



## Security Council

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### **Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo**

#### *Summary*

The present report, submitted pursuant to Security Council resolution 1612 (2005), covers the major developments related to the situation of children and armed conflict in the Democratic Republic of the Congo since the previous report on the subject (S/2006/389) and provides information on compliance with and progress made in ending the recruitment and use of children and other grave violations against children in the Democratic Republic of the Congo. The report notes that, although significant progress has been made through the efforts of the Government of the Democratic Republic of the Congo, the United Nations Organization Mission in the Democratic Republic of the Congo, the United Nations and civil society partners to improve the situation of children affected by armed conflict, major gaps exist, most especially in the Ituri district and North and South Kivu provinces. The failure to arrest those who commit grave violations of children's rights and to heed previous Security Council recommendations for the immediate arrest of Commander Laurent Nkunda and to combat impunity for other violators of children's rights is of deep concern. Although the Government of the Democratic Republic of the Congo, in conjunction with United Nations partners and non-governmental organizations, achieved significant progress in the demobilization and reintegration of child combatants, the funding necessary to complete that work in the hardest-hit areas of the eastern region of the country must be made available.

The report also notes the need to address impunity and to redouble efforts to protect children in North Kivu province from recruitment and re-recruitment: much of which is related to the weaknesses of the *mixage* process currently under way. The report also notes the continued recruitment of Congolese refugee and Rwandan children from neighbouring Rwanda for use in armed groups allied to Commander Laurent Nkunda in North Kivu province, and the need for the Government of Rwanda to redouble its efforts to combat this crime. Sexual violence against children remains a serious concern, most especially in the conflict-affected eastern region of the Democratic Republic of the Congo.

The report contains a number of recommendations with a view to securing strengthened action for the protection of war-affected children in the Democratic Republic of the Congo.



## **I. Introduction**

1. The present report, submitted pursuant to Security Council resolution 1612 (2005), covers the major developments related to the situation of children and armed conflict in the Democratic Republic of the Congo since my previous report (S/2006/389). The information used to identify emerging trends and analyse the progress made to redress grave violations of children's rights is based on that collected during monitoring by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) child protection advisers and the United Nations Children's Fund (UNICEF) child protection officers, in conjunction with other United Nations agencies, non-governmental organizations and civil society actors. The report covers the period from June 2006 to May 2007, and focuses mainly on the areas of the country in which armed conflict is still ongoing, notably the Ituri district and the provinces of North and South Kivu. Access to all areas in these provinces for monitoring purposes is still limited.

## **II. Political, military and social developments in the Democratic Republic of the Congo**

2. On 30 July 2006, the Democratic Republic of the Congo held its historic first presidential and National Assembly elections since independence in 1960. The Provincial Assembly elections were held on 29 October 2006. Two broad alliances emerged in the National Assembly, with the Alliance de la majorité présidentielle (AMP) holding the majority and 160 seats affiliated with the opposition parties Mouvement de libération du Congo (MLC) and Union pour la nation.

3. On 6 December, Joseph Kabila was sworn in as President, bringing the transition process enshrined in the Global and All-Inclusive Agreement on the Transition, signed in Pretoria on 17 December 2002, to its formal conclusion. On 30 December 2006, President Kabila appointed Antoine Gizenga Prime Minister. The provincial assemblies elected the Senate on 19 January 2007. The new Government, with a 60-member cabinet, was announced and began its work on 5 February 2007.

4. While the electoral process was largely peaceful and devoid of major irregularities, some incidents of violence did occur. The run up to the second round of the presidential elections held on 29 October 2006 was marked by tensions and accusations between the two contenders, Joseph Kabila and former Vice-President Jean-Pierre Bemba. Following the announcement of the provisional results of the election on 15 November 2006, Jean-Pierre Bemba appealed to the Supreme Court to review the results. The subsequent violent demonstrations outside the Supreme Court buildings on 21 November forced the Court to suspend its activities. On 27 November, the Court officially declared Joseph Kabila President-elect. Following mediation by the Comité international des sages, former Vice-President Bemba declared his acceptance of the results of the election in the interest of maintaining peace, and pledged to lead a peaceful republican opposition. He was subsequently elected to the Senate in January 2007.

5. On 22 and 23 March in Kinshasa, the security forces, including the Republican Guard, assaulted the members of the Division de la protection personnelle, the security detail of Senator Jean-Pierre Bemba. An unknown but estimated

300 persons, including members of the security forces and civilians, were killed during the intense armed clashes which included the use of heavy weaponry in a densely populated urban area of Kinshasa. On 24 March, the Attorney-General announced his intention to open a legal case charging Senator Bemba with high treason, and subsequently wrote to the Senate, requesting it to lift Senator Bemba's immunity. On 11 April, Senator Bemba was given an approval by the Senate to leave the country to seek medical treatment in Portugal, where he remains at the time of writing.

6. In the lead up to the hostilities in Kinshasa the Armed Forces of the Democratic Republic of the Congo (FARDC) issued a communiqué instructing all security personnel who had been assigned to protection duties under the transitional leadership to present themselves by a 15 March deadline to designated FARDC barracks in connection with the disarmament, demobilization and reintegration process. My Special Representative, William Lacy Swing, had been urging the Congolese authorities and Senator Bemba to find a peaceful solution to the issue of disarming his security detail. In this connection, the President of the Security Council on 3 April 2007 made a statement on behalf of the Council deploring the violence that occurred in Kinshasa, expressing grave concern at the loss of lives, in particular of civilians, and encouraging the Congolese authorities to respect the rights of the members of the opposition and to undertake the necessary investigations into the events (S/PRST/2007/9).

7. The violence in Bas-Congo province in January 2007 and the clashes in Kinshasa in March indicate a tendency on the part of the authorities to respond to political challenges with a disproportionate use of force. Nevertheless, several positive developments in the National Assembly, including the launching of a parliamentary commission of inquiry into the Bas-Congo incidents, seem to indicate a readiness by the National Assembly to become a constructive force in the country's nascent democracy. The leadership of the National Assembly also played an important role in defusing the tensions prior to the March violence in Kinshasa. The agreement to include members of the opposition in the parliamentary permanent commissions, as well as the election of an opposition figure, Leon Kengo Wa Dondo, as President of the Senate, are further encouraging signs of the democratic process.

8. While Kinshasa and most urban areas are generally calm and peaceful, frequent outbreaks of fighting continue in the east, resulting in civilian casualties and displacement. The security situation in North Kivu is extremely volatile and remains a source of major concern. In North Kivu, fighting broke out in Sake on 25 November between non-integrated brigades loyal to Laurent Nkunda and FARDC. Subsequently, the Government reached an agreement with Nkunda, allowing for the *mixage* (integration) of Nkunda's troops with FARDC units. Instead of breaking Nkunda's command over his troops, the *mixage* process contributed to strengthening his position. The newly established integrated units launched offensive operations against the Forces démocratiques pour la libération du Rwanda (FDLR) with disastrous humanitarian consequences, including the displacement of more than 100,000 additional persons.

### III. Grave violations of children's rights: incidents and trends

9. During the reporting period, widespread violations of child rights continued to be documented. Members of the Congolese security forces — notably the armed forces and police — continued to be the main perpetrators, responsible for 50 per cent (FARDC) and 19 per cent (Police nationale civile (PNC)) of documented violations of children's rights. These security forces remain in need of continued reform and professionalization, including a change of culture and the enforcement of strict discipline, zero tolerance of abuses against the civilian population and the regular payment of adequate salaries.

10. Armed elements of the remaining Mai-Mai groups, of the militias in Ituri and of foreign armed elements are responsible for the other 30 per cent of reported violations. This indicates the urgent need to proceed to the disarmament, demobilization and reintegration of these remaining groups, a process that should be adequately funded and implemented without delay.

#### Abductions

11. The number of cases of abduction reported in Ituri district and the provinces of North and South Kivu remained high over the past year. Abducted children were recruited in 30 per cent of the cases, raped in 13 per cent and used as forced labour, such as carrying the belongings of armed elements during a redeployment of troops, in 2 per cent. In addition, statistics show that 17 per cent of the reported cases were of children formerly associated with armed groups and detained by FARDC in order to gather information on the groups or to extort money from family members. In 38 per cent of the reported cases, the reasons for the abduction were not known. Perpetrators include FARDC integrated and non-integrated brigades, elements of armed groups in Ituri and elements of FDLR. Reported cases included the following:

(a) In April 2006, Major Mulomba of the FARDC non-integrated 116th Brigade reportedly abducted several children formerly associated with armed groups from a reintegration programme run by a local non-governmental organization in Ihusi (South Kivu). Allegedly, the children were taken to Nyabibwe for training and were subsequently reported to have been sent towards Masisi territory to fight with the troops of Laurent Nkunda in November 2006;

(b) Four girls were abducted and used as "wives" by FARDC soldiers of the integrated 6th Brigade in Bunia (Ituri). Two girls are 13 years old, one is 14 and one 16. One of the girls is pregnant. All of the girls were separated on 29 March 2007 and the Military Prosecutor issued an arrest warrant for the alleged perpetrators;

(c) On 4 October 2006, five girls and several boys (total number unknown) were reportedly abducted from their primary school in the town of Faradje (Province Orientale, near the border with the Sudan). A group of between 30 and 40 armed elements conducting raids throughout the town allegedly carried out the abduction.

#### Killing and maiming of children

12. A 20 per cent decrease was observed in the number of killing and maiming incidents documented during the reporting period compared to the preceding year.

The reasons for this trend can be attributed in particular to fewer active armed conflicts. Despite this positive trend, children continue to be the victims of attacks and of clashes between FARDC integrated and non-integrated units, armed groups in Ituri, and FDLR in North and South Kivu.

13. On 5 September 2006, a 9-year-old girl was killed during a clash between members of the FARDC integrated 91st Battalion and the non-integrated 83rd Brigade in Rutshuru territory (North Kivu), which is loyal to Laurent Nkunda.

14. On 12 December 2006, in Shonga (Masisi territory, North Kivu), a 14-year-old boy was killed. Reportedly, military elements of the 10th Military Region shot at the house of the boy's father when the latter refused to give them the demobilization allowance he had just received.

15. The killing of at least 32 civilians, including 5 children, was perpetrated by 14 elements of the FARDC integrated 1st Brigade over a period of four months in Ituri district. These summary executions, constituting several incidents, were perpetrated in Bavi between August and November 2006. This noteworthy case was investigated and prosecuted by the Military Prosecutor of Bunia and represents a significant step forward in the fight against impunity. On 19 February 2007, 13 defendants were convicted and given life sentences, and one was sentenced to 180 days. The men were tried and convicted for their participation in the summary executions, rape and looting.

16. On the night of 31 March, five armed men, identified as members of the FDLR Rasta faction (Rwandan Hutu rebels), reportedly attacked Kaji village in Walungu territory (67 km south-west of Bukavu) and abducted nine persons, among whom were seven girls aged between 12 and 17 years. They also allegedly injured four persons, burned a 9-year-old child and killed another child aged 2. Three of the abductees, of whom two were children, returned to the village the following morning. The FDLR Rasta group is reported to have sent a letter to the Chef de groupement of Budodo village on 2 April 2007, threatening that they would return to the Kaniola area and abduct 14 persons, including 2 girls, unless the villagers provided them with bread, milk and money.

### **Recruitment and use of children in armed forces and groups**

17. Reports received during the past year indicated that the recruitment of children by armed forces and groups decreased by 8 per cent compared to the previous reporting period. The reasons for the decrease can be attributed to a combination of factors, including the progress made in the implementation of the disarmament, demobilization and reintegration programme for children, the army integration process, a constant decrease in the number of active fighting zones, and persistent lobbying by child protection networks against the recruitment of children. Despite this overall trend, the presence of children among FARDC integrated and non-integrated brigades and the militia groups remains high, largely in Ituri district and the two Kivu provinces.

18. Denial of the presence of children among the ranks, active obstruction of the separation of children, and threats made against child protection agents working to separate children have become frequent in Ituri and North Kivu. The worst incident occurred on 26 July 2006, when Alphonse Batibwira, a child protection agent of the local non-governmental organization UPADERI, was killed in Ngungu (North

Kivu). Mr. Batibwira was arrested while conducting advocacy work on the separation of children from armed groups. The alleged perpetrator is Captain Gaston, an officer of the non-integrated 81st Brigade loyal to Laurent Nkunda. Although an investigation was conducted and an arrest warrant issued by General Kisempia on 30 January 2007, Captain Gaston remains at large. The Special Representative of the Secretary-General for Children and Armed Conflict strongly advocated his immediate arrest during her visit to the Democratic Republic of the Congo in March 2007.

#### *Ituri district*

19. In Ituri, although numbers are lower than in the previous reporting period, recruitment by the Front des nationalistes et intégrationnistes-Front de résistance patriotique en Ituri (FNI-FRPI) continued to be reported. Although 1,000 armed elements reported to the *brassage* centre in Kinsangani (Province Orientale) between March and May 2007, it is estimated that the remaining armed groups in Ituri (FNI-FRPI and Mouvement révolutionnaire congolais (MRC)) still have 3,500 elements that did not surrender. These elements include the children being forced to stay behind until the conditions of amnesty imposed by the commanders are met. Many children associated with these forces are fleeing because of the difficult living conditions. Between 12 and 16 March 2007, at least 10 boys aged between 15 and 17 years escaped from D'doy (Ituri). The boys reported that at least another 50 children ran away from FNI because of the harsh living conditions and lack of food.

20. On 10 and 11 January 2007, 26 children were separated from the MRC group in Bunia. Six of the children arrived at the *brassage* centre in Bunia and mentioned that the others had been left behind by the group prior to its arrival at the centre. Child protection partners identified 20 children in the villages surrounding Bunia.

21. Furthermore, commanders reporting to Peter Karim of FNI actively obstructed the process. Since the beginning of the disarmament, demobilization and reintegration process on 10 March at the transit centre of Kpandroma, Colonels Desiré and Antoine obstructed the separation of children and stated that, since there were no children among their ranks, there was no need for the child protection partners to be there. Colonel Antoine specifically threatened the Child Protection Adviser of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).

#### *Rwanda and Uganda: recruitment of children deployed in North Kivu province*

22. Since January 2007, a surge in the recruitment and use of Congolese and Rwandan children by commanders loyal to Laurent Nkunda has been observed in North Kivu. As at 31 May 2007, 11 Congolese children recruited in the refugee camps in Rwanda and 16 Rwandan children (13 recruited in Rwanda and 3 recruited in the Democratic Republic of the Congo) had been separated from the FARDC mixed brigades. Interviewed children stated they were recruited by men in civilian clothing who promised them civilian jobs in the Democratic Republic of the Congo. The Congolese children mentioned that they accepted the offer owing to the present lack of opportunities (education, vocational training, employment etc.) in the refugee camps. Once identified and released, Congolese children are reunited with their families in the refugee camps in Rwanda by the Office of the United Nations High Commissioner for Refugees (UNHCR). Rwandan children are repatriated

through the MONUC disarmament, demobilization, reintegration and resettlement or repatriation programme, which hands them over to the national Rwandan disarmament, demobilization and reintegration authorities. Nevertheless, in one instance, a 17-year-old Rwandan child, who was formerly associated with Laurent Nkunda's forces and had been repatriated to Rwanda at the end of March 2007, reported that, on his arrival in Rwanda, he was taken to a military camp in Gisenyi instead of being transferred into the national Rwandan disarmament, demobilization and reintegration programme for children. He reported having been interrogated, accused of being an FDLR agent and having suffered ill-treatment. Once released, he was rearrested twice and, when able to escape from police custody towards the end of April, managed to find his way back to the Democratic Republic of the Congo and the transit and orientation centre at which he had been receiving care.

23. Reports indicate that recruitment activities were carried out in North Kivu, Rwanda and Uganda immediately prior to and throughout the *mixage* process. This surge appears to be linked to the strategy of commanders loyal to Laurent Nkunda to increase the number of troops to be mixed and to increase the strength of forces prior to engaging in combat operations against FDLR and the Mai-Mai in North Kivu. Children who escaped or were separated indicated that recruitment was actively ongoing in the returnee settlements of Buhambwe, Masisi territory, the Kiziba and Byumba refugee camps in Rwanda, in the towns of Byumba and Mutura in Rwanda and in the town of Bunagana on the border between the Democratic Republic of the Congo and Uganda. On 5 February 2007, two boys who escaped from the forces of Colonel Makenga (Commander of the FARDC mixed Bravo Brigade) mentioned that they had been recruited together with nine other children and 17 adults on 18 January 2007 in the Kibuye refugee camp in Rwanda. In addition, the boys reported that, since July 2006, a group known as the Association des jeunes réfugiés congolais, reportedly linked to Laurent Nkunda, had been actively recruiting Congolese ethnic Tutsi children and young people in the Kibuye camp.

24. On 9 February, a 16-year-old boy from Uganda stated that he had been forcibly recruited in Bunagana (on the border between the Democratic Republic of the Congo and Uganda) on 29 January 2007. He was reportedly recruited, along with five other Ugandan children, by Adjutant chef "Eric" and Major Janvier, who operates under the command of Colonel Saddam (of the 836th Battalion, loyal to Laurent Nkunda). Following his recruitment, the boy, together with other newly recruited children (20, according to the boy) and 100 adult armed men were taken to Mushake for the *mixage* of the FARDC Charlie Brigade.

25. Interviews were held with 16 children who had escaped from the FARDC mixed brigades and FDLR and were reportedly recruited in Congolese refugee camps in Rwanda. During the interviews, the children said that they had been recruited by civilians, in some cases promised employment in the Democratic Republic of the Congo, had undergone military training and been forced into active combat. On 12 March, two boys (aged 16 and 17 years) reported to the child protection adviser in Goma after having been recruited on separate occasions from the Byumba refugee camp in Rwanda on 17 January 2007. According to the children, they had been promised temporary employment by two men dressed in civilian clothes. Eventually, they had been issued military uniforms and led to Tchengerero, where they had passed through the *mixage* process and been issued with FARDC identification cards. After one week, the children had decided to

escape to Goma. The children had then been apprehended by FARDC troops at Kibumba, detained for one night and severely beaten. The following day they had been transferred to the T2 detention cell in Goma, where they had reportedly also been beaten by other inmates before being separated from the adults.

26. Children recruited are being used in active fighting between FDLR and the FARDC mixed brigades. A 15-year-old Rwandan boy escaped from FDLR on 19 March 2007, after fighting against the FARDC mixed Bravo Brigade in Rutshuru territory early in March 2007. According to the boy, there were five other children in his group. He also reported that large numbers of children were present among the members of the mixed FARDC Bravo Brigade.

27. After recruitment, children often reported undergoing military training prior to deployment with the forces. On 23 March, a 16-year-old boy attested to having received one week of military training prior to deployment in Kitchanga with the 83rd Brigade loyal to Laurent Nkunda; on 15 March, another 16-year-old boy mentioned that he had received training over three and a half months.

#### *Armed groups in North Kivu province*

28. Colonel Sultani Makenga, Commander of the FARDC mixed Bravo Brigade, has been systematically obstructing the release of children and threatening child protection agents throughout the *mixage* process. On 22 March, at the *mixage* centre of Kitchanga in Masisi territory (North Kivu), as the child protection team was preparing to leave the site with eight separated children, Colonel Makenga of Bravo Brigade (deployed in Rutshuru territory) forcibly pulled six of the eight children out of the car and violently threatened the three child protection staff. Two of the children refused to leave the car and were taken to a local transit centre. Three of the children were subsequently released while the other three remain associated with Bravo Brigade.

29. Large numbers of children are reportedly being hidden by their commanders in Masisi territory in North Kivu, in particular in Kabati, Kirokirwe and the Tebero region. Throughout the *mixage* process, children have been hidden by the commanders and prevented from going to *mixage* sites to avoid their separation by child protection agents. Some of the children interviewed mentioned that orders to hide them came directly from Laurent Nkunda and from Lt. Colonel Ngaruye Baudoin (of the 81st Brigade). Children are given various reasons for being hidden; sometimes they are told that their services are still required, or that they are considered to be private property. In some instances, commanders reportedly cited the capture and trial of Thomas Lubanga by the International Criminal Court as reasons for not taking them to the *mixage* centres. When children are brought along with the adults to the *mixage* centres they are often forced to declare an age above 18 years.

30. On 11 March, two 16-year-old boys escaped from forces of the combined 81st and 83rd Brigades and reported that they had been among a group of 39 children ordered by Colonel Baudoin to stay hidden during the *mixage* of Echo Brigade at Kimoka (North Kivu), and had been subsequently taken to the 83rd Brigade position at Kabati. They reported that 27 children were still in hiding at Kabati and that many more children remained among the 83rd Brigade forces.



31. Children formerly associated with armed forces regularly report suffering harassment and threats by FARDC elements. Documented cases include children being abducted, held in detention centres and beaten in order to obtain information on the groups with which they were associated. In addition, a ransom is usually extorted from families who seek to collect their children at mixage centres or military camps.

32. On 17 March 2007, in Mabuku (North Kivu), an FARDC Lieutenant of the 23rd Battalion, integrated 2nd Brigade, arrested five children together with two adults and accused them of supporting a local Mai-Mai group. The five children were released after a payment of \$15 each from their families.

33. On 13 May 2007, the FARDC integrated 2nd Brigade arrested an 11-year-old boy in Beni (North Kivu), who claimed to be Mai-Mai "General" Baraka. The boy appeared to have a thorough knowledge of the Mai-Mai armed group operating in the Virundo area of North Kivu. However, his identity has yet to be confirmed. The boy stated that 100 more children were still present in the Mai-Mai groups he commanded and expressed the wish that he and the other children be separated from the group that he allegedly commanded, be protected and go to school. The boy is currently being cared for by child protection partners, which are working to verify his identity.

#### *Armed groups in South Kivu and Katanga province*

34. In South Kivu, an overall reduction in recruitment was observed. However, cases of recruitment continued to be reported in Bunyakiri, Kalehe and the Ruzizi plain as a result of FARDC negotiations with commanders of dissident groups, who seek to present a high number of elements so as to obtain a higher rank and greater financial benefits. In September 2006, reports indicated that child recruitment activities in Ihusi and military training in Mukwidja were carried out by Captain Apollinaire, allegedly in preparation for the fighting in Sake (North Kivu). On 23 and 28 November 2006, child protection agents separated 107 children, aged between 14 and 17 years, who had been reportedly recently recruited by Major Abdou Panda in anticipation of his integration into the army.

35. In addition, the presence of at least 25 children, including girls, among the ranks of the FARDC integrated 3rd and 8th Brigades has been documented. Children interviewed mentioned that they had been compelled by their commanders to declare themselves to be over 18 years of age while undergoing *brassage* in 2004 and 2005. Since December 2006, children in the integrated 3rd Brigade escaped or discreetly approached child protection partners to request assistance for their release.

36. On 12 December 2006, the case of a 17-year-old boy who escaped from the integrated 3rd Brigade was documented. The child mentioned that at least 25 minors were compelled by their commanders to state that they were over 18 years of age during the Structure for Military Integration (SMI) registration exercise carried out in November 2005.

37. On 14 February 2007, a 17-year-old girl associated with the integrated 3rd Brigade in Bukavu (South Kivu) requested the intervention of child protection partners to facilitate her release from the Brigade. The girl was eventually released and reunited with her family on 1 May 2007.

38. On 17 March 2007, Mai-Mai Colonel Mabolongo, known as Colonel 106, refused to release a 4-month-old child to his 16-year-old mother, who had been separated from his group. According to the girl, she had been abducted in July 2005 at the age of 14 years and served with Colonel 106 for two years. In February 2006, the Colonel raped her and she subsequently gave birth to the boy in October 2006. On 16 February 2007, after identifying herself as a girl associated with an armed group during the SMI disarmament process, Colonel 106 took her son away and has since refused to give him back to her. The baby was eventually reunited with the mother on 21 March, after intense advocacy and the intervention of representatives of the FARDC 10th Military Region.

39. In northern Katanga province, following the disarmament of most Mai-Mai groups, no incidents of child recruitment were reported. Nonetheless, children are still present, together with their families, in the Mai-Mai group led by Mulundi Delphin (the Rahiya Mutumboki) in Kongolo and Nyunzu. While this group has indicated on several occasions its willingness to surrender, incidents of harassment of the local population continue to be reported. This group is not eligible for disarmament, demobilization and reintegration through the national plan.

#### **Grave incidents of sexual violence**

40. Despite all of the initiatives undertaken to counter sexual violence and the adoption of two national laws on sexual violence on 20 July 2006, the number of sexual abuses remains extremely high. Sexual violence has occurred virtually unabated, in a climate of impunity and judicial dysfunction. Although the reported rate of sexual violence remains high, such incidents are underreported and accurate statistics are difficult to obtain because of a number of factors, including the fear of ostracism and retribution which prevents survivors from coming forward; the prohibitive distance and lack of access to medical care owing to the prevailing security situation in some areas; a lack of faith in the judicial system; and the local tendency of amicable settlement, whereby the perpetrator pays the victim an agreed-upon sum or value in kind. During the period covered by the present report, 12,867 survivors of sexual violence were identified by United Nations Children's Fund (UNICEF) partners in the eastern region of the Democratic Republic of the Congo. Of those survivors, 4,222 were children (3,740 girls and 482 boys). Children represent an alarming 33 per cent of survivors of sexual violence. Of 100 survivors in Ituri, 43 were children (of whom approximately 18 per cent were boys). Of the aforementioned 4,222 children, information on the perpetrators is available in only 690 cases; in 29 cases, the perpetrators were members of FARDC or PNC (4.2 per cent); in 458 cases, they were from armed groups (66 per cent); and in 203 cases, they were civilians (29 per cent).

41. On 3 November 2006, a 12-year-old girl was reportedly raped by two armed elements in Sumbusu, Djugu territory (Ituri). While the two armed elements could not be identified, it should be noted that a high number of armed elements reporting to Peter Karim of FNI are based in that area.

42. In September 2006, a human rights team concluded the investigation in Kibirizi (North Kivu) and found evidence that rape was used as a weapon of war during the Rutshuru crisis of January 2006, when between 40 and 90 women and girls were sexually assaulted by soldiers of the 83rd Brigade loyal to Laurent Nkunda.

43. In South Kivu, the main perpetrators include elements of FARDC and the Police, as well as armed elements of FDLR. During the reporting period, the Panzi Hospital in Bukavu registered 150 cases in which the victims were minors. On 23 March, a rape was reportedly committed on a 13-year-old girl by an element of the FARDC integrated 11th Brigade based in Walungu (South Kivu). The soldier, known as Junior, serves as an escort to Major Samson who is based in Butuza. The alleged perpetrator has been arrested and is currently detained in Walungu pending his transfer to Bukavu.

44. On 17 June 2006, a 16-year-old girl was reportedly abducted by armed FDLR elements from her home in Walungu territory (South Kivu). The girl mentioned that, following her abduction, she was taken to the forests where she reportedly spent eight months, during which she suffered inhuman and degrading treatment, beatings and repeated rapes until she escaped. According to the girl, approximately 19 other females, including minors, were being held by the armed group and remained behind. The rape of a four-and-a-half-year-old girl in Kalehe territory (South Kivu) was also documented. The rape was reportedly perpetrated by armed FDLR elements.

45. Early in October 2006, one boy and one girl aged 15 years were abducted by members of FDLR (Chombi group, reporting to Jean-Marie Kiombe) from Mbogwe and Mule villages (South Kivu). The children were held for three weeks, together with adults. During this time, the children were beaten and the girl was raped along with nine other women.

46. A 14-year-old girl mentioned that she had been abducted from her home in Kangala (South Kivu) by FDLR elements on the night of 28 February 2007. The girl reported that she was abducted along with 10 other villagers, including 4 children, and raped by three men. The abductees were released after a ransom was paid.

47. Impunity for the crime of sexual violence is the norm and contributes to the widespread nature of sexual violence. The cases in which the perpetrators are arrested are very few, and fewer still are those in which the perpetrators are actually prosecuted and convicted. In many cases, perpetrators who are arrested often escape in dubious circumstances or because correctional facilities are not adequate. For example, Sergeant Bunganda of the FARDC integrated 2nd Brigade, the alleged rapist of two 13-year-old girls, was arrested on 4 March following a demonstration by the inhabitants of Butuhe village (North Kivu), in which the rape took place. The alleged perpetrator was able to escape on 7 March and, only after the intervention of child protection agents, was the FARDC element responsible for guarding the detention cells arrested. The guard confessed his negligence in the case but was subsequently released upon the rearrest of the alleged perpetrator on 5 May 2007, whose trial is ongoing.

48. On 25 January 2007, a 14-year-old girl was reportedly abducted and raped in Zaa (approximately 40 km from Mahagi, Ituri) by FARDC element Mangbau of the integrated 1st Brigade, 2nd Battalion. The parents of the girl had gone several times to the FARDC camp of Nyankambi where she was held, but the soldier regularly refused to release the young girl, indicating that he was willing to pay a dowry in order to marry her. The girl was able to escape on 6 March 2007 and is back with her family, which has filed a complaint with the Military Prosecutor. The alleged perpetrator was arrested 9 March 2007 and an investigation is under way.

49. In only a few instances are perpetrators prosecuted and convicted for the crimes committed. In June 2007, two FARDC soldiers in Uvira were convicted by the Tribunal militaire de garnison of Bukavu of the rape of two minors: Lieutenant Deny Byashwira, of the non-integrated 122nd Brigade, was sentenced to 10 years' imprisonment and payment of the equivalent of US\$ 15,000 in damages for the rape of an 11-year-old girl on 24 February 2007 in Mwenga (130 km north Bukavu, South Kivu). Corporal Kasongo Akuza, also of the non-integrated 122nd Brigade, was condemned to eight years' imprisonment and payment of the equivalent of US\$ 10,000 in damages for the rape of an 11-year-old girl on 7 March 2007 in Bionga (60 km from Mwenga, South Kivu).

#### **Attacks on schools and hospitals**

50. While no reports of attacks against schools and hospitals were received, a trend of schools being occupied by armed forces and groups was observed in Ituri and North Kivu.

51. The Virunga Institute and the Karamba Primary School in Jomba (Rutshuru territory, North Kivu) are reportedly occupied by troops under the command of Laurent Nkunda. Also in Jomba, the Nyakakiza Primary School is reportedly occupied by FARDC.

52. In January 2007, the elementary school of Laudjo (Ituri) was occupied by FARDC elements reportedly belonging to the integrated 6th Brigade. Following the fighting incidents with FNI and the displacement of the civilian population of the village, the FARDC elements reportedly occupied the school for one week, during which they destroyed all of the school's furniture and used it as wood fuel for heating.

#### **Denial of humanitarian access**

53. Overall, the capacity of humanitarian actors to access and provide assistance to the civilian populations in need has increased during the reporting period. While no situations of denial of humanitarian assistance were reported, access to certain areas in North and South Kivu and Ituri remains limited, particularly during FARDC military operations against the armed groups still operating in those regions.

## **IV. Dialogue and action plans**

### **A. National action plan on disarmament, demobilization and reintegration of children**

54. The national disarmament, demobilization and reintegration programme had precise and clear provision for the release of children. The operational framework for the release of children (Cadre opérationnel pour les enfants associés aux forces et groupes armés) was launched in May 2004 and, during the period from mid-2003 to December 2006, approximately 30,000 children were released from armed forces and groups, including those released prior to the adoption of the operational framework. The delays in the implementation of the national programme and the stalling of the *brassage* process seriously affected the release of children by Congolese authorities. One of the consequences of those delays was that child

protection partners were obliged to negotiate directly with FARDC non-integrated forces, as had been the practice prior to the official disarmament, demobilization and reintegration/*brassage* process.

55. In the second half of 2006, the deployment of joint mobile teams (in which FARDC, SMI and the Commission Nationale de Désarmement, Démobilisation et Réinsertion (CONADER)) participated to identify troops eligible to undergo *brassage* in the field, provided another opportunity to gain official access to the children in FARDC non-integrated forces. As an exceptional measure, UNICEF supported the inclusion of 12 verifying agents in six mobile teams in North and South Kivu, who managed to separate 440 children (302 in North Kivu and 138 in South Kivu) during November and December 2006.

56. In North Kivu, the *mixage* process was undertaken as a strictly military pre-*brassage* process that did not include any provisions in regard to the demobilization of combatants and the separation of children. With strong advocacy, MONUC child protection advisers and UNICEF officers gained access to the *mixage* process and created a space within which children could be identified, although they were prevented from separating children. It took three phases of *mixage*, extensive lobbying at the provincial and national levels, including an exchange of letters between the MONUC Force Commander and the FARDC Commander, General Kisempia, and the identification of 223 potential children among the ranks of the first three newly mixed brigades (now officially part of FARDC) before child protection partners were allowed to begin the process of verifying and separating children. Since the beginning of the *mixage* process, child protection partners have separated 154 children. As at 31 May 2007, 200 children remained in hiding among the forces loyal to Laurent Nkunda.

57. A total of 3,913 children, including 259 girls, were separated in northern Ituri and South Kivu during the period covered by the present report. In Ituri, 2,004 children were separated, including 193 girls; in North Kivu, 1,439 children, including 13 girls; and in South Kivu, 470 children, including 53 girls.

58. In Katanga, following the surrender on 12 May 2006 of Mai-Mai leader Kyungu Mutanga, known as Gédéon, 183 children were separated from his group. Since the end of May 2006, Gédéon has been living in the FARDC Officers' Mess in Lubumbashi where he has been keeping three children aged 12, 14 and 17 years, whom he considers his "spiritual guardians". After almost one year of advocacy, the 12-year-old and 14-year-old boys were separated and reunited with their families on 29 March and 30 April 2007, respectively. A local non-governmental organization is conducting family tracing for the other boy. On 19 May 2006, an arrest warrant against Gédéon was issued for insurrection, crimes against humanity and attempted murder. The warrant has not yet been executed but a preliminary hearing was held on 5 June 2007, during which the prosecutor extended the arrest warrant for one month and set the next hearing for 5 July.

59. In April 2007, 201 children were released from the Division de protection présidentielle units of Senator Jean-Pierre Bemba in Equateur province. Members of the Division have now agreed to enter the *brassage* process and, at the time of writing, the children were being cared for by host families while awaiting family tracing and reunification.

## **B. Dialogue with parties to conflict and other action plans**

60. Pursuant to the recommendation contained in my previous report (S/2006/389, para. 62), my Special Representative for Children and Armed Conflict, Radhika Coomaraswamy, undertook a field mission to the Democratic Republic of the Congo from 4 to 10 March 2007. The objective of the mission was to ascertain first-hand the progress made in regard to the recommendations of the Security Council emanating from its consideration of the aforementioned report. During her visit, Ms. Coomaraswamy met with governmental and military authorities to convey the Council's concerns with regard to the recruitment of children, sexual violence against girls and impunity. Ms. Coomaraswamy's advocacy messages focused on three main issues: an end to all child recruitment and use; ensuring the immediate release of children and the provision of reintegration support; ensuring that military leaders who recruit children are prosecuted and held accountable; and taking immediate measures to end sexual violence against girls and prosecute those responsible.

61. In collaboration with non-governmental organizations and civil society organizations, UNICEF officers and MONUC child protection advisers continue to conduct advocacy activities, both directly with authorities and through participation in the protection cluster mechanism (at both the provincial and national levels) chaired by UNHCR. Advocacy activities were undertaken throughout the reporting period for the release of children associated with armed forces and of those arbitrarily arrested by the police.

## **V. Follow-up and programmatic responses to violations**

### **General capacity-building of the judicial sector**

62. In addition to the training provided to military prosecutors, the ongoing advocacy and support provided to military prosecutors investigating abuses and grave violations of children's rights have led to the development of a project aimed at providing technical support to facilitate investigations and bring about justice in respect of crimes committed against children by the military and police. It is hoped that this project will be supported by donors in the immediate future. Of particular significance would be the imposition of penalties in respect of child recruitment, which would reinforce Article 190 of the Constitution. The current draft of the child protection code provides that enlisting or using persons aged less than 18 years by armed forces and groups and the police would be punishable by a sentence of between 10 and 20 years.

63. Child protection partners have continued working with local child protection networks to reinforce and further develop the monitoring and reporting mechanism and to strengthen the advocacy capacity of local partners.

### **Disarmament, demobilization and reintegration of children**

64. The lack of funding for the national disarmament, demobilization and reintegration programme has resulted in the withdrawal of several key actors in the field and has contributed to the creation of important gaps in programming of child disarmament, demobilization and reintegration. For instance, the International Rescue Committee and CARE had to close their programmes in Ituri and Maniema,

respectively, owing to lack of funds. UNICEF has attempted to address these gaps by increasing its funding for reintegration projects in addition to supporting all other phases of the child disarmament, demobilization and reintegration programme. At the time of writing, more than 22 implementing partners were being funded in the eastern part of the country, including CONADER. During the period covered by the present report, 3,913 children, including 259 girls, passed through transitory care structures supported by UNICEF in Ituri and North and South Kivu prior to being reunited with their families.

65. According to CONADER figures, of the 29,291 children released from armed forces and groups in the Democratic Republic of the Congo during the period from mid-2003 to December 2006, approximately 15,167 (slightly more than 50 per cent) have so far received some form of reintegration assistance. Among those beneficiaries, 6,066 have received support to return to school, and 9,101 have been enrolled in livelihood support programmes.

66. Several constraints remain to be addressed in regard to child disarmament, demobilization and reintegration programming:

(a) As mentioned above, the stalling of the national disarmament, demobilization and reintegration programme has impeded efforts to separate children from armed forces and groups. With the closure of orientation centres in mid-2006, the systems that had been established to rapidly process large numbers of children were dismantled. Increasingly, official provisions regarding the release of children, as set out in the CONADER Cadre operationnel, are now negotiated directly and on an ad hoc basis with each of the surrendering commanders, including FARDC non-integrated forces in the field and militia groups;

(b) The poor cooperation and commitment received from some military officers and certain local civilian authorities (e.g., Police) continues to constitute an important constraint in the process of separation of children. The attitude and behaviour of commanders who publicly threaten child protection actors with no fear of punishment demonstrate the gravity of the situation. The above-mentioned incidents of harassment and intimidation of child protection advisers and child protection partners that occurred during the *mixage* process in North Kivu and the disarmament of FNI elements in Ituri are clear examples. Furthermore, the staggeringly low number of child recruitment cases that are prosecuted and the escape of the sentenced commanders (e.g., Jean-Pierre Biyoyo) are discouraging. The continued recruitment and re-recruitment of children with impunity over the course of the reporting period, during which a national disarmament, demobilization and reintegration programme was ongoing, is an affront to national authorities;

(c) Child protection agencies also noted the increased resistance of commanders to identifying children for release during disarmament or the *brassage* process. In some cases, this may be related to the desire of commanders to maintain their troop numbers at a level as high as possible in the hope of receiving a higher rank in FARDC. In others, it is thought that commanders abandon children en route to disarmament sites for fear of prosecution;

(d) In certain areas, the prevailing insecurity, arising from inter-ethnic conflict and the ongoing presence of various armed groups who commit human rights violations, greatly hampers the capacity of child protection actors to implement certain aspects of the disarmament, demobilization and reintegration

programme, such as family reunification and reintegration. For example, in November 2006, a slowdown of the family reunification process, a lack of adequate security in areas of return and the protracted presence of children in transit and orientation centres, in some cases for more than 10 months, were observed in the areas of Nyanzale, Kibabi and Tongo (North Kivu);

(e) The number of girls released from armed forces and groups through the official processes remains low. In addition to a lack of awareness among commanders of their obligations to release girls who are used as “wives”, the low number is also due to a perceived lack of choice by girls who see no better option than to remain with their military “husbands”, their fear of ostracism by the community upon return, and a lack of awareness by the girls of their rights. Large numbers of girls who escape from armed forces and groups on their own, without going through the official processes, are emerging. These girls often try to discreetly return to civilian life despite the enormous health, economic and social problems that they may face. However, their lack of official certification means that they cannot benefit from reintegration packages and the assistance provided through the national disarmament, demobilization and reintegration programme.

### **Sexual violence**

67. The scale with which sexual violence continues to be perpetrated across the eastern part of the Democratic Republic of the Congo is directly related to the near-total impunity with which perpetrators commit their crimes. Since 2004, a joint initiative to address sexual violence has brought together United Nations agencies, seven governmental ministries, and international and national non-governmental organizations under the leadership of the United Nations Population Fund (UNFPA). This initiative promotes a holistic response to sexual violence, which includes prevention, capacity-building of partners, medical and psychosocial care, livelihood support, legal assistance for victims and the strengthening of the legal framework and its application. Given the persistence of widespread sexual violence linked to military operations, a rapid response capacity has been developed in areas still affected by armed conflict to identify such cases with the aim of providing an immediate (i.e., within 72 hours) response.

68. Within this framework, a major three-year joint project was funded by the Government of Canada in 2006 to prevent and reduce incidents of sexual violence in North and South Kivu provinces. This programme replicates the project that was implemented in 2005 in Province Orientale and Equateur and Maniema provinces with Belgian funding. The project involves three United Nations agencies — UNFPA, as lead agency, UNICEF and the Office of the United Nations High Commissioner for Human Rights — and dozens of local partners. The Canadian-funded project in the Kivus, along with the UNICEF programme in Ituri, has provided assistance to 4,222 child survivors of sexual violence. Of these, 1,755 received medical assistance, 2,377 received psychosocial care, and 357 received support for livelihoods activities.

69. In all provinces, male survivors of sexual violence (who were absent at the beginning of the programme) are slowly starting to break the silence and are coming forward to ask for medical and psychosocial care.

70. There are enormous challenges that hinder the prevention of and response to sexual violence:



(a) The weakness of the judicial system in investigating, prosecuting and detaining perpetrators of sexual violence and in allocating compensation to survivors, thereby creating a culture of silence and impunity;

(b) The fear of ostracism and retribution that often prevents survivors from coming forward;

(c) The unstable security situation in many parts of the eastern region of the country (e.g., northern Ituri district, and the Masisi, Rutshuru and southern Lubero territories of North Kivu province) exacerbates the commission of sexual violence and hampers survivors in accessing appropriate medical care.

## VI. Recommendations

71. I welcome the efforts to support the reform of the security sector undertaken by MONUC, the European Union and others and reaffirm the need to ensure that child protection concerns are integrated in training and awareness-raising programmes and that priority is assigned to altering the prevailing culture of indiscipline and tolerance of abuses against children and civilians.

72. To address the issue of impunity for grave violations of children's rights, I strongly urge the Government of the Democratic Republic of the Congo, with the assistance of MONUC forces, as necessary, to act upon their arrest warrants for Laurent Nkunda and confirm the charges against former Mai-Mai Commander Kyungu Mutanga, known as Gédéon, and to remind the Government of the Democratic Republic of the Congo of its responsibility to rearrest Jean-Pierre Biyoyo, former Commander of the Mudundu 40 armed group, who was sentenced by the Bukavu Tribunal de garrison in March 2006 to 5 years' imprisonment for the de facto recruitment and use of children as soldiers.

73. I encourage the Government of the Democratic Republic of the Congo and donors to devote greater resources to developing the national judicial and penitentiary systems in an effort to promote accountability for violations of children's rights. Child-friendly procedures should be integrated into the judicial systems to ensure the protection of child victims and witnesses of crime, in line with the Economic and Social Council resolution 2005/20 of 22 July 2005.

74. I also urge the Government of Rwanda to act immediately, in collaboration with UNHCR and child protection partners, to stop all recruitment of Congolese children from refugee camps in Rwanda, as well as of Rwandan children for use in the Democratic Republic of the Congo. The Governments of Rwanda and the Democratic Republic of the Congo should also ensure that protective mechanisms are in place for Rwandan and Congolese children released from armed groups in the Democratic Republic of the Congo and returned to Rwanda.

75. I call on the Government of the Democratic Republic of the Congo and key donors to urgently identify institutional and financial mechanisms to complete the process of identification, verification and separation of children among FARDC non-integrated forces and dissident or non-eligible armed groups, using specific mechanisms to reach children, distinct from the adult-oriented national disarmament, demobilization and reintegration programme and in line with the Principles and Guidelines to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups.<sup>1</sup>

76. I also affirm the need for the Armed Forces (FARDC) and the Government of the Democratic Republic of the Congo to facilitate the work of child protection partners in separating children from the mixed brigades and taking the necessary measures against the commanders (and those at the lower levels of command) who continue to obstruct the separation of children.

77. In line with priorities currently under discussion in connection with the country assistance framework, donors should allocate funding to support reintegration activities for children (boys and girls) formerly associated with armed forces and groups. An emphasis on educational and socio-economic reintegration activities will also help to prevent the re-enrolment of children in armed forces and groups by providing them with a viable alternative.

78. The Government of the Democratic Republic of the Congo and donors should grant adequate resources to the implementation of projects aimed at responding to sexual violence against women through primary health-care programmes that facilitate access to health centres and by providing medical services to women in general, rather than exclusively to women who are victims of abuse, thus avoiding the stigmatization of victims of sexual violence.

#### *Notes*

- <sup>1</sup> The Principles and Guidelines (known as “the Paris Principles”) were endorsed, along with the Paris Commitments to Protect Children Unlawfully Recruited or Used by Armed Forces or Armed Groups (“the Paris Commitments”), at the international, high-level conference organized jointly by the Government of France and UNICEF and hosted by the Government in Paris, on 5 and 6 February 2007.