



COALITION TO STOP THE USE OF CHILD SOLDIERS

BRIEFING PAPER

DEMOCRATIC REPUBLIC OF THE CONGO

**MAI MAI CHILD SOLDIER RECRUITMENT AND USE:
ENTRENCHED AND UNENDING**

February 2010

Coalition to Stop the Use of Child Soldiers
9 Marshalsea Road
London SE1 1EP
United Kingdom

Tel: +44 (0) 20 7367 4110
Fax: +44 (0) 20 7367 4129

info@child-soldiers.org
Director: Victoria Forbes Adam

The Coalition considers a child soldier to be any person under the age of 18 who is a member of or attached to government armed forces or any other regular or irregular armed force or armed political group, whether or not an armed conflict exists. Child soldiers perform a range of tasks including: participation in combat; laying mines and explosives; scouting, spying, acting as decoys, couriers or guards; training, drill or other preparations; logistics and support functions, portering, cooking and domestic labour. Child soldiers may also be subjected to sexual slavery or other forms of sexual exploitation and abuse.

The Coalition to Stop the Use of Child Soldiers unites national, regional and international organizations in Africa, Asia, Europe, Latin America and the Middle East. Its member organizations are Amnesty International, Human Rights Watch, International Federation Terre des Hommes, International Save the Children Alliance and the Jesuit Refugee Service.

www.child-soldiers.org

Briefing Paper

Mai Mai child soldier recruitment and use: entrenched and unending

Introduction¹

In eastern Democratic Republic of the Congo (DRC), where child soldier recruitment and use is an entrenched feature of ongoing armed conflict, Mai Mai are among the most prolific recruiters and users of children. The Mai Mai – a collective term referring to a range of local militias – may not be as militarily or politically significant as other armed groups in the region, but they have been active throughout the Congo's two wars and since. Their patterns of child soldier recruitment and use have not significantly been impacted by successive peace agreements, attempts to disarm or neutralize them through integration into the armed forces. International initiatives aimed at halting child recruitment and use have also failed to alter what is a firmly established practice among these groups.

The fact of Mai Mai child recruitment and use is well documented including in successive reports by the UN on the DRC. These reports attest to cycles of recruitment that are closely linked to conflict dynamics, mapping trends in both the recruitment and release of children from Mai Mai and other groups. Reports show, for example, that high numbers of children were released during 2009 and that while recruitment among Mai Mai remains active, the numbers are lower than previously. However, while informative on one level, the figures belie the real issue: it is the environment in which children are living in eastern DRC that makes them vulnerable to recruitment and use by Mai Mai and therefore, until that environment is changed, the vulnerability will remain.

The environment which perpetuates child recruitment by Mai Mai is one of chronic insecurity where notions of community self-defence is seen as justifying the continued existence of local militias; where local attitudes towards children and a belief in mystical powers possessed by them means that children's association with Mai Mai is considered acceptable and even desirable; where precarious socio-economic conditions provide children and youth with little in the way of opportunities and alternatives to joining armed groups; and in which an absence of rule of law means that crimes including child recruitment and use can be committed with virtual impunity.

In this context, strategies which focus exclusively or primarily on securing the release of children from Mai Mai and returning them to their communities are at best a short-term solution to a larger more complex problem. At the heart of this problem is the government's ambiguous relationship with the Mai Mai, its lack of commitment to accountability and its failure to deliver on policies and programs to protect the rights and well-being of children.

¹ This briefing draws on a range of secondary sources as well as field research undertaken by the Coalition in North and South Kivu in 2009 during which interviews were conducted with over 100 people in Baraka, Bukavu, Goma and Uvira. Among those interviewed were current and former members of Mai Mai groups; members of local communities including local administrators; customary chiefs; school teachers; religious teachers; parents of children associated with Mai Mai groups; and representatives of local NGOs.

Origins and characteristics of Mai Mai² groups

The origins of Mai Mai are linked to armed rebellion against central government in the 1960s. The term Mai Mai, however, began to be widely used in the 1990s to describe locally-based militias organized on an ethnic basis and engaged in struggles around the protection of their communities and their interests (land, broader economic interests and political power). They now exist and proliferate within a context of entrenched ethnic polarization, endemic insecurity and widespread human rights abuses against civilians, an absence of rule of law and a fear of “foreign invaders”.³

During the DRC’s two armed conflicts (1996-2002), Mai Mai were militarily active in the provinces of Katanga, North and South Kivu, Orientale and Maniema. This was initially as part of a broader alliance against the Congolese government and subsequently, in the second conflict, in collaboration with the Congolese government in opposition to Rwanda and Rwandan backed forces.⁴ However, Mai Mai alliances have been fluid and groups have entered opportunistic relationships with erstwhile enemies, usually in return for payment or weapons. Throughout the period of armed conflict Mai Mai were among the armed parties responsible for grave human rights abuses including unlawful killings, rape and torture and the use of child soldiers.⁵

Following the 2002 Sun City peace agreement, which officially ended the conflict, some Mai Mai groups entered the power-sharing transitional government and the army integration and demobilization process. Others stayed outside the transitional process and have continued to be militarily active in their localities. Despite the end of the conflict, peace has been elusive in eastern Congo. In 2007 the security situation in the east deteriorated and hostilities were ongoing throughout 2007 and 2008. Military operations against armed groups in 2009 resulted in grave abuses of human rights and massive displacement of the civilian population. Although the situation has recently improved, pockets of conflict remain in which Mai Mai groups are among those involved.

Inherent to the Mai Mai self-identification is a perception that they are indigenous to Congo and the legitimate heirs to the land.⁶ They represent a range of groups differing in size and capacity. In 2009 there were believed to be over 22 different groups with an estimated total strength of between 8,000-12,000 combatants.⁷ However, because new Mai Mai groups emerge or older groups dissolve and reform, they are difficult to map. At one end of the spectrum there are relatively small, locally-based militias with 50 or 60 fighters. At the other there are larger more organized groups, in some cases several hundred or thousand strong, with a wider geographical spread. The various Mai Mai groups are, however, without a

² The term Mai Mai means “water” and derives from the traditional practice of soldiers dousing themselves in water before going into battle in the belief that it will confer immunity from bullets. The spelling “Mayi-Mayi” is also used.

³ Specifically Rwandan-backed armed groups.

⁴ The “first war” began in 1996 when the Rwandan army invaded eastern DRC in support of rebel leader Laurent-Desire Kabila, who eventually toppled President Mobutu. The “second war” began in 1998 after Kabila broke with his Rwandan allies, and the Rwandan and Ugandan armies invaded Congo, backing a newly-formed rebel group, the Congolese Rally for Democracy (RCD-Goma) which established control over large parts of the eastern Congo until the 2002 peace accords.

⁵ See for example, Amnesty International (AI), *Democratic Republic of Congo: Children at War*, (AFR 62/034/2003), 8 September 2003.

⁶ Mai Mai are drawn primarily from communities of the Bashi, Bembe and Nande, as well as the smaller Bangilima, Hunde, Tembo and Nyanga ethnicities.

⁷ Human Rights Watch (HRW), *“You Will Be Punished:” Attacks on Civilians in Eastern Congo*, 13 December 2009.

centralized command structure and each group operates independently in pursuit of its own interests, although these interests at times coincide.

The term Mai Mai includes the Coalition of Congolese Patriotic Resistance (PARECO) which reportedly emerged as a result of efforts, allegedly supported by the government, to create a more organized, better coordinated grouping with a centralized command structure. PARECO emerged in March 2007 as part of the front against the the Tutsi-led National Congress for the Defence of the People (*Congrès national pour la défense du peuple*, CNDP),⁸ and is comprised of a mixture of Mai Mai and Hutu (Congolese and Rwandan) militias. The group expanded rapidly and by the end of 2008 it was believed to be the third largest armed group in the eastern DRC with branches in both North and South Kivu.⁹

If PARECO's creation was intended to unify the Mai Mai and make them more controllable, it appears that these efforts have misfired. Unwilling to be subsumed under a single command structure or to give up control of mineral resources, some Mai Mai groups are reported to have refused to join and concentrated instead on strengthening their own structures. PARECO itself, which was aligned with the government in opposition to the CNDP during 2007 and 2008 and was among the groups integrated into the armed forces in an accelerated integration process in 2009, has now split (see below).¹⁰ This continuing cycle of splits and regroupings among Mai Mai serves to fuel their ongoing recruitment and re-recruitment, including that of children.

Historically Mai Mai groups have fought both in opposition to and alongside the government. At times the collaboration has been quite overt, including during operations against the CNDP from August 2008 when the Congolese armed forces (*Forces Armées de la République démocratique du Congo*, FARDC) called on armed groups including the Mai Mai for help and eyewitnesses reported seeing Mai Mai collaborating with FARDC soldiers during attacks.¹¹ Transfers of weapons and ammunition by members of FARDC have also been reported, most notably to PARECO, but also to other Mai Mai groups.¹² Additionally, there is anecdotal evidence of military and political links between elements of FARDC, local government authorities and some Mai Mai groups.

Recently relations with some Mai Mai groups have soured and FARDC has again been involved in fighting against them. However, the broader picture is one where the government and its armed forces have made use of the Mai Mai and at times provided them with material support. In doing so it has been complicit, albeit indirectly, in the perpetuation of Mai Mai recruitment and use of children.

⁸ The CNDP was formed in July 2006 by the renegade Tutsi general, Laurent Nkunda, ostensibly to defend and ensure the political interests of Congolese Tutsis in eastern Congo and Congolese, mainly Tutsi, refugees living in Rwanda. He was ousted from the leadership of the CNDP in January 2009 and is now under house arrest in Rwanda. He is accused of serious human rights abuses, including unlawful killings, rape and child soldier recruitment and use. The CNDP established itself as a political party in April 2009.

⁹ *Report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2008/772, 12 December 2008.

¹⁰ *Twenty-ninth report of the of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, UN Doc. S/2009/472, 18 September 2009.

¹¹ See: *Final report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2008/773, 12 December 2008; International Crisis Group (ICG), *Congo, Five Priorities for a Peacebuilding Strategy*, 11 May 2009; and HRW, *Killings in Kiwanja*, December 2008.

¹² *Final report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/603, 23 November 2009 & *Final report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2008/773, 12 December 2008.

Many myths surround the Mai Mai including a belief in magical protective powers possessed by their members as a result of the enactment of rituals such as tattooing and taking of hallucinatory potions. This also has particular implications in relation to the recruitment and use of children who, being young and therefore “pure”, are regarded as particularly suitable for preparing and administering potions. A belief that children possess special powers of protection is also reported to result in them being used as guards for commanders and for frontline duties.

From the side of the child, fearlessness resulting from a belief that the rituals in which they have participated make them invulnerable, combined with the effect of ingesting hallucinatory herbs, makes them liable to take risks. According to one former Mai Mai “after taking a spoonful of porridge, I cannot see the difference between men and animals”.¹³ Another former boy soldier described how “after taking the medicine, as soon as you hear a gunshot, you become crazy and seek it out, like a dog chases a hare”.¹⁴

The notion that Mai Mai are rooted in communities, enjoy community support and protect their communities from “foreign” threats also persists. To some extent this reflects a reality where, in the context of intense insecurity, lack of rule of law and a general absence of the state, Mai Mai fill a security vacuum. Community members interviewed by the Coalition in 2009 (including local government officials and customary chiefs, teachers, religious leaders and members of political parties) identified themselves as Mai Mai sympathizers and reported contributing financially to the groups associated with their communities.

However, Mai Mai interests are not always those of the communities and after years of human rights abuses and economic exploitation by Mai Mai (among others) local support has been eroded. Nevertheless, the links to communities and the *de facto* reliance of communities on Mai Mai in the absence of state-provided security continues. These community links, albeit weakened, also have particular implications for the perpetuation of child recruitment and use by Mai Mai which is explored further below.

Ongoing conflict and its impact on the Mai Mai’s use of child soldiers

The recruitment and use of child soldiers is integral to the Mai Mai and the way in which they operate, although their tendency to fissure and reconfigure impedes accurate documentation or the attribution of responsibility. Efforts to resolve ongoing hostilities in eastern DRC, including via peace agreements and army integration processes, have had little real impact on Mai Mai recruitment patterns and in some cases have created the conditions for further recruitment and re-recruitment of children.

The Mai Mai’s record on child recruitment and use has been extensively documented by the UN. Six consecutive annual reports of the UN Secretary-General on children and armed conflict between 2002 and 2009¹⁵ have listed Mai Mai as among the parties to armed conflict in the DRC responsible for recruiting

¹³ Coalition interview with three boys who had joined the Kayamba Mai Mai group aged 12, 13 and 14 years after being orphaned following a massacre in 2002, South Kivu, May 2009.

¹⁴ Coalition interviews with former members of a Mai Mai group from Goma, North Kivu, May 2009.

¹⁵ UN Docs. A/63/785-S/2009/158, 26 March 2009; A/62/609-S/2007/757, 21 December 2007; A/61/529-S/2006/826, 26 October 2006; A/59/695-S/2005/72, 9 February 2005; A/58/546-S/2003/1053, 10 November 2003; S/2002/1299, 26 November 2002.

and using children in contravention of international norms.¹⁶ These reports have regularly documented cases of children's involvement in active combat and other abuses against children including abductions, unlawful killings and attacks on schools and hospitals.

The reports highlight the relationship between the changing dynamics of the conflict and levels of child recruitment. In November 2008 for example the UN reported that, in contrast to the national trend, child recruitment increased in the Kivus by 38 per cent between September 2007 and September 2008. This was attributed to fighting which pitted the FARDC and Democratic Forces for the Liberation of Rwanda (*Forces démocratiques de libération du Rwanda*, FDLR)¹⁷ against the CNDP. Mai Mai groups and PARECO were militarily active throughout this period, fighting in opposition to the CNDP both independently and in alliance with the FARDC and the FDLR.

The reports also consistently point to Mai Mai as being responsible for the highest levels of child recruitment. In the context of the deteriorating security situation in eastern DRC from late 2007, an increase in child recruitment by Mai Mai elements, as well as by CNDP and FDLR was reported. The November 2008 report of the UN Secretary-General on children and armed conflict in the DRC noted that, on the basis of documented cases of releases of children, Mai Mai groups accounted for the highest number of children within their ranks.¹⁸

Similar evidence has been documented by other UN experts whose reports have also mapped surges in recruitment levels after a peace agreement in January 2008, and again after the collapse of the ceasefire in August 2008, which led to the resumption of heavy fighting between the Congolese army and CNDP.

The Group of Experts¹⁹ specifically attributed an increase in Mai Mai recruitment, including of children, to the January 2008 peace agreement (*Goma Actes d'Engagement*). Under the agreement the parties, including CNDP, PARECO and a number of Mai Mai groups, committed to respect international humanitarian and human rights laws, end child recruitment and promote child rights. According to a report by the Group of Experts only three of the signatories (FRF,²⁰ CNDP and PARECO) had a significant following before the peace talks. Others armed parties sought to strengthen their leverage in the peace negotiations by actively recruiting new members. The Group specifically referred to four Mai Mai groups in the Beni and Lubero areas of North Kivu (Mai Mai Kasindien, Ruwenzori, Simba and Vurondo) which had been actively recruiting since the signing of the peace deal. Many of their troops were reported to be former combatants, including child soldiers.²¹

Another wave of recruitment was reported by the Group of Experts in Masisi and Rutshuru territories, North Kivu, following the resurgence of violence from mid-2008. In just one week in October 2008, 36

¹⁶ UN Security Council Resolution 1379 (2001) requested the Secretary-General to submit to it an annual report documenting the situation of children and armed conflict and to list parties to armed conflict that recruit or use children in violation of international norms in annexes to the report.

¹⁷ The FDLR is a mainly Rwandan Hutu armed group which contains remnants of forces allegedly responsible for the 1994 genocide in Rwanda.

¹⁸ *Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo*, UN Doc. S/2008/693, 10 November 2008.

¹⁹ The Group of Experts is appointed by the UN Secretary-General to monitor the implementation of the sanctions regime in the DRC with particular focus on North and South Kivu and Ituri. It was originally established by Security Council resolution 1533 (2004) and has been renewed by subsequent resolutions.

²⁰ The Republican Federalist Forces (*Forces républicaines fédéralistes*), is a militia operating in the Hauts Plateaux area of South Kivu.

²¹ *Report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2008/772, 12 December 2008.

children were reportedly recruited by Mai Mai in the area of Nyamilima (Rutshuru territory), most likely in response to CNDP offences. The recruitment by Mai Mai (and other armed groups) continued over the following months and many children who had previously been released and reunited with their families were re-recruited. During a single week in November 2008, for example, 52 children were reported to have been re-recruited by Mai Mai.²²

During the second half of 2008, based on an examination of 374 child recruitment cases, 163 cases were attributed to PARECO. This made PARECO in the words of the Group of Experts “one of the most prolific recruiters of children” in the eastern DRC.²³ Addressing a similar period, seven UN thematic experts described an “explosion of child recruitment by non-state armed groups”. They noted that, on the basis of documented cases of children released in the past year, Mai Mai groups accounted for the highest number of children in their ranks, followed by the CNDP.²⁴

A radical reconfiguration of fighting forces took place in January 2009 which again changed the dynamics of the conflict, the Mai Mai’s role in it and child recruitment levels. The reconfiguration resulted from an agreement between the DRC and Rwandan governments to launch joint military operations against the FDLR. At the same time the CNDP split internally and joined forces with FARDC against the FDLR. The government simultaneously announced a rapid integration exercise to incorporate several thousand CNDP, PARECO and Mai Mai troops into the armed forces. Major military offensives against FDLR were conducted jointly by the newly integrated FARDC and the Rwandan Defence Forces in January and February 2009, and by the FARDC (with MONUC support) from March to December 2009.²⁵ On 1 January 2010, another military offensive, “Amani Leo”, was launched by FARDC with MONUC logistical support, aiming to eradicate FDLR rebels within three months.

Although ultimately flawed, the accelerated integration process presented an opportunity to secure the release of children from participating armed groups and several thousand child soldiers were released as a result. However, systems for verifying and separating children from the ranks of the armed groups were only partially effective. A lack of cooperation by the FARDC and obstruction by commanders of armed groups resulted in children who had previously been recruited into armed groups including Mai Mai being integrated into the new FARDC structures. According to the Group of Experts, this led to children being deployed to the front lines in FARDC operations against FDLR before they could be identified and separated.²⁶

Some 2,900 PARECO and 3,100 Mai Mai troops were initially integrated into the FARDC (along with around 6,000 CNDP members) during the early months of 2009.²⁷ However, the process was driven by political expediency and the military objective of containing and appeasing the primarily Tutsi-led CNDP and the Rwandan government. Perceptions of preferential treatment of the CNDP, frustration over the assignment of ranks and a poorly-managed process which resulted in lack of salary payments led to a

²² *Report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2008/773, 12 December 2008.

²³ *Report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2008/773, 12 December 2008.

²⁴ *Combined report of seven thematic special procedures on technical assistance to the government of the Democratic Republic of the Congo and urgent examination of the situation in the east of the country*. UN Doc. A/HRC/10/59, 5 March 2009.

²⁵ Operation “Umoja Wetu” and Kimia II respectively.

²⁶ *Interim report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/253, 18 May 2009.

²⁷ *Interim report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/253, 18 May 2009.

wave of desertions by Mai Mai, factions of PARECO and Hutu elements of the CNDP.²⁸ Several disgruntled Mai Mai groups joined forces with the FDLR against the FARDC.

As the accelerated integration process foundered and, in the context of outbreaks of fighting and serious human rights abuses against civilians by the FDLR, FARDC and other forces,²⁹ cases of renewed child recruitment by Mai Mai groups were documented throughout 2009. The recruiting activities of a group led by “General” Lafontaine, for example, were reported to have escalated following his establishment of a new group, the Congo Patriotic Front (*Front patriotique du Congo*, FPC), after splitting with PARECO and withdrawing from the integration process. Another PARECO breakaway group, the Patriotic Alliance for a Free and Sovereign Congo (*Alliance des patriotes pour un Congo libre et souverain*, APCLS) which remained outside of the rapid integration process, is among at least another half a dozen Mai Mai groups reported to have been actively recruiting children during 2009.³⁰

The context of Mai Mai child soldier recruitment

“When it comes to fighting, we mobilize the children and young people. And even those who stay in the village and don’t participate directly in the fighting are capable of protecting the population.”³¹

“Children are available as they have nothing else to do, [they are] extremely obedient to orders, they make few demands which are easy to satisfy and many of them join as virgins which helps us preserve the rituals as children perform these on adults.”³²

The prevalence of child recruitment and use by the Mai Mai is entrenched in social attitudes to children, the economic circumstances that prevail in the predominantly rural eastern Congo and chronic insecurity in the region. Childhood within communities from which the majority of child recruits are drawn ends early. Boys are often initiated into adulthood at the age of 16 at which point they may marry and may become a ‘warrior’. Girls are expected to marry immediately after puberty, usually around the age of 14. From the age of three children are expected to work within the home and community, caring for younger children and livestock, carrying water and firewood and tending gardens. Girls additionally cook and clean clothes from an early age.

Association with an armed group that is perceived to defend the interests of their community is seen as another duty for children already accustomed to hard work. Such expectations of children’s responsibilities to families and communities are reinforced by conditions of poverty and lack of opportunity. Most children recruited by Mai Mai groups have little or no formal education. Although guaranteed under the Congolese constitution, in practice even primary level education remains a luxury that the majority of children from rural communities, which form the heartland of Mai Mai recruitment, do not enjoy.

Teachers interviewed by the Coalition in May 2009 estimated that up to 50 per cent of children in some villages do not complete primary education, for reasons that include their parents are unable to afford the

²⁸ *Interim report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/253, 18 May 2009; ICG, *Congo: Five priorities for a Peacebuilding Strategy*, 11 May 2009.

²⁹ See HRW, “*You Will Be Punished: Attacks on Civilians in Eastern Congo*”, 13 December 2009.

³⁰ See: *Final report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/603, 23 November 2009.

³¹ Representative of Mai Mai Yakutumba, interviewed by the Coalition, South Kivu, 11 May 2009.

³² Former Mai Mai commander, interviewed by the Coalition, North Kivu, May 2009.

unofficial fees which must be paid to the teachers.³³ Obstacles to accessing education are exacerbated by the destruction of school buildings in hostilities and the threat of child recruitment. Fighting in the town of Rutshuru in 2008, for example, was reported to have led to the closure of most schools, leaving 150,000 children without access to education and vulnerable to recruitment as child soldiers.³⁴ In April 2009, schools in the northern Masisi-Walikale border zone were temporarily closed in response to threats of recruitment by Mai Mai forces.³⁵

One girl interviewed by the Coalition explained that she had run away from home at the age of 12 to join a Mai Mai group in South Kivu because her parents could no longer afford to send her to school. She was selling doughnuts in the street for a living and considered fighting as simply another form of work. She spent four years with a group of around 150 Mai Mai fighters, among whom there were 15 girls, before escaping in 2006.³⁶

Traditional livelihoods such as peasant farming, small trading, fishing and gold panning in both North and South Kivu have been similarly impacted by years of armed conflict leaving youth with little in the way of employment opportunities. A 17-year-old youth interviewed by the Coalition explained that he had joined the Mai Mai Patriotic Resistance (*Patriotes résistants Mai Mai*, PRM) in 2007 at the age of 14 after witnessing the killing of his friends by the CNDP. He was given “magical potions” and trained in the use of firearms. He fled the Mai Mai during heavy fighting in late 2008 and with the help of MONUC returned to his family. He told the Coalition that although he did not want to be soldier all his life; “*if I don’t find work, I will go back to join an armed group*”.³⁷ Likewise three boys, who had been demobilized, described how they wanted to find work or help starting a small business but as orphans they were finding it difficult to survive. They said that if they did not find a means of earning a living soon they would join the Mai Mai again.³⁸

With few prospects, association with Mai Mai is seen by some young people as a means of enhancing their status within their community, or simply to provide a way out of poverty and hunger. As one local official explained to the Coalition some children joined Mai Mai in order to “... *improve their situation within the family or even to achieve material expectations*”.³⁹ However, expectations of an improved standard of living with the Mai Mai were often not met, according to former child soldiers interviewed for the report. Many of those interviewed spoke of the hardships of daily life with the Mai Mai and of disappointment at having even less food, clothing and shelter than they had had at home. Many were also disturbed by the levels of brutality and violence among members of the groups.

Underpinning and contributing to poor social-economic conditions for children is the chronic insecurity which afflicts the region. Hostilities have continued on and off since the 2002 peace accords. Civilians

³³ According to UNICEF the DRC government allocates around eight per cent of its gross domestic product to supporting education, which is insufficient to cover all of the country’s educational operating expenses. The remaining funding burden falls heavily on parents, who are expected to pay an average of \$65 a year, per child, to supplement teacher salaries, maintenance expenses and other operating costs. For the typical Congolese family earning, on average, only \$140 per year, these costs can make it impossible for parents to send all of their children to school. See: http://www.unicef.org/infobycountry/drcongo_51031.html.

³⁴ ICG, *Congo, Five Priorities for a Peacebuilding Strategy*, 11 May 2009.

³⁵ See: *Final report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/603, 23 November 2009.

³⁶ Coalition interview with 20-year-old woman in South Kivu, May 2009.

³⁷ Coalition interview with former boy soldier with Mai Mai, North Kivu, May 2009

³⁸ Coalition interview with three boys who had joined the Kayamba Mai Mai group aged 12, 13 and 14 years after being orphaned following a massacre in 2002, South Kivu, May 2009.

³⁹ Coalition interview with local government official, Uvira, South Kivu, May 2009.

have borne the brunt of the conflict suffering repeated and brutal attacks by all parties to the conflict. In this context, misplaced as it may be, Mai Mai represent the only hope of security for many people.

The roles of children in Mai Mai

While rooted in the broader social and economic context, children perform particular roles within the Mai Mai which give them a particular value to the groups. Boys and girls are specifically targeted for recruitment as *féticheurs* (healers) as their prepubescent state is seen as suited to the preparation and administration of potions believed to confer invulnerability in battle. A young man interviewed by the Coalition described how he had been forcibly recruited by PRM in 2007 when he was 14 years old, only returning to his family in 2009. He was tattooed which, he said, made him feel strong and was given the role of carrying “magical potions”.⁴⁰ A woman who had joined a Mai Mai group in Mboko, South Kivu, as a child explained how she, in addition to being taught to use a firearm and fight, was shown how to give tattoos to others and she later performed this role within the group.⁴¹

Young children are also used to serve as bodyguards to commanders because they are believed to have special powers of protection. Others told the Coalition that children are particularly favoured by Mai Mai for their obedience and trustworthiness. Considered less likely to cheat, children are frequently used to collect unofficial “taxes” from the population as well as fulfilling a range of functions such as gathering firework, preparing food and carrying water.

Of particular concern is the practice of sending young children first into battle to intimidate the enemy by shouting and screaming, or via the invocation of children’s powers of magical protection, thus exposing them to extreme danger.

The nature of recruitment by Mai Mai

Most of the children interviewed by the Coalition described their recruitment by the Mai Mai as “voluntary” explaining that they had been keen to defend their land and avenge killings by warring parties. One former child combatant told the Coalition: “*It is better to go than to stay in the village or the town only to face enemy attacks.*”⁴² In many cases parents do not prevent their children from joining Mai Mai and may actively encourage them.

A group of former child soldiers from a Mai Mai group in South Kivu interviewed by the Coalition were divided about whether they would fight again, but one emphatically stated: “*If the attacks start again, we’d have to join to defend ourselves. Otherwise, we’ll die or be exterminated.*”⁴³ Protection was clearly an incentive for other children to enlist with Mai Mai groups. For example, two women told the Coalition that they joined a Mai Mai group in May 2001 after a massacre in the village of Katogota, South Kivu, by an armed group. The women, who were aged 11 and 16 at the time, escaped and briefly lived in a refugee camp in Burundi, but decided to return to their home village without their parents. They said they joined the Mai Mai to benefit from the magical protection they believed the membership offered. Both spent five years with the Mai Mai.⁴⁴

⁴⁰ Coalition interview with former boy soldier, North Kivu, May 2009.

⁴¹ Coalition interview with 20-year-old woman in South Kivu May 2009.

⁴² Coalition interview with child who had fought with the Mai Mai in 2006 and 2007, South Kivu, May 2009.

⁴³ Coalition interview with group of former child Mai Mai members, South Kivu, May 2009.

⁴⁴ Coalition interviews with two former girl soldiers, South Kivu, May 2009.

Mai Mai groups are also known to actively recruit from communities and to forcibly recruit children. One girl told the Coalition that in 2004: “*The Mai Mai came to the house looking for someone to join them. My father had to stay and look after the family. My brothers were all too small, so I offered to go. I was then 15.*” She explained that each house had to either give the group a combatant or cash, but that she had wanted to go because her parents had told her she would be able to eat with the Mai Mai and that she dreamed of eating meat.⁴⁵

In 2008 Amnesty International (AI) reported the forced recruitment, execution and other violent punishment of children by Mai Mai groups operating in North Kivu. One 15-year-old boy from Rutshuru said that he and 12 girls and 10 other boys were taken from his village in November 2006. The boy told AI that all the recruits, some as young as ten years old, were sent to fight and that the children were whipped if they did something wrong. The same boy reported that an 18-year-old girl was executed for stealing on the orders of his commander in mid-2007. Another boy, recruited from a village near Nyamilima, Rutshuru, in 2006 said that one child who had tried to escape was held in a pit for four days and whipped five times each morning and night. He said two other children had been executed after being accused of ill-treating civilians.⁴⁶

The experience of girls

Fewer girls are believed to be associated with Mai Mai than boys but are, nevertheless, vulnerable to recruitment and use by them. Community notions of Mai Mai as a popular resistance force, and the proclaimed existence of rules governing sexual behaviour, may attract some girls to join the groups, particularly those suffering domestic violence or other forms of abuse in their families. In practice, however, girls in the Mai Mai are frequently abducted, raped and used for sexual purposes. Rape of civilian women and children by Mai Mai during and after armed encounters has also been well documented by the UN and human rights organizations.⁴⁷

Information on the situation of girls recruited and used by Mai Mai is difficult to obtain and the girls themselves are frequently fearful of acknowledging their involvement in these and other armed groups. One girl, who did identify herself as a Mai Mai member during the official demobilization process in South Kivu, had her baby taken away as punishment by her former commander. She reported to the UN that she was abducted in July 2005 aged 14 and raped by her commander in 2006 after which she gave birth to a boy. After presenting herself for demobilization in 2007 the commander took the baby away returning it only after an intervention by child protection workers and FARDC officials.⁴⁸

One woman, now 18 years old, explained to the Coalition that while with the Mai Mai in South Kivu, she and other girls had to share a hut with boys and men to shelter from bad weather, but this led to the assumption that they were willing to have sex. According to her, girls were raped and became pregnant. In her case she gave birth to a child, but the baby died of malaria aged seven months.⁴⁹ A group of women and girls formerly associated with Mai Mai Yakatumba between 2002 and 2005 described how they were terrified of military victory because, as part of the celebration, girls would be forced to have sex with

⁴⁵ Coalition interview with former girl soldier with Mai Mai from Luberizi, South Kivu, May 2009.

⁴⁶ AI, *Democratic Republic of Congo: North Kivu, No end to war on women and children*, (AFR 62/005/2008), 29 September 2008.

⁴⁷ See for example, AI, *Democratic Republic of Congo: North Kivu, No end to war on women and children*, (AFR 62/005/2008), 29 September 2008.

⁴⁸ *Report of the Secretary General on children and armed conflict in the Democratic Republic of the Congo*, UN Doc. S/2007/391, 28 June 2007.

⁴⁹ Coalition interviews with two former girl soldiers, South Kivu, May 2009.

male members of the group. They told the Coalition that: *“Every time after a battle, all of us girls were forced at knifepoint to have sex with the boys and men. Our commander did nothing to stop this. He was joining in.”*

All four had been forcibly recruited as girls. Two described how they had been abducted in 2004 when drawing water from a river near to their village in South Kivu. They had been gang raped at the time and raped many times subsequently and also worked as porters and domestic servants. All have since escaped and are back at school. However, one now has a baby as a result of rape and another was worried that she had contracted a sexually transmitted disease but did not have the funds to travel to the nearest town for tests. In the words of the woman, now 20 years old: *“I was with the Mai Mai for a number of years and left over three years ago. Ever since, I’ve had severe pain in my abdomen. I am afraid that the many times I was raped while in the group have left me with a disease. I don’t have money to go to town and get a test and I’m too afraid to ask anyone for help. What will people think?”*⁵⁰

The particular challenges for the release and reintegration of girl soldiers in the DRC have been well documented and girls involved in Mai Mai groups are no exception. As with girls associated with other armed groups, abandonment by commanders is not uncommon, particularly if they become pregnant and are therefore considered a burden. The majority of girls are believed to return home unofficially (to “self-demobilize”). As they are not registered for demobilization they remain outside the orbit of reintegration programs offering support and assistance.

Girls who have been raped or suffered other forms of sexual abuse in Mai Mai groups face further suffering when they are excluded and stigmatized by their home communities. Interviewees described how boys were sometimes received as “heroes” on their return, but that girls were rejected for their involvement in sexual activity, despite the frequently forcible nature of such involvement.

In the small rural communities from which most of the Mai Mai recruits come, everyone knows which girls and young women have served. Even when their families had encouraged or supported their decision to join, girls are perceived on return, by virtue of their association with Mai Mai, as having been sexually active and to have “lost value”. One girl interviewed explained that she was barred from the family home when she returned in 2006 after four years with a Mai Mai group. She explained: *“My family told me there was no room for me in the house when I returned. I begged and begged forgiveness and understanding. Eventually they agreed to let me come back, but they labeled me a prostitute because I went with the Mai Mai.”* She added: *“I met this man who wanted to marry me. Then he found out I’d been with the Mai Mai and he left me while I was expecting his child.”*⁵¹

Legal obligations, continued impunity and the international response

The military recruitment and use of children in hostilities in the DRC is prohibited under a range of national laws which, relative to many other countries, are quite comprehensive. If implemented these laws would provide a strong basis for protection of children against involvement in armed conflict generally: specifically they could be utilized to prevent Mai Mai recruitment and use of children for military purposes.

Under the Constitution all forms of exploitation of children are prohibited and the maintenance of “youth armies” forbidden. The Child Protection Act, promulgated in January 2009, significantly strengthened

⁵⁰ Coalition interview with former girl Mai Mai members, now aged between 15 and 20, South Kivu, May 2009.

⁵¹ Coalition interviews with two former girl soldiers, South Kivu, May 2009.

legal protection for children including in relation to their involvement in armed conflict. The Act specifically prohibits and criminalizes the recruitment and use of children in armed forces or armed groups. It also proscribes a range of abuses to which children associated with the Mai Mai are routinely subjected, such as abduction; incitement to acts of violence; torture; sexual violence and sexual slavery. In addition, the Child Protection Act defines the state's responsibility for separating children from armed forces or armed groups, facilitating their reintegration and for guaranteeing protection, education and care to all children affected by armed conflict.

A range of other national laws also prohibit the involvement of children in armed conflict. These include the 2004 Defence and Armed Forces Law No. 04/023 and the 2002 Labour Code. The former prohibits the maintenance of a subversive group of youth or a youth army and the latter proscribes the worst forms of labour for children, including the "forced or obligatory recruitment of children with a view to using them in armed conflicts".

The DRC is party to international human rights instruments including the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict (Optional Protocol) which prohibits the recruitment or use in hostilities by armed groups of persons under the age of 18 years.⁵² The DRC has also ratified International Labour Organization (ILO) Convention No. 182 on the Worst Forms of Child Labour, which requires it to take "immediate and effective measures as a matter of urgency" to prohibit and eliminate the use of children in armed conflict.⁵³

While the legal framework is broadly in place, the political will to implement is lacking and institutional capacity too weak to enforce. Unless both are addressed, protection of children from involvement in armed conflict in the DRC will continue to exist only on paper.

Accountability is a case in point. The DRC is among a relatively small number of countries that have criminalized child recruitment and use in domestic law – a fact for which the DRC authorities should be credited. However, it has yet to apply the relevant provisions under the Child Protection Act to investigate or prosecute individuals suspected of contravening the law.

Several cases relating to child recruitment and use and other serious abuses against children in the context of armed conflict have been brought to trial under other legislation – at least four of the cases have involved members of Mai Mai groups. However, because investigations and prosecutions remain the exception rather than the rule, any potential deterrent effect resulting from trials is yet to be realized. Any deterrent effect is in any case undermined by the rewarding of suspected perpetrators of human rights violations with senior positions in the government and armed forces, a practice which reinforces impunity and contributes to an environment in which the recruitment and use of children by Mai Mai and other armed groups is, in effect, officially endorsed.⁵⁴

⁵² The Optional Protocol specifically prohibits the recruitment and use of children by non-state armed groups "under any circumstances" requiring the state to take all feasible measures to prevent such recruitment and use (Article 4); ensure their release; and provide appropriate assistance for their physical and psychological recovery and their social reintegration (Article 6.3). The DRC government ratified the Optional Protocol in 2001. Its first report on implementation is due to be examined by the Committee on the Rights of the Child in early 2011.

⁵³ ILO Convention No. 182 requires shall take immediate and effective measures as a matter of urgency to secure the prohibition and elimination of the worst forms of child labour including forced or compulsory recruitment of children for use in armed conflict (Articles 1 and 3a).

⁵⁴ For example, the Congolese government has failed to cooperate with the International Criminal Court (ICC) in executing the arrest and transfer to the Court of Bosco Ntaganda, the former chief of staff of the CNDP who has been indicted by the ICC including on charges of recruiting and using children. Bosco Ntaganda currently holds a senior position within the FARDC following the integration of CNDP into the armed forces in 2009.

The case of Jean-Pierre Biyoyo illustrates how the government's interference in the judicial process undermines, rather than contributes to, accountability. Biyoyo, a former member of the Mudundu 40 Mai Mai group, which operated in the Ngweshi area of South Kivu, was convicted by a military court in 2006 on charges relating to insurrection and child recruitment. He subsequently escaped from prison and is now reported to be serving as deputy FARDC commander in the 32nd sector deployed in South Kivu.⁵⁵ The Coalition has been informed that MONUC has requested that he be removed from his position of command (and is returned to prison to serve his sentence) but no action is known to have been taken by the authorities.

In a second more recent case Gédéon Kyungu Mutanga, the commander of a Mai Mai Group based in Katanga province, having fallen foul of the President was prosecuted along with 20 others on a range of charges including crimes against humanity and with war crimes relating to the recruitment of 300 children in Katanga province between 2003 and 2006. Although Gédéon and his co-defendants were convicted in March 2009 of having committed crimes against humanity and other serious crimes, the charges relating to child soldier recruitment and use were dropped after the judge ruled that war crimes charges were not admissible in the absence of a declaration of war.

The court did, however, recognize the state's responsibility for failing to disarm its former Mai Mai allies following the end of the armed conflict and awarded damages to dozens of victims setting an important precedent for compensation for those who have suffered human rights abuses.⁵⁶ This ruling is significant in linking state inaction to human rights abuses and in highlighting the responsibility of the state to proactively address threats to the protection and promotion of human rights.

The international response

At an international level, while Mai Mai have been identified as among the most prolific recruiters and users of child soldiers in the DRC, this awareness has yet to be translated into effective strategies to respond to it. Part of the challenge lies in the fact that many of the usual approaches are not well suited to armed groups of this character. Naming and shaming internationally, for example, may have little impact on groups whose main constituency is the local communities from which they operate. Similarly, the pursuit of time-bound action plans to end child soldier recruitment and use may also be impractical and ultimately futile in view of the numbers of different Mai Mai groups, their lack of structure and chains of command and generally mercurial nature.⁵⁷

Other options could be more fully explored. For example, a more systematic imposition of arms embargos and other targeted measures (travel bans and asset freezes) on individuals responsible for child recruitment, sexual violence and other grave human rights abuses could act as a deterrent. To this end the Security Council Working Group (SCWG) on children and armed conflict has brought to the attention of the DRC Sanctions Committee its grave concern regarding repeated violations of children in armed conflict. It has recommended follow-up action by the DRC Sanctions Committee against individuals

⁵⁵ *Interim report of the Group of Experts on the Democratic Republic of the Congo*, UN Doc. S/2009/253, 18 May 2009.

⁵⁶ HRW: DR Congo: Militia Leader Guilty in Landmark Trial, 10 March 2009.

⁵⁷ UN Security Council Resolution 1539 (2004) calls on parties named in the Secretary-General's report to prepare, within three months concrete time-bound action plans to halt recruitment and use of children in collaboration with the UN.

named in reports of the Secretary-General.⁵⁸ Information on individual Mai Mai commanders responsible for child recruitment and use is also contained within successive reports of the Group of Experts. However, targeted measures do not represent a panacea and, in reality, many Mai Mai leaders may not be vulnerable to sanctions. Where it was deemed that such measures have the potential to influence behavior, they would in any case need to be part of a more comprehensive strategy which addresses the underlying causes of child recruitment and is aimed at breaking cycles of recruitment and re-recruitment.

The primary responsibility for action rests with the government, which cannot be allowed to abdicate its responsibility for the continued existence of Mai Mai and its duty to act to protect children from association with them. However, intensified efforts are also required by the international community. In particular the Security Council Working Group on Children and Armed Conflict, the Office of the Secretary-General on Children and Armed Conflict, MONUC, UNICEF, donors and the diplomatic community need to cajole and support the national authorities to fulfill their obligations and to end its direct and indirect support for groups responsible for grave abuses of the rights of children.

Underpinning this must be a coordinated response based on a detailed analysis of the Mai Mai, the underlying causes of their continued existence and their consistent exploitation of children. Responses should focus not only on seeking the release and reintegration of children but encompass broader strategies aimed at addressing these underlying causes. This must crucially include restoring security and rule of law to the communities in which Mai Mai operate, providing educational and economic opportunities to children and youth and aggressively pursuing accountability through vetting, trials, targeted measures and other available options.

⁵⁸ SCWG Conclusions on children and armed conflict in the Democratic Republic of Congo, UN Doc. S/AC.51/2007/17, 25 October 2007 & UN Doc. S/AC.51/2009/3, 13 July 2009. An arms embargo was first imposed by the Security Council on the DRC in 2003. It has since been regularly renewed and the applicability of targeted sanctions (arms embargoes, travel bans and asset freezes) extended to include political and military leaders recruiting and using children in armed conflict and individuals targeting women and children in situations of armed conflict, including killing, maiming, sexual violence, abduction and forced displacement.

Recommendations

To the Mai Mai

- Honour commitments made in the January 2008 Goma *Actes d'Engagement* to respect international humanitarian and human rights laws, to end child recruitment and promote children's rights, which should be interpreted to include the release of all under-18s from Mai Mai groups and an end to rape and other sexual violence against children;
- Issue orders to their troops that persons under the age of 18 should not be recruited and allow full and unimpeded access to MONUC and child protection agencies to all camps or other facilities to enable verification of ages and release of all boys and girls under the age of 18.

To the Congolese authorities

Fulfil their obligations under Article 4 of the Optional Protocol to take all feasible measures to prevent child recruitment and use in hostilities, under any circumstances, by non-state armed groups, including by:

- Disarming all remaining Mai Mai groups and ensuring that children associated with them are released and reintegrated into their communities;
- Systematically investigating and prosecuting, in trials that conform to international fair trials standards, commanders and members of Mai Mai groups who are suspected of contravening national laws prohibiting the conscription, enlistment or direct participation in hostilities of children and other serious human rights abuses against children;
- Issuing and enforcing a directive to commanders of the FARDC prohibiting both direct and indirect support of Mai Mai factions and banning the enlistment of Mai Mai support in future military operations;
- Executing a public information strategy to inform Mai Mai commanders and members, as well as local communities in North and South Kivu, that the recruitment and use of children is prohibited by law and detrimental to the development and well-being of children;
- Fulfilling obligations under the Constitution to provide free primary education and ensure that schools are protected from attack and remain open and accessible to children in conflict-affected areas;
- Establishing vocational training and employment generating programs for youth in conflict-affected areas in order to provide alternatives to enlistment with the Mai Mai;
- Expediting the effective implementation of the Child Protection Code and other legislation that provides protection for the rights of the child, including against military recruitment and use.

Take measures to facilitate the immediate release and effective long-term reintegration of children currently or previously associated with Mai Mai groups including by:

- Cooperating with MONUC and UNICEF to establish an effective screening process for all FARDC integrated brigades to verify the presence of children, including those formerly associated with Mai Mai groups, and facilitate their release;
- Take active measures, in collaboration with MONUC and UNICEF to bring about the immediate release of children from Mai Mai groups. Particular attention should be paid to identifying girls and ensuring that their needs are addressed through release and reintegration efforts.

End impunity for recruitment and use of children by Mai Mai and other armed groups or armed forces including by:

- Establishing a vetting mechanism, as required by the Security Council and UN special procedures, to assess the human rights records of members of the FARDC, including members of the Mai Mai and other armed groups integrated into it during accelerated integration in 2009. Individuals suspected of committing human rights violations, including the recruitment and use of children and sexual violence against them, should be immediately removed from the FARDC or from other official posts to which they may have been appointed;
- Accelerating efforts to strengthen the national criminal justice system including through the establishment of child-friendly procedures to ensure that children who are victims or witnesses of serious crimes, including recruitment and use as soldiers, can participate safely in trial proceedings;
- Cooperating fully with the UN Security Council Sanctions Committee to ensure effective enforcement of existing sanctions, in particular those preventing the direct or indirect supply of arms to non-government entities and individuals operating within DRC and enforcing the assets freeze and travel ban on named political and military leaders recruiting or using children in armed conflict.

To the UN and other parts of the international community

- Exert pressure on, and provide support to, the Congolese authorities to disarm all remaining Mai Mai groups, and ensure that children within their ranks are released and provided with all necessary support for their reintegration;
- Provide support to the Congolese authorities to design and implement a comprehensive strategy to support the effective implementation of the Optional Protocol, including measures required to prevent the recruitment and use of children by Mai Mai and other armed groups;
- Prioritize and support initiatives to ensure children's access to education and the provision of training and employment opportunities for children and young people in conflict-affected areas;
- Condition support for the FARDC on demonstrable progress towards the release all under-18s from its ranks and the removal of individuals suspected of having committed human rights abuses including the recruitment and use of children;

- Ensure the availability of flexible, multi-year funding to support the release and reintegration of children associated with Mai Mai and other armed groups. Dedicated funding should be made available for programs that respond to the specific needs of girls;
- Pressure the authorities to ensure that human rights abuses committed against children, including their recruitment and use as soldiers, are prioritized for investigation and prosecution in national courts and are addressed more broadly through any future transitional justice processes;
- Increase technical and financial support to strengthen the national criminal justice system including for the establishment of specialized protection measures for child victims and witnesses;
- Extend targeted measures to include all political and military leaders, including Mai Mai leaders, responsible for the recruitment and use of children in armed conflict, as required by Security Council Resolution 1698 (2006).



COALITION TO STOP THE USE OF CHILD SOLDIERS

www.child-soldiers.org
