la Garde Républicaine des FARDC*, Agence Xinhua, 15 Sept 2006

<sup>112</sup> Information published by IRIN, DRC 7 July 2006. These reports have also been confirmed by AI.

<sup>113</sup> Reported by Radio Okapi and IRIN, 3 November 2005. Hillary Benn was on an official visit to the Congo. <http://www.radiookapi.net/article>

Based on its payroll the Ministry of Defence estimated that in 2005 there were around 340,000 soldiers paid out of public funds. However, the 2005 partial census carried out by the South African military in conjunction with the SMI suggested that between 30% and 55% of the fighting forces were fictitious.<sup>114</sup> Of the US\$8 million paid out in 2005 for soldiers' salaries, a significant portion is therefore diverted and the remainder rarely reaches soldiers on the ground in timely manner.<sup>115</sup>

Commanders appear to be inflating the number of soldiers on the ground. During an identification and inspection mission witnessed by a local NGO in South-Kivu which was carried out by the commanding officer of the Congolese Air Force, the ground commanders who had declared more men than they actually had called on civilians to swell their ranks. However one other reason for the over-statement of military payroll is the large number of war-wounded, invalided and retired soldiers who are still on payrolls and have no other form of social support. Part of the MDRP/WB finance is supposed to cover programmes for war wounded as a special vulnerable group, but there is nothing for over-age soldiers or soldiers' families.<sup>116</sup>

The discrepancy in the number of FARDC forces has given rise to the allegation that organized corruption is endemic and is present in all sectors of the army. Allegations of corruption compromise the army reform programme and damage the credibility of the military by creating and heightening the crisis of confidence between it and the civilian population.

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<sup>114</sup> EUSEC (European Union advisory and assistance commission on security sector reform in the DRC) analysis report, *Administration de la solde et des vivres au sein du ministère de la défense et des forces armées de la RDC*, 31 August 2005, Annex C section 1(b), and AI interview with EUSEC officials, Kinshasa, November 2005.

<sup>115</sup> "L'armée FARDC et la fausse paie" (*FARDC and the fake payroll*) interview with General Ondekane, former defence minister, published in leSoft International, a Congolese print and online publication, on 14/06/2005, Edition nationale No 818-1. For full story see [www.lesoftonline.net](http://www.lesoftonline.net). See also "detournement au sein de l'armée: General Ondekane reconnaît l'existence de contingents fictifs payés par le trésor (*Embezzlement within the FARDC: General Ondekane acknowledges payment of ghost soldiers by the treasury*)" Soft Edition 814 of 13/03/2005 There are many other accounts, including EUSEC and CIAT, describing or expressing concern about corrupt practices within the FARDC and in the DRC public sector as a whole.

<sup>116</sup> AI interview with EUSEC officials, Kinshasa, November 2005.

To minimise the risk of corrupt practices, the European Union (EU) has proposed a new system for monitoring soldiers' pay and army supplies through an accounting reform plan.<sup>117</sup> Applying only to the integrated brigades, this plan makes provision, in particular, for an inventory of staffing numbers, a review and reassessment of the status of soldiers, decentralization of the payment mechanisms for soldiers' salaries by separating them from the chain of command and restoring them to the brigades, computerizing the system and providing experts to support Congolese efforts and assist with the necessary monitoring of the overall operation. The plan was finally approved by the DRC government in December 2005. However, despite its relevance and importance, the plan will not, in itself, be sufficient to put a stop to corruption within the army. More commitment and willingness to eradicate corruption should be demonstrated by the Congolese actors. The DRC Minister of Defence has however stated that corruption is an "unacceptable scandal"<sup>118</sup> which must be stamped out "unless we want an army of down-and-outs."<sup>119</sup>

#### Fertile ground for human rights violations

Soldiers also complain about the inadequacy and irregularity in the payment of their salaries; a situation which it is alleged has resulted in the armed soldiers attacking civilians. There are reports that soldiers erect road barriers and impose all kinds of illegal taxes. There have also been reports indicating that soldiers engage in armed robbery and in grave violations of human rights. It is in these circumstances that corruption, along with many other factors, has exacerbated the deterioration in the human rights situation in the country.

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<sup>117</sup> The plan is entitled "*Administration de la solde et des vivres au sein du ministère de la défense et des forces armées de la RDC*" adopted in December 2005 by the government of transition.

<sup>118</sup> Amnesty International interview with the Defence Minister, Kinshasa 2005. A FARDC soldier earns, on average, US\$ 5 recently increased to 23\$ following the EUSEC reform. A high-ranking officer earns no more than US\$ 50 a month.

<sup>119</sup> *Idem*

## B. Joint Deployment of FARDC and MONUC

The integrated brigades of the FARDC were deployed in the DRC since 2004 to complement MONUC forces. The 1<sup>st</sup> Brigade was deployed in Bunia<sup>120</sup> and other enclaves and strategic points especially customs posts and other tax collection points, formerly controlled by armed groups. The deployment of FARDC forces to complement MONUC did not lead to an immediate decline in the number and intensity of fighting. Even MONUC peacekeepers<sup>121</sup> were targeted. Nine peacekeepers were killed by militia in Ituri. However civilians continued to bear the brunt of the violence. On Thursday 12 May 2005, UN forces were ambushed at Gethy, a town initially controlled by the FRPI, causing a road accident in which six people were injured. During the night of Friday 6 May, there were further violent clashes between the FARDC and the Bosco UPC at Berunda.<sup>122</sup>

The FARDC forces are reported to be responsible of scores of killings and other human rights violations. In late 2005 as their deployment became more visible outside Bunia, they are reported to have launched an offensive in the gold mining area of Mongwalu, which was under the control of armed factions which engaged in illegal mining of the gold and its illicit exportation to Uganda in particular. In the course of fighting between Mbindjo, Akwe and Yeti to the north of Mongwalu on 23 October 2005, which resulted in the newly-integrated and deployed FARDC recapturing the town, many civilians were killed. Numerous human rights abuses were committed by both sides.<sup>123</sup>

As military operations by FARDC against hostile armed groups increase human rights violations against civilians have also increased in number. The June 2006 monthly human

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<sup>120</sup> The first brigade called Ituri brigade trained by the Belgian was first deployed in Ituri and restricted to Bunia the main city of the district, later progressively deploying outside Bunia to more insecure and volatile parts of the district.

<sup>121</sup> On Friday 25 February 2005, 9 UN peace keepers were killed in the town of Kafe, 20 miles northwest of Bunia in Ituri.

<sup>122</sup> UN OCHA *Monitoring de la situation humanitaire en RDC du 7 au 13 mai 2005*, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/VBOL-6CKFJN?OpenDocument>

<sup>123</sup> AI Interview with local NGOs in Bunia, November 2005

rights assessment by MONUC has documented across the country 81 cases of violations of human rights including arbitrary killings, excessive use of force, ill-treatments etc... “*FARDC were allegedly responsible for the majority of human rights violations committed during this reporting period*”<sup>124</sup>

### **C. The need for training in human rights**

#### **1. Integration needs a “human rights” component**

One of the fundamental elements contributing to the prevalence of human rights violations committed by FARDC forces is the low priority accorded to human rights standards and international humanitarian law training. Such training, though at very rare occasions, has taken place but only targeted very few high ranked commanders. The first integrated brigade is the exception. It was trained at Kisangani under Belgian supervision and was instructed in the rules of international humanitarian law and peacekeeping. None of the other integrated brigades received training in human rights or international humanitarian law, even though they have all been deployed in conflict zones.<sup>125</sup>

#### **2. The Army usurping police powers**

In the history of the Congo, the army has often claimed prerogatives other than those attributed to it under the Constitution by taking upon itself responsibilities traditionally carried out by the police. In many circumstances it has made arrests or carried out public order operations, despite not having the necessary authority or training to carry out these functions in accordance with applicable provisions of international human rights law regulating the use of force and arrest by law enforcement officials.

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<sup>124</sup> Monthly Human rights assessment, June 2006, [www.monuc.org](http://www.monuc.org), 14 July 2006.

<sup>125</sup> AI interviews with soldiers of the newly integrated brigades and CBR authorities in Bunia, Luberizi, Nyaleke and Mushaki, March and September 2005 and March 2006

When street demonstrations were taking place in Kinshasa in June 2004 against the taking of Bukavu by RCD-Goma dissidents, the army violently suppressed a peaceful march by firing live bullets into an unarmed crowd resulting in the killing of more than thirty people and the wounding of over fifty others. The behaviour of the army towards unarmed demonstrators contrasted sharply with that of the *Police d'intervention rapide* (PIR), Rapid Intervention Police, which was also deployed on strategic routes in the town to contain any outbursts.

Under the terms of the law on arrangements for and general organization of defence and the armed forces,<sup>126</sup> the army should no longer intervene in issues associated with public security and will be constitutionally entitled to do so only in exceptionally grave circumstances, as a means of last resort and when the fundamental interests of the nation are in peril.<sup>127</sup> And even in such extreme cases, the army has an obligation and a duty to respect human rights.

#### **D. FARDC Committing Human Rights Violations**

##### Grave human rights violations by the FARDC

The majority of the brigades that have been integrated and retrained during the new reform have been deployed to priority areas in Ituri and the Kivus for three essential missions: providing surveillance at frontiers, acting as a reserve mobile intervention force and, lastly, defending sensitive points in the country.

In October 2005, the people of Kilo are reported to have apprehended a man named **Safari**, a civilian from the Lendu ethnic group. Safari was accused of having carried out several murders in the community of Banyali Kilo.<sup>128</sup> When FARDC troops (principally elements of the 1<sup>st</sup> integrated brigade trained at Kisangani) arrived in the town, locals reportedly handed

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<sup>126</sup> *Loi Portant Organisation Générale de la Défense et des Forces Armées*, the Law organising the Army and defense forces, Loi 04/023/ du 12 November 2004 Law No 04/023 of 12 November 2004. It was adopted by the National Assembly and the Senate, enacted by the Supreme Court of Justice and promulgated by the President of the Republic.

<sup>127</sup> Article 42 of the Law organising the Army and defense forces, Loi 04/023/ du 12 November 2004

<sup>128</sup> A witness account. Amnesty international interview February 2006.

Safari to the FARDC information officer based in Kilo. A local NGO confirmed to Amnesty International that Safari was executed in public at Kilo-Etat on the orders of a Congolese army officer, without any trial. No investigation has been carried out on this incident and no proceedings have been instituted against this officer or any other members of FARDC following this reported extrajudicial execution.

The 4th integrated brigade trained at Mushaki was deployed in Ituri with the strategic mission to provide border controls. On 17 November 2005, members of this brigade were positioned at Mahagi and deployed at entry and exit points<sup>129</sup> of the territory to protect the civilian population from attack and other abuses by members of armed groups operating in the area. A week after this deployment, followers of Udaga, also known as Peter Karim,<sup>130</sup> reportedly a close ally to the MRC, attacked FARDC positions at Ssil and Kudikoka, as well as Ngote and Gok Nyeri. FARDC soldiers retreated towards the town of Mahagi where they committed wide scale violations and atrocities against the local population. Large numbers of women were raped, private property looted and houses set on fire.<sup>131</sup>

On 16 December 2005, another brigade was deployed at Mahagi to replace the first one. Amnesty International was advised that on 17 December 2005, there was an exchange of gun fire with an armed group on the road leading to the town of Mahagi. Thereafter, members of the first brigade took seven villagers hostage in the nearby village of Avere and killed four others on the spot. They were allegedly accused of collaborating with the dissidents of Peter Karim. These members of the FARDC then led the other villagers they were holding to the centre of Mahagi, where one of them was killed. The victim was **Machakadhu Marcel**, a man of over 60 years of age. Before he died, Marcel was mutilated with an axe. His right

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<sup>129</sup> Mahagi port, Djegu, Nyarembe, Ndrele, Kudikoda, Sisi, Pono, Njakanja, Mahagi town, Panzudu,

<sup>130</sup> According to information obtained from witnesses in Mongwalu, the members of the militia responsible for the violations who were driven away by the FARDC were housed at Livo, a centre situated approximately 10 Km from Nioka. These were Peter Karim's men (around 3,000 men), who were joined by Major Ngujolo of the former FPRI, and former UPC soldiers led by Thomas Lubanga.

<sup>131</sup> AI Interviews with Lipadho and Justice Plus, December 2005.

arm was severed, then paraded in public and his genitals were torn off and taken away by the soldiers.

The majority of the people interviewed in Mahagi city<sup>132</sup> by Amnesty International expressed the view that they had lost confidence in the FARDC soldiers who “are no better than the militia of the armed groups that used to hold sway here.”<sup>133</sup> In the district of Ituri alone 242 cases of abuse and serious offences have been brought before the Bunia judge advocate’s department since the resumption of judicial activities in November 2005 against soldiers belonging to the new army. Among these cases are allegations of rape and murder committed against the local population. These figures are particularly worrying given that, for fear of reprisals, many victims do not lodge complaints.

In light of the increasing number, recurrent nature and extent of human rights violations attributable to members of the new army-in-training, MONUC threatened to suspend its participation in joint operations with the FARDC. MONUC has documented cases of very serious violations, including systematic rape, torture, mutilation and summary executions carried out by the FARDC; and has requested the transition government to take appropriate action in the cases identified and punish the perpetrators.

## VII. THE THORNY ISSUE OF THE GARDE REPUBLICAINE<sup>134</sup>

### A. The Presidential Guard: an army within the army?

The *Groupe Spécial de la Sécurité Présidentielle* (GSSP), Special Presidential Security Group, which has recently been refashioned as the *Garde Républicaine* (GR), Republican

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<sup>132</sup> AI has interviewed over 100 of Mahagi inhabitants. Mahagi is one of the most important territory of the Ituri district. Its population may be close to 274,000 people.

<sup>133</sup> Testimony of an inhabitant of Aru.

<sup>134</sup> FORMER GSSP

Guard is an elite corps of more than 10,000 soldiers<sup>135</sup> believed to have been trained by the Angolans, which is responsible for the security of the President of the DRC. The GSSP has, in practice, improperly extended the mission assigned to it and is today an independent army within the FARDC.<sup>136</sup> Its members have been deployed all over the country<sup>137</sup> at points of strategic significance for the security of the country. Known as “ampicillins”<sup>138</sup> by the inhabitants of Kinshasa, these soldiers are alleged to have committed serious human rights violations against civilians, carrying out armed raids and looting property.<sup>139</sup>

In the communes of N'Sele and Kimbanseke in Kinshasa a large number of rapes have been attributed to GSSP units. *These soldiers steal anything, be it money or property. At night they enter the homes of peace-loving citizens to rape either the owner's wife or his little girl, or to extort money and other valuables. Protests have been made in vain to as high a level as the Office of the President of the Republic Joseph Kabila. This is an army within the FARDC that enjoys the protection of its chief in a state that likes to think of itself as democratic.*<sup>140</sup>

Numerous testimonies gathered by Amnesty International record instances of grave human rights violations such as torture, arbitrary arrest and excessive use of force by the GSSP.

At Kisangani, where they are deployed in great numbers, the soldiers are not accountable and appear not to answer to any hierarchical chain of command in the regular army. Despite the

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<sup>135</sup> The actual numbers of this corps remain a mystery and the lack of transparency in its management is disturbing. Some assess its numbers at between 12,000 and 15,000 men, who are well-equipped and supported.

<sup>136</sup> It was created by Laurent Désiré Kabila after the AFDL victory in 1996 and takes much of its inspiration from Mobutu's infamous DSP (*Division Spéciale Présidentielle* – Special Presidential Division).

<sup>137</sup> They are at the central prison in Kinshasa, the international airport of N'djili at Kinshasa, at Kisangani (Orientale Province), at Kindu (Province of Maniema), at Lubumbashi (Province of Katanga), at Matadi (Province of Bas Congo) and Moanda (Province of Bas Congo), Bukavu (South-Kivu province) and elsewhere.

<sup>138</sup> From the name of the antibiotic capsule, which is red and black, the colours of the uniform and beret they wear.

<sup>139</sup> AI interview with Voix des Sans Voix (VSV) Kinshasa March 2005

<sup>140</sup> AI interview with an inhabitant of Kinshasa, February 2005

fact that their salaries are paid regularly and their working conditions are better than those of other soldiers in the national army, these soldiers harass and fleece the civilian population, steal their belonging, and commit other human rights violations. On the outskirts of the city, both upstream and downstream on the river Congo, a toll of 500 CF (just over 1 USD) is demanded from passers-by by GSSP soldiers<sup>141</sup>.

In March 2005, a local human rights NGO based in Kisangani, reported that **Marie-Thérèse Benda Malio**, mayor of the commune of Tshopo in Kisangani, was badly beaten by GSSP soldiers in the presence of local residents as she supervised community maintenance work, commonly known as *salongo*. In the course of this operation, she entered an area considered by the GSSP to be a presidential “zone.” Stopped by four GSSP soldiers, she protested in vain that she was the local mayor. She was reportedly molested, dragged along the ground almost naked, her clothes torn, exposing her underwear<sup>142</sup>.

On 26 August 2005, eight GSSP soldiers based at Kindu, the capital of Maniema province, arrested **Kisubi Tchambikwa**, a 60-year-old employee of the *Régie des Voies Aériennes* (RVA). He was reportedly beaten to death after an altercation with these GSSP soldiers for having taken a short cut across the runway at Kindu airport. It appears that they also attempted to extort money from him. This extra judicial killing raised widespread indignation throughout the province. On 25 October 2005, following a trial the fairness of which gave Amnesty cause for concern, some of the soldiers found guilty of this murder were sentenced under military law to life imprisonment<sup>143</sup>.

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<sup>141</sup> AI interviews with Radio Okapi journalists in Kisangani and confirmed by Group Lotus.

<sup>142</sup> Under pressure of public opinion, the matter was put before the judge advocate’s department. One of the four accused ran away and the other three are currently in custody. They were sentenced to 12 months’ imprisonment, despite the fact that the prosecution had called for five years’ imprisonment (*servitude pénale principale*). They were all prosecuted for arbitrary arrest, insulting a person in whom the authority of the state is vested and violence towards an authority of the state.

<sup>143</sup> Radio Okapi, Article 26 October 2005. <http://www.radiookapi.net/article.php?id=3171>

On 22 May 2006 **Anselme Masua**,<sup>144</sup> a 42-year-old journalist working for Radio Okapi, a national UN-sponsored independent radio station, was beaten by GR soldiers at a military camp in Kisangani, apparently on the orders of a GR captain. According to reports he was repeatedly punched and struck with rifle butts on his head and back by six to eight soldiers. The journalist had come to the camp to cover a story about the possible integration of the GR into the national army.

On 22 August 2006, a group of GR soldiers detained 84 fishermen from their riverside habitation in the commune of N’galiema in Kinshasa and marched them to an abandoned garage near to the Tshatshi military base. The fishermen were accused of being “rebels” loyal to President Kabila’s main electoral rival, Jean-Pierre Bemba, and of preparing an attack on the Tshatshi camp. The men were forced to undress and then subjected to beatings. Their belongings were stolen. They were then tied up, thrown naked into GR vehicles and driven to the Tshatshi base, where they were reportedly threatened with death, and beaten again with rifle butts. Their voter identity cards were confiscated on the pretext that they were from Equateur province (the heartland of support for Jean-Pierre Bemba). They were then placed in an extremely confined cell and held for 48 hours without food. One individual suspected of being related to Jean-Pierre Bemba was reportedly tortured. They were all released after between three and four days of arbitrary detention.<sup>145</sup>

FARDC army officials interviewed state that the GR is answerable to, and is the responsibility of the Head of State, and not the General Staff of FARDC. Apart from the reference to the Republican Guard in Article 140 of the Law on the Army and Defence, no legal stipulation organizing the DRC army and defence forces makes provision for the GR as a distinct unit within the national army. In April 2005, President Joseph Kabila passed a

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<sup>144</sup> Radio Okapi 25.06.2006, [www.radiookapi.net](http://www.radiookapi.net), Also reported by AI local contacts and on [www.LaConscience.com](http://www.LaConscience.com) in an article intitled “*Un journaliste roué de coups par la garde présidentielle*”, 25.06.2006

<sup>145</sup> AI e-mail correspondence with MONUC human rights officers and Congolese NGOs, August 2006.

decree<sup>146</sup> appointing the commanding officer of the GR and “repealing all previous provisions contrary” to the said decree.

According to the SMI, the GR should also go through the integration process. However, the slowness in integrating this particular unit of the army is a matter of serious concern. In the Kinshasa Garrisons for example, Regroupment Centers where Republican Guards should be gathered for inclusion in the integration were not opened by July 2006.<sup>147</sup> However, on 15 September, the minister of Defence and the General chief of staff officially announced the creation of the first battalion of the integrated GR. Trained and formed at the “Centre de Brassage, d’instruction et de recyclage” of Kibomango, in the suburb of Kinshasa, the newly integrated battalion include 800<sup>148</sup> men, half of which come from the former GSSP and the remaining provided by MLC and RCD Goma.

FARDC officers interviewed expressed the view that ethnic tensions within the GR may yet be a source of instability and concern for the post-electoral period. All the non-integrated elements of the GR are still deployed in parallel with other units of FARDC. The GR is also reported to be dominated by the so-called “Katangan clan” (*clan katangais*), some of whom are former members of the “Katangan police” (mainly in southern Katanga) who fought alongside Laurent-Désiré Kabila. Such obvious ethnic bias within the GR does not augur well for the cohesion of this special unit and even less so for the national army, which it only weakens further.<sup>149</sup>

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<sup>146</sup> Decree 05/025 of 12 April 2005 appointing the commanding officer of the Republican Guard

<sup>147</sup> A census and preliminary work are now being carried out for the GR to go fully through the integration process. But observers cast doubt about the transparency of such step and believe it would not respect sound vetting mechanism.

<sup>148</sup> *Sortie officielle du premier bataillon intégré de la Garde Républicaine des FARDC*, Agence Xinhua, 15 Sept 2006

<sup>149</sup> AI interview with senior military officers in the Etat Major des FARDC, January 2006. See also ICG report on Katanga. “*Katanga: The Congo’s forgotten crisis*”, Africa report no 103- January 2006.

## **CONCLUSION**

Until the reform of the army is complete, the DRC will experience a fragile peace. The cycle of violence in which the country is trapped is unlikely to be broken. Human rights will remain under threat and increasing poverty.

However, the seemingly half-hearted efforts surrounding the demobilization and reform of the DRC army; the corruption, the crisis of confidence, the ethnic tensions, the seeming lack of vision displayed by Congolese political and military leaders and the inefficiency of CONADER all bode ill for the human rights situation in the DRC. At this stage, the spirit, context and methods of the reform are unlikely to provide the Congolese people with an army that respects and upholds their human rights.

From a legal point of view, an enabling framework exists for the creation of a truly national, apolitical, human rights-sensitive and respecting army and which is subject to civilian authority. What is required is to turn this into a reality on the ground. Amnesty International is concerned that the integration of such an army should not simply be a matter of setting up a single, national command, and integrating troops. It should also involve, in particular and as a matter of priority, the standardization of chains and procedures of command; training in and unconditional acceptance of standards of international humanitarian and human rights law from the high command down to the rank and file soldier; and the establishment of an independent vetting mechanism to exclude from the integrated armed forces anyone reasonably suspected of having committed crimes under international humanitarian law or other human rights violations.

It is crucial that the newly elected government demonstrates timely and unambiguously its full commitment to effectively complete this reform process underway and particularly finalise it as matter of urgency. More than mere political will is needed to rise to this challenge.

## RECOMMENDATIONS

### A To the newly-elected government of the DRC

1. Ensure that FARDC personnel will respect and protect human rights
  - a) Clearly indicate that the reform of the integrated national army is a fundamental priority and create the operational framework for it to be carried out in a rigorous, professional and inclusive manner.
  - b) Give clear instructions to all FARDC forces to respect international human rights law and human rights standards, and to desist from committing unlawful killings, acts of torture, including rape, and ill-treatment as well as other human rights violations against civilians.
  - c) Take action to ensure that all FARDC soldiers are properly trained, and that their training must include, as an absolute priority, instruction in international humanitarian and human rights law.
  - d) Suspend from their posts in the FARDC and exclude from the process of integration into the army any individual who may reasonably be suspected by the authorities of having committed crimes under international humanitarian law or other human rights violations, or of having participated therein, until allegations concerning that person can be independently and impartially investigated.
  
2. Ensure that the process of disarmament, demobilization and reintegration (DDR) and military integration comply with principles and standards of human rights
  - a) Ensure that joint activities of DDR and Reform of the Army continue, and that adequate resources and all necessary facilities are provided until both processes are fully completed. This will include an effective functioning of all existing Centres d'Orientation (Orientation Centres) and "Mobile intervention Teams" to ensure that activities indispensable for the vetting process respect established human rights standards.

- b) Terminate or, if necessary, improve the “emergency plan” drawn up for the first stage of the reform since it has contributed to a flawed process through bypassing key steps such as effective “screening of candidates” vital to the reform.
- c) Without delay, apply the provisions of the *tronc commun* enshrined in the National Strategic Plan for the integration of the armed forces and ensure that they are respected at all stages of the reform.
- d) Ensure that all military forces enter into the process of integration into the army or into the DDR process without delay.
- e) Create and put into action an independent vetting/verification mechanism to prevent persons entering the integration process who may be reasonably suspected of having committed crimes under international humanitarian law or other human rights violations or of having participated therein, until allegations concerning them can be independently and impartially investigated.
- f) Ensure that persons who enter the integration process are identified individually; such identification being essential to promote the obligation of accountability, prevent corruption and guarantee that disqualified persons, such as suspected perpetrators of crimes under international law or other human rights violations do not enter the programme.
- g) Introduce rigorous measures to protect from ethnic discrimination candidates wishing to integrate into the army and ensure that the perpetrators of such discriminatory practices are brought before the disciplinary mechanisms of the army and, when suspected of criminal offence, are brought to justice.
- h) Carry out an urgent review of the National Strategic Plan for the integration of the armed forces drawn up by the Ministry of Defence and include, in the prerequisites for success of the three stages identified, a clear reference to formal training in international humanitarian and human rights law. Ensure that the training given to soldiers during the process includes instruction on the practical application of these laws in day to day activities of the army.

- i) Provide integration centres with the necessary resources so that soldiers are properly fed, accommodated and paid.
- j) Accelerate, without further delay, the DDR process for persons who do not wish to form part of the integrated army, or who are regarded as being unsuitable, and guarantee that the programme has the necessary resources in terms of financing, personnel and projects for effective integration into the community.
- k) Ensure that all demobilized persons awaiting integration into civilian life, are given the right information, and have access to “safety net” funds as well as to grants meant for reintegration projects.
- l) Ensure that CONADER is fully capable of fulfilling its management role of the DDR process effectively, with transparency and accountability
- m) Ensure, without delay, full and effective inclusion of the GR (Republican Guard) into the reform process and accelerate their integration phase.

3. Curb the proliferation of light arms

- a) Require former armed forces and groups participating in the Army Reform programme to surrender all their arms to the General Staff (Etat Major General) and commit without reserve not to re-arm.
- b) In collaboration with the UNDP, CONADER and MONUC, implement disarmament of the community in Ituri and ensure that arms caches still present in the district are dismantled.
- c) Comply with and enforce the conditions of the United Nations embargo on arms for the DRC, notably ensuring that no supplies of arms or related materiel reaches military units in North-Kivu, South-Kivu or Ituri until such units have been integrated and are answerable to the official command structures of the FARDC.
- d) Ensure the strict application of United Nations Security Council Resolution 1596, according to which “all future authorized shipments of arms and related materiel [...] shall only be made to receiving sites as designated by the Government of National

Unity and Transition, in coordination with MONUC, and notified in advance to the Committee”.

- e) Take steps to ensure that all arms gathered during the integration process are securely and properly stockpiled, including those obtained under the PAREC program of arms exchanged for bicycles in Katanga.

**B To armed groups present and operational in eastern DRC**

1. The leaders and commanders of armed groups must give clear and unambiguous instructions to their troops to desist from carrying out abuses against the civilians.
2. Recognize and publicly condemn human rights abuses perpetrated by their troops on the civilian population and take clear and urgent steps to put an end to such abuses.
3. Cooperate fully and unconditionally with any investigation in connection with prosecuting alleged perpetrators in order to achieve justice for the victims.

**C To MONUC**

1. Prior to and after the elections, deploy sufficient peacekeeping forces to ensure the protection of civilians in regions where the situation is volatile and civilians are at risk of human rights abuses.
2. Fully and resolutely apply its mandate to protect civilians under the terms of Chapter VII of the Charter of the United Nations.
3. Oversee the strict application of United Nations Security Council Resolution 1596, according to which “all future authorized shipments of arms and related materiel [...] shall only be made to receiving sites as designated by the Government of National Unity and Transition, in coordination with MONUC, and notified in advance to the Committee”. MONUC must monitor and oversee the designated sites 24 hours a day, seven days a week.
4. Accelerate, in cooperation with the government of the DRC, Rwanda, Uganda and Burundi, the DDRRR of foreign armed elements in the Democratic Republic of the Congo and take steps to ensure that the process is undertaken in full compliance with

relevant provisions of international humanitarian law and human rights law and standards.

5. Investigations by the human rights division of MONUC into alleged violations of human rights must continue and increase in number, with all necessary material and political support from the United Nations. The results of such investigations – including any recommendations to the authorities of the DRC – must be made public.
6. Where joint operations take place with the FARDC, MONUC must ensure that such operations are conducted in full compliance with the rules of international humanitarian and human rights laws.
7. Demand that the Congolese government launches investigations into all cases of human rights and international humanitarian law violations committed by FARDC troops and recorded/documentated by its human rights section and insist that alleged perpetrators are brought to justice in proceedings that are consistent with international standards of fair trial and without recourse to the death penalty;
8. Subject all future collaboration into joint military operations with the FARDC to a clear commitment by/from the FARDC command structure that troop discipline will be reinforced and that no violation of human rights law or international humanitarian law will be tolerated under any circumstances.

#### **D To the regional and international community**

##### United Nations Security Council (UNSC)

1. Continue to support MONUC with a view to making it more operational on the ground.
2. Ensure that adequate numbers of peacekeepers and other MONUC personnel still needed for the post-election period in the DRC are provided for the continuation of the mission.

European Union (EU)

1. Complete the EUSEC project for reform of the FARDC payroll and food supply systems (*“Administration de la solde et des vivres au sein du ministère de la défense et des forces armées de la RDC”*), which is essential in ending corruption and poor conditions of service in the FARDC.
2. Extend the project beyond the integrated brigades to the entire army as soon as practically possible.
3. Extend the Centres de Brassage improvement project (*Projet d’Appui a la Mise en Place des CBR*) implemented in Colonel Lukusa and Luberizi integration centres, to other integration centres, including temporary and permanent Centres, identified by the SMI and the Army General Staff.