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**Item 10: Amnesty International written statement to the 38th session of the UN Human Rights Council (18 June – 6 July 2018)**

**DEMOCRATIC REPUBLIC OF CONGO: HUMAN RIGHTS COUNCIL MUST ENSURE ACCOUNTABILITY FOR SERIOUS HUMAN RIGHTS VIOLATIONS COMMITTED IN THE KASAIS**

Despite an apparent de-escalation of the fighting between Government forces and the Kamuena Nsapu since mid-2017, serious human rights violations and abuses continue to be committed in the Kasai region, including extrajudicial killings, sexual assaults against women, and forced recruitment of children.

At the same time, the human rights situation is deteriorating elsewhere in the country as the deadline to organize elections on 23 December approaches. Armed groups continue to attack civilians leading to mass displacements of populations including in the provinces of Ituri, North and South Kivu, the Tanganyika.

In light of these concerns, Amnesty International calls on the UN Human Rights Council to renew the mandate of the team of international experts on the situation in the Kasai regions during its 38<sup>th</sup> session, and consider broadening its scope to address other areas of concern in the DRC, such as the human rights violations linked to the electoral process and the gross human rights violations that continue to be committed in several provinces including, Ituri, North and South Kivu and the Tanganyika. The Council should also ensure continued support and monitoring of the overall human rights situation in the country as well as the region, through the Office the High Commissioner for Human Rights (OHCHR).

The UN must also take concrete steps to ensure accountability for crimes under international law, including war crimes and crimes against humanity, and serious human rights violations in the Kasai region in the Democratic Republic of the Congo (DRC).

## **DIRE HUMAN RIGHTS AND HUMANITARIAN SITUATION**

The DRC forces, the Bana Mura militia and the Kamuena Nsapu continue to carry out attacks against civilians in the Kasai region. Since the beginning of this year, the UN Joint Human Rights Office (UNJHRO) has documented dozens of violations including rape and extrajudicial executions. While the UNJHRO observed a relative decrease in violations in April 2018 (from 74 violations in March to 36), the situation in the Kasai region remains unstable. The UNJHRO also noted that DRC forces and the Bana Mura militia remain the main violators in the Kasai.

Since August 2016, violence in the Kasai region has forced more than 1.3 million people, including 900,000 children, to flee their homes according to the United Nations.<sup>1</sup> While internally displaced persons and refugees are gradually returning to their villages, they are faced with a lack of basic services, such as schools and health services.

Due to large-scale displacement, looting and insecurity, most people have been unable to plant crops, which makes them more dependent on humanitarian assistance.<sup>2</sup> Some 3.8 million people, including 2.3 million children, currently depend on humanitarian assistance in the region.<sup>3</sup> In a report published in May 2018, UNICEF estimated that more than 770,000 children in the Kasai region suffer from severe acute malnutrition, and more than 400,000 could die of malnutrition by the end of the year<sup>4</sup>.

## **LACK OF CREDIBLE INVESTIGATIONS AT NATIONAL LEVEL**

Amnesty International conducted a research mission to Kinshasa in February and March 2018. Researchers met with the Minister of Justice, officials from the Ministry for Human Rights, UN Representatives, local and international human rights groups, diplomats and journalists. Amnesty International is concerned by the continued failure of the authorities to investigate serious human rights violations and crimes under international law, seven months after they agreed to facilitate and collaborate with UN investigation as well as improve national-level investigations into incidents in the Kasai region.

The government efforts to provide justice have failed to respond to the gravity and the scale of human rights violations in the Kasai. Two investigations were launched by the authorities in 2017 and led to prosecution and trials. However,

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<sup>1</sup> <https://reliefweb.int/topics/humanitarian-crisis-kasai-region-dr-congocrise-humanitaire-dans-la-r-gion-des-kasa>.

<sup>2</sup> [www.wfp.org/countries/democratic-republic-congo](http://www.wfp.org/countries/democratic-republic-congo).

<sup>3</sup> [www.unicef.org/media/media\\_102871.html](http://www.unicef.org/media/media_102871.html).

<sup>4</sup> Ibid.

Amnesty International found that one was marred with irregularities and the other was suspended indefinitely with no clear credible reason:

- The trial of nine members of the Congolese army involved in extrajudicial executions in Mwanza Lomba<sup>5</sup> concluded in July 2017. Seven army officers, including one Major, were convicted and sentenced to prison terms ranging from 12 months to life imprisonment. However, the prosecution failed to file charges against higher officials who were allegedly in the oversight of this operation. . The trial also failed to provide effective remedies to the victims, including the truth, reparation and guarantees of non-repetition.
- The trial relating to the assassination of the two UN experts, Michael J. Sharp and Zaida Catalan, in March 2017 was suspended indefinitely since October 2017, pending further investigation. Despite the reassurance of the DRC authorities to collaborate with international investigations, the authorities continued to prevent investigators dispatched by the UN Secretary General to assist national investigations.<sup>6</sup> Early May 2017, the Minister of Human Rights announced that bodies of Michael Sharp and Zaida Catalan's interpreter and taxi driver were found. However, the forensic identification of the bodies is yet to be done.

Meanwhile, a number of other serious human rights violations have not been investigated, despite credible reports from the UN and human rights groups. These include cases where high-ranking officers' responsibility was reasonably in question. For example, the following incidents have not been investigated:

- The killing of Chief Kamuena Nsapu on 12 August 2016 – which led to wide-spread violence and deterioration of the situation in the Kasai region;
- The killing of more than 40 suspected militiamen in Tshimbulu in February 2017;<sup>7</sup>
- The killing of at least 39 people in Nganza and Ndesha neighborhoods on 14-15 March 2017, allegedly committed by the Congolese army and members of the Légion nationale d'intervention (LENI, a unit within the National Police);<sup>8</sup>
- The summary executions and other crimes allegedly committed by security forces, the Kamuena Nsapu supporters and the Bana Mura militia in

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<sup>5</sup> <https://www.nytimes.com/2017/02/17/world/africa/democratic-republic-congo-massacre-video.html?mwrsm=WhatsApp&r=2>

<sup>6</sup> See [www.reuters.com/article/us-congo-un/u-n-experts-say-congo-obstructs-probe-of-u-n-monitors-killings-note-idUSKBN1I3010](http://www.reuters.com/article/us-congo-un/u-n-experts-say-congo-obstructs-probe-of-u-n-monitors-killings-note-idUSKBN1I3010)

<sup>7</sup> UNHJRO, Analysis of the human rights situation in February 2017

<sup>8</sup> UNHJRO, Analysis of the human rights situation in April 2017

- Kamako and at Cinq between March and May 2017;<sup>9</sup>
- Allegations of rapes during the FARDC operation in Mudiadia village on 14 May 2017, as well as destruction of property by the FARDC at these locations;<sup>10</sup>
- The rocket attack, allegedly fired by FARDC on a Pentecostal Church in Djiboko on 10 June 2017 where at least 60 persons, including women and children, were killed. On the same day, the UN also recorded rape allegation by members of the FARDC;<sup>11</sup>
- The execution of a local Luba representative allegedly committed by a FARDC commander, aided by Bana Mura militia on 9 May in Tshitundu;<sup>12</sup>
- Bana Mura's attacks and killings in five locations: Cinq, Kanpotopoto, Kasandje, Mwakaanga and Tshitundu between April and July 2017;<sup>13</sup>
- The killing by the security forces of more than 50 people in Nzanga neighborhood in Kananga, between 28 and 30 March, 2017;<sup>14</sup>
- Killings and attacks by the Kamuina Nsapu in Kamonia between March and April 2017.

The absence of investigations on these incidents and the increasing use of proxy militia against armed groups are a worrying sign of lack of political will and capacity from the part of the DRC authorities to deliver accountability for the atrocities committed in the Kasai region.

## **CONCLUSION AND RECOMMENDATIONS**

Given the lack of progress on investigations at the national level since the team of international experts on the situation in the Kasai regions was mandated, and the gravity of the findings of the team of international experts on the situation in the Kasai regions, Amnesty calls on the Human Rights Council to:

- Renew the mandate of the team of international experts on the situation in the Kasai regions;
- Consider broadening the scope of the mandate of the international experts to address other areas of concern in the DRC, including the human rights violations linked to the electoral process and the gross human rights

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<sup>9</sup> International Refugee Rights Initiative (IRRI), *Conflict and Displacement in the Kasai*, January 2018, pp 15-22. <https://reliefweb.int/sites/reliefweb.int/files/resources/Kasai-report-IRRI-ENG.pdf>

<sup>10</sup> Report of a Mission of the United Nations High Commissioner for Human Rights – accounts of Congolese fleeing the crisis in the Kasai region, in the Democratic Republic of the Congo, August 2017

<sup>11</sup> Idem

<sup>12</sup> Idem

<sup>13</sup> Idem

<sup>14</sup> UNHJRO, Analysis of the human rights situation in April 2017.

- violations that continue to be committed in several other regions;
- Ensure the report of the team of international experts is forwarded to all relevant bodies of the UN, including the General assembly for their consideration;
  - Request the team of international experts to present their findings to the UN General Assembly at its 73<sup>rd</sup> session;
  - Extend and strengthen the provision of technical assistance and capacity building by the Office of High Commissioner for Human Rights.

Amnesty International calls on the authorities of the DRC to promptly tackle the culture of impunity, including among its security forces, by taking the following actions:

- Launch credible investigations into all those suspected of gross human rights violations in the Kasai, including senior military officials, to end the cycle of impunity in the region;
- Swiftly implement all recommendations made by the team of international experts on the situation in the Kasai regions, with assistance from the OHCHR as necessary;
- Fully cooperate with the international team of experts on the Kasai and other independent investigative teams on the Kasai.