



UNDERSTANDING THE PHENOMENON OF CHILD SOLDIERS...

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Acknowledgements – I would like to thank Nicole and all the CTO team in Uvira who do a wonderful job every day helping children return to a life they should never have had to leave. I also wish to express my admiration for all members of the two associations « the Voice of the Voiceless Group » (GVSV) and « Ajedi-ka » in Uvira. Their constant work to obtain the release of children from armed groups and bring them back to their communities, despite financial difficulties and all the perils these activities entail, is an example to all human rights defenders worldwide.

INTRODUCTION

A) a brief description of the Disarmament, Demobilisation and Reintegration (DDR) process and the role of JRS

It is estimated that 30,000 children took part in the fighting which devastated former Zaire¹. To compensate for this terrible legacy, DRC officially launched a DDR programme in July 2004, aimed at helping children return to civilian life. The operational framework of this programme provides in theory for armed groups who commit to the process, to bring their members, including children, to regrouping centres where they are disarmed and directed to guidance centres. There, former combatants decide whether to enlist in the DRC armed forces (FARDC) or lay down their arms “definitively”. Because of their age, children can only be demobilised. After being housed for a maximum of 48 hours, separately from adults, they are entrusted to local or international NGOs mandated to take care of them in Transit and Reception Centres (CTO). This graduated procedure has the advantage of allowing the authorities to filter and verify the combatant quality of those taking part in the process. Unfortunately in practice the operational framework is not always respected. Frequently children are held for more than 48 hours and are not separated from adults and this is due both to a lack of care structures and staff shortages which lead to delays in processing requests.

Since March 2006, JRS has been running a CTO and caring for children who have made their decision and succeeded in leaving armed groups in the Uvira and Fizi (South Kivu) areas. The case history of these children is unusual in the sense that they did not go through the demobilisation process provided for in the operational framework. All of them were released following an awareness-raising project with militia leaders set up by the “Voice of the Voiceless Group” (GVSV), a JRS partner association. The war lords did not present the children spontaneously but released them following an intense and lengthy mediation process aimed at increasing their awareness of children’s rights. GVSV members began by making contact with families in order to identify those recruited and the armed groups holding them. Then they visited the camps where the troops were stationed and began work to raise awareness among militia leaders and their young recruits.

A GVSV member explained that awareness raising with commandants is very difficult. The first step is to gain their confidence as generally the latter are reluctant to admit the children are acting under their orders. Once they recognise this, they may refuse to release them as this frequently entails a considerable drop in their effective strength. Without troops they lose their power and their influence. It is equally difficult to convince the child soldiers themselves, some of whom wish to stay on because they have not yet accomplished the revenge which led them initially to enlist. Others are afraid of being rejected by their families where they left without their consent or fear reprisals by their original community if they have committed “excesses” while with the armed group. Finally, and this is the paradox of the DDR programme, some young soldiers refuse to be demobilised until they reach adulthood. Children who commit to the programme do not receive any direct financial assistance² nor can they join the ranks of the regular army.

¹ The figure considered by the government of the Democratic Republic of Congo and the World Bank in the context of the child demobilisation programme.

² Adults who opt to return to civilian life receive a lump sum at demobilisation and a monthly allowance. This is not the case for children.

This means many wait to be over 18 before leaving the armed group. Nonetheless, despite all the obstacles³, GVSU succeeded brilliantly in their task. Once the children gave their consent and “Form A”⁴ was signed, representatives from the association were responsible for accompanying them to the JRS-managed CTO.

The children are cared for in the centre for three months and during this period all efforts are made to give them every possible advantage and assistance in reintegrating into civilian life. If they wish they can resume their studies and literacy and maths lessons are provided. In order to facilitate economic reintegration they may choose to continue on to further studies or choose professional training in trades suited to their original background (cutting and sewing, woodwork, motorbike mechanics, soap-making, etc...). Many opportunities for dialogue are created because JRS emphasises the importance of providing more than basic accompaniment. These children, separated from their families for many years and often traumatised by experiences they should never have had to live through, need assistance which goes beyond merely learning a trade or how to read. The team is available at any time to listen and many occasions are provided for them to express their thoughts and feelings. Nor do we forget that many have not left childhood or left it too soon, without having had the chance to enjoy their youth. Sports and leisure activities are on hand to allow them rediscover the pleasure of entertainment and carefree fun.

Parallel to these activities and often in connection with them, the accompanying team gathers information regarding the children’s families and communities. Once parents or potential tutors have been identified, mediation work to prepare for their return can be accelerated⁵. This stage is crucial not only for the child but also for the family or community. Parents may fear the return of a former child soldier whom they have not seen for many years and over whom they have lost all authority. The child also may initially hesitate to rejoin his family for fear of being a burden on them. Just like the awareness raising during the time of departure from the armed group, mediation work at this stage is very delicate. The length of the period of stay in the centre is conditioned by the success of the process. Often children are assisted for longer than the allotted time since it would be counterproductive to sacrifice reintegration on the altar of the result.

In order to ensure lasting reintegration and deter further recruitment, the CTO team in Uvira would like to establish long term follow up to accompany children after they leave the centre. It would certainly make sense to visit more regularly those children who have reintegrated into their communities, and especially to assist those who have started their own revenue-generating activities. This aspect is completely neglected by the operational framework when in fact it is the measure of the success of the undertaking. Follow up of this kind requires substantial financial means, due to the cost of travelling in a region without roads and where infrastructure has been destroyed by years of conflict.

³ Also to be noted are attempts by commandants to charge for the release of children.

⁴ Document signed by the commandant which proves the child has belonged to an armed group.

⁵ This work starts at the demobilisation phase. If GVSU obtains the child’s consent to leave the armed group, they immediately begin awareness raising work with families and communities.

Nonetheless the expense, although considerable, is justifiable and should definitely be funded to ensure real efficiency in the reintegration aspect of the DDR programme.

B) Presentation of the Study - methodology and relativity of the data collected

Since its inauguration in 2006, the JRS CTO has assisted 128 former child soldiers. This number seemed sufficient to us to begin a study on the social profile of these children, the conditions and motivation of their recruitment and those persons and groups responsible for war crimes. We have chosen to review statements and data contained in 100 files in order to represent as faithfully as possible the events experienced by the children. The study concentrates on enlistment in all its aspects, the living conditions of the children as members of an armed group and exposure of the impunity enjoyed by militia leaders. The information gathered concerns -

- sex of the child
- date of birth
- level of studies
- non-formal education received as recruits
- family situation
- village of origin
- dates of enlistment and departure from the armed group
- place of enlistment
- estimated age at recruitment
- type of enlistment⁶
- period of time spent in the armed group or forces
- reasons and circumstances of recruitment and departure from the armed group
- names of the brigade or battalion and militia leaders
- role occupied
- place of encampment

We must firstly underline the relativity of data collected at the CTO. There are variations between the statements by the children and the information recorded, perhaps due staff inconsistency in the various administrations responsible for demobilisation and lack of conditions necessary for in-depth interviews. Moreover we must not forget that former child soldiers are still children and for this reason do not have the same concept of time as adults. Consequently they are not always able to provide precise dates⁷.

Nonetheless, these statements and recorded information are important because they reflect part of the reality of the life of the children and allow us to understand more fully the phenomenon of the exploitation of children associated with armed groups (EAFGAs).

First we will examine the various international and national documents applicable in DRC to define more clearly what a child soldier is (I). We will then describe recruitment and its different aspects (II) and study the situations experienced by the children as recruits (III). In conclusion, we will tackle the problem of impunity and the reward for cruelty it represents, in the context of the exploitation of children by militia leaders (IV).

6 « voluntary », or compulsory, second-time indeed third time recruitment

7 We must not forget the cultural dimension of the concept of time in DRC nor the conditions in which the recruits were living.

I) The child soldier according to international law and Congolese national law

A plethora of international texts describe and prohibit the use of children in armed groups (A). Some have been ratified by DRC which has attempted to transpose the main elements and introduce measures to put them into effect (B).

A) international law governing child soldiers

A genuine legal arsenal exists to prohibit States from exploiting children in warfare. We stress that States which ratify this type of international convention are obliged not only not to enlist persons under 18 years of age in their regular armies **but also to endeavour to prevent armed groups present in the State from doing so.**

DRC is party to the Convention regarding the rights of the child which only partially protects young recruits, setting the minimum age of recruitment (in times of peace and in war) at 15 years⁸ and does not refer to the issue of children recruited by armed groups outside State control. An optional protocol concerning the involvement of children in armed conflicts was adopted to cover this lacuna and this expressly indicates that States must not engage children under 18 years of age⁹ in hostilities, prohibits the practice of forced or compulsory recruitment and forbids armed groups from integrating them in their troops¹⁰. Former Zaire ratified this text on 12 November 2001.

Furthermore, Congo-Kinshasa made a commitment to respect International Labour Organisation Convention no 182 on the worst forms of child labour which qualifies as such « forced or compulsory recruitment of children for use in armed conflict ». Member states must « take effective and time-bound measures to prevent and eliminate » these practices « urgently ».

The African Charter on the Rights and Welfare of the Child, which came into force on 28 November 1999, rules in a similar manner to the optional protocol cited above on the enlistment of child soldiers but unfortunately DRC has not yet ratified this.

International and regional law prohibits the use of children in conflict. Nevertheless there are no sanctions in place to punish individuals who fail to respect these laws. It is the State itself which bears most of the onus to implement the measures. On the contrary, international humanitarian law considers the recruitment and use of child soldiers under 15 years as a war crime¹¹, as does international criminal law, according to Articles 8-2-b-xxvi (international armed conflicts) and 8-2-e-vii (non-international armed conflicts) of the Rome Statute of the International Criminal Court¹².

8 Article 38-3.

9 Article 2.

10 Article 4.

11 Articles 8 of Protocol I/1977 and 9 of Protocol 2

12 DRC ratified the Rome Statute in April 2002

All the conventions specify that a child means a person under 18 years of age, who must not be recruited or used by regular armed forces or armed groups. Under certain conditions, non-respect of these principles may be considered a war crime and legal proceedings may be brought against the offender.

B) national law and the Congolese legal system

DRC has endeavoured to translate its international engagements into internal law. The law regarding the Congolese army expressly forbids the enlistment of persons under the age of 18 years in the regular armed forces. The new Constitution, even though it forbids enlistment in the armed forces, does not set a minimum age. In May 2005 the FARDC chief of staff issued explicit orders that this practice be stopped and instructed military prosecutors to pursue all offenders¹³.

Thus although efforts have been made they have been obstructed by the dramatic state of the legal system in DRC, characterised by a lack of independence, little or no training for judges, insufficient investigative capacities, poor infrastructure and inadequate regulations to guarantee a fair trial and the rights of the accused. Furthermore the legal system is plagued by corruption and poor management and this has led people to resort to private revenge¹⁴.

Moreover, the movement to prohibit the use of child soldiers is hampered by the lack of criminal measures vis-à-vis the armed forces. The case of Jean-Pierre Biyoyo is a good example. This FARDC commander, former leader of the Mudundu 40 group, was sentenced to death on 17 March 2006 by a military court in Bukavu. He was accused of illegally arresting and detaining children who had left the armed forces and whom he recruited again in April 2004. This sentence was later reduced to five years imprisonment. The proceedings brought against him were based on Article 67 of the criminal code which forbids the arbitrary abduction, arrest and detainment of individuals. This count of accusation was withheld since, although recruiting persons under 18 years is illegal in DRC, the offence is not included in the criminal code. Prosecutors therefore have to use other offences – such as abduction, in the case of forced recruitment, or disobedience to orders - in order to bring proceedings for the recruitment of child soldiers¹⁵.

It is clear that the EAFGA definition is accurate, based on international documents whose preventative value has been recognised in DRC. Even though it is possible to perceive some progress in internal law and to believe that the latest elections are the start of a real change, we are still forced to admit that the day when children will be legally protected from recruitment in DRC is still far off. In order to resolve the problem of EAFGAs and continuing recruitment, it is necessary to undertake a total reorganisation of the legal system, rebuild new confidence in justice among the people and strengthen this cornerstone of the democratic state. "Recess is over"¹⁶...

13 DRC « Children at war, creating hope for the future » Amnesty International, October 2006

14 DRC « The current situation and evaluation of transition in the Eastern provinces » Commission for Refugee Appeals, 14/04/06 p.11

15 DRC « Children at war, creating hope for the future » Amnesty International, October 2006

16 Remark by J. Kabila during his inauguration address.

II) The day hell began...

The study carried out at the JRS CTO in Uvira reveals the profile of the children recruited (A), the motives behind the recruitment (B) and the ways enlistment took place (C).

A) Who is recruited?

From statements and data collected it emerges that the **average age of recruitment** for children in the Uvira centre is **12.07 years**. At this age, children are easily influenced and drawn by the uniform, the “prestige” of being part of an armed group and the financial interest represented by enlistment (or the promise of earnings). For the **12 percent who were orphans**, entry into an armed group was seen as a means of obtaining all-important protection and the illusory assurance of a daily meal. From the militia leaders’ viewpoint, easy manipulation of such vulnerable individuals was seen as a military advantage. Children, often under the influence of drugs and/or alcohol, are less likely to ask questions when ordered to attack or face enemy fire.

Of those consulted 52 percent had studied up to fourth, fifth or sixth year. This figure is within the national average. According to a report by « Save the children » in 2003¹⁷, only 50 percent of children aged six to eleven attend school. Nothing has really been done by the State to enforce Article 43 of the Congolese Constitution, which declares that “primary education is compulsory and free for all”. Infrastructure destroyed during the war has not been rebuilt and teachers’ salaries remain unpaid and even when they are, the payments are highly irregular. In order to improve the situation, parents are being asked to contribute and are obliged to pay school fees they can barely afford. One of the reasons encouraging children to enlist is the lack of “regular” schooling. This is also one of the greatest regrets of former child soldiers.

Lastly, although this figure is not significant, **100 percent of children who have transited in the CTO were boys**. This exclusivity is explained principally by the inexistence of structures suitable for caring for girls. JRS, whose assistance is based on aid policies aimed at serving the most vulnerable, is hoping to construct a building which will allow separate housing for boys and girls with the aim of offering the best possible accompaniment. This project however has run into financial difficulties which prevent JRS at this moment from meeting the needs of this special group.

The demobilisation of girl-soldiers is even more delicate than that of their male counterparts. The majority of the girls who have succeeded in freeing themselves from the hold of militia leaders live in hiding since they are stigmatised in their communities. It is also very difficult to make a commandant admit a girl within his troops is working as a soldier. They are more frequently considered as “wives”, sexual objects used by militia leaders and their subalterns as they wish. They themselves do not consider themselves soldiers even though they come under the definition of children accompanying armed groups. There is no specific programme for the demobilisation of girls in DRC.

The centres run by the National Commission for Demobilisation and Reintegration (CONADER) are unsuitable and even those girls who know of their existence do not dare

17 « Return to the cradle - demobilisation and reintegration of child soldiers in DRC » Save the Children, 2003

apply there for fear of promiscuity or sexual violence. Additionally many of them feel they have no other choice than to stay with their military “husbands”, since often they have born them a child during their “stay” with the armed group. Where can they go if rejected by their own community and where will they find food to live? Even though the difficulties are enormous, these girls must not be abandoned to their lot.

B) Why leave to fight?

At first it seems astonishing that **more than half the children assisted by JRS declared both parents were alive at the time of their enlistment (56 percent)**. In order to understand why parents allowed their children to join an armed group, we must examine the reasons put forward to explain recruitment.

Some children explained that family problems caused them to enlist, for example to escape from ill treatment at the hands of stepmothers¹⁸. Other factors mentioned, perhaps the most important, are poverty, idleness and lack of schooling. Enlistment gave young recruits the hope of a framework, even if military, a “job” and daily rations. Others explained they joined armed groups from a desire for revenge, to hunt down the murderer of a close relative killed before their eyes. The looting and theft committed by some soldiers and the torture they inflict on local people can engender such feelings of hatred among children that they become involved in the conflict. They wish to protect themselves, their villages and their families when they still have one. Enlistment in an armed group is seen as the best way to satisfy this ambition. Often they are encouraged by their parents who are not happy to see them go but sacrifice family life in order to protect the community.

The issue of “independence” is keenly felt in South Kivu and this is the basis for propaganda which incited several children to commit themselves to the fighting. It was necessary “to defend the homeland” against “the outside aggressor (Rwanda) or the internal enemy (the Banyamulenge)”. This type of dogma is dangerous since it has caused many to feel hatred founded on ethnic differences and creates a major obstacle to the reconciliation DRC so desperately needs.

Finally many of them enlisted in imitation. Seeing their friends returning dressed in uniforms and throwing money around, they wanted to follow them, be like them and find an alternative “occupation” to lack of schooling and unemployment. Sometimes militia leaders send children from their troops to talk to those who stayed at home to convince them to join their ranks.

It is clear that economic (poverty), social (family problems and the impossibility of starting or completing studies) and psychological (influence of other children, propaganda) reasons urged children to enlist. Those interviewed indicated several types of reasons which together explain why they enlisted. All are closely linked.

18 Concubines of the child’s father.

C) Type of recruitment

The previous paragraph would induce the reader to believe that all the young recruits were volunteers and in fact the study reveals that **71 percent declared they enlisted of their own free will**. However we must see this statement in the correct context. It is in fact the absence of alternatives which led children to become major players in conflict. In any case, can anyone, before the age of 18, take a conscious decision to enlist in an armed group?

Above and beyond the children's incapacity, in a legal sense, to make this type of decisions, there is an issue with consent. Many of the children thought that becoming a soldier would bring them a certain physical or material security. Many were disappointed on entering the armed group and realised that the promises made were not based on fact. Unfortunately at that stage they were already trapped.

The distinction between voluntary and forced enlistment may seem artificial but at least it indicates the cases in which the children were taken forcibly by armed groups.

Eleven percent state they were recruited by force. Many different methods are used. Alexandre for example declared that in 2002 he went to look for sweet potatoes in the forest with one of his friends. The latter was a soldier unbeknownst to him and enticed him into this trap so that he could be abducted and enlisted into the Maï-Maï. Armed groups who attack villages also take children in hostage. If they refuse to join them, they are executed. Sometimes brought far away from their communities, they are unable to return home and have no other choice but to serve in the group which abducted them...

Finally, **three percent of children maintain they were demobilised once before but were either re-recruited by force or decided themselves to rejoin an armed group.** This figure witnesses a partial failure of the DDR process, which to the detriment of its success, neglects to follow children after their reintegration.

After recruitment, children are subject not only to the anguish of conflict where they are now participants despite themselves but also ill treatment at the hands of their superiors.

III) Times of tears

The study shows which groups resorted to the use of child soldiers in the Fizi and Uvira areas (A), at the time most of the children were recruited and the jobs the children were obliged to undertake during their time of "service" (B)

A) the Maï-Maï militia, responsible for the recruitment of almost all the children in the centre

Who are the Maï-Maï? Their generic name indicates "traditional" warrior groups originally from the provinces of North and South Kivu and North Katanga, reputedly resisting the Rwandan presence and gaining invincibility in combat from esoteric practical rituals, mainly ablutions¹⁹. Maï-Maï militia groups cover different realities, mainly chronological,

¹⁹ The word « Maï » means « water » in Kiswahili

just as the perennial allegiance of numerous armed groups to the government in Kinshasa is flexible. The effectiveness of State control over these forces depends on the regularity of payments, supply of foodstuffs and materials and/or the conclusion of local alliances, often motivated by a “predation” logic. In this context it is important to distinguish the “real” Mai-Mai from the so-called Mai-Mai, the latter often resource-less youths who have managed to take up arms and who, organised in a “mob hierarchy”, have become rich by terrorising local people. Nonetheless, many “traditional” Mai-Mai militia leaders have been accused²⁰ of serious human rights violations, such as acts of barbarity (including cannibalism), summary executions, group rape, looting, etc..²¹

One of the best known militia groups operating in the Bukavu region is the “Mudundu 40” group. In early 2002, this group was closely linked to the Congolese Assembly for Democracy (RCD/Goma), another armed group which, at that time, with Rwandan support, controlled the Uvira region. Tensions between the two groups became evident following the signing of the Pretoria Agreement²² and reached their climax in April 2003, when “M-40” attacked the RCD headquarters with heavy artillery.

Now most armed groups like “M-40” have rallied around the RCD authorities and benefited from the DDR programme. Many of them have been integrated, following training, into the first integrated FARDC units to be deployed in the tenth military region (South Kivu). Others have chosen to return to civilian life, considered to be financially more advantageous²³.

However the situation is still not peaceful since some Mai-Mai members refuse to accept the DDR programme and continue to recruit and detain children. A GVSV member explained that only recently Captain Amuli Yakotumba, based in Baraka and FARDC commandant of a former Mai-Mai battalion, withdrew from the process of militia integration into FARDC (brassage) and fled with his troops²⁴ to the Ubwari peninsula. He told MONUC that the Mai-Mai receive little consideration within the army and they find it humiliating that the government is negotiating with individuals such as commandant Nkunda. Tension still runs high and, even though the Mai-Mai have been offered positions in the army, they have no real power. This frustrates them and causes them return to their former ways.

A total of 97 percent of children interviewed declared they were recruited by Mai-Mai militia. This figure is not representative for the Fizi-Baraka and Uvira regions. In fact, it is common knowledge that other groups, such as RCD/Goma, have also made massive use of child soldiers.

²⁰ In particular following investigations by the Human Rights section of MONUC

²¹ DRC « Various forces at war since 1997 » Refugee Appeals Commission, 31/01/06

²² The signatories, including RCD/Goma, committed themselves to respecting the cease-fire and could participate in transition institutions.

²³ DRC « Various forces at war since 1997 » Refugee Appeals Commission, 31/01/06

²⁴ Captain Yakotumba’s troops included 80 children.

B) The height of enlistment, “service” length and type

Of those interviewed 58 percent were recruited between 2003 and 2004. At that time combat raged in the South Kivu region between RCD/Goma and Maï Maï militias, and in the uplands of Fizi²⁵ and Uvira. The Rwandan army was also present in the area as was the Burundian army involved in the pursuit of National Liberation Front (FNL) rebels.²⁶ In Lubarika, Colonel Abdou (Maï Maï) was struggling for supremacy against the Rwandan Patriotic Army (APR) and Commandant Mossala of RCD/Goma. On the Ubwari peninsula, Colonel Kayumba was fighting the RCD and the Burundian army.

It was during this time that the Bukavu crisis broke. A report by the Refugee Appeals Commission describes the situation²⁷ – “From the start of transition, the Kivus were the scene of military operations and confrontation between J. Kabila’s party and RCD/Goma, caught up in a political deadlock in Kinshasa. The integration of former belligerent armies into the new national army under a single command was immediately contested by RCD/Goma, which at that time controlled the Kivus. General Prosper Nabyolwa, a former FAC commandant, had been dispatched to Bukavu by the transition government as commandant of the South Kivu military region in September 2003. On arrival in Bukavu, he was confronted by a group of radical RCD/Goma officers who refused to recognise his authority”.

“At the same time, from early 2003 onwards, without waiting for the setting up of transition institutions, RCD/Goma had nominated Xavier Chiribanya and Colonel Georges Mirindi, both sentenced in the trial of LD Kabila’s assassins, governor and regional commandant respectively in South Kivu. RCD/Goma and Kigali, both of whom played a decisive role in these nominations, thus from the start sabotaged the chances of peaceful transition in the East and hampered military integration in the province. Shortly afterwards, this group was joined by Congolese Tutsi officers who had refused their nominations in the new army. These included General Laurent Nkunda and Colonels Eric Ruohimbere and Elie Gishondo. Therefore by the end of 2003 a group of powerfully armed RCD/Goma dissidents was present in Bukavu. Refusing integration and supported by Rwanda, they opposed the authority of Commandant Nabyolwa and his nomination by the transition authorities”.

“From February 2004 onwards, serious confrontation broke out between Commandant Nabyolwa and the RCD/Goma “hawks”. A series of searches were ordered in the homes of the latter and stocks of weapons supplied by Rwanda were seized. “Governor” Chiribanya was suspended from his responsibilities by the transition authorities on 7 February 2004. Ruberwa and RCD/Goma leaders, fearing a reaction to RCD/Goma leadership in South Kivu, decided to act. On 24 February, Colonel Jules Mutebutsi, assistant regional commandant, joined the RCD/Goma dissident officers and attacked Nabyolwa’s residence, killing two of his body guards and causing the General to flee”.

²⁵ Ngufu was one of the Maï Maï commandants fighting here against RCD/Goma.

²⁶ The Uvira region was the military base and refuge of FNL involved in launching incursions into Burundi to oppose the government.

²⁷ DRC « The current situation and evaluation of transition in the Eastern provinces » Commission for Refugee Appeals, 14/04/06

“In the East, Banyamulenge commandants from the National Congolese Army (ANC), the military wing of RCD/Goma, had gravitated towards Mutebutsi. Mutebutsi’s group made contact with Laurent Nkunda in North Kivu and a network of dissidents was formed, bringing together men from South and North Kivu, a RCD/Goma fief still resisting Kinshasa control. The Kalehe region was their training ground in preparation for the capture of Bukavu. The operation was supported by the governor of North Kivu E. Serufuli, who supplied men from his Hutu militia (FDL) and trucks from his “TPD” organisation. The group was also supported in various ways by Rwanda, who offered arms and ammunition supplies, the use of their territory as a military base and refuge and the recruitment of Congolese Tutsis in the refugee camps, in particular Gihembe. Conflict between Kinshasa and Bukavu broke out on 26 May 2004. Ostensibly moving to prevent a Tutsi “genocide”, Mutebutsi’s men attacked the troops of the new regional commandant General Mbuza Mabe, a former FAC leader assigned by Kinshasa to replace Nabyolwa. Despite their military superiority, Mbuza’s troops were overcome and Bukavu was captured by the joint forces of Mutebutsi and Nkunda which sacked the city. Two thousand civilians took flight”.

“The FARDC defeat was largely the result of a lack of cohesion in the chain of command, since numerous commandants originally from ANC and Maï Maï did not respect Mbuza’s authority. After much hesitation, Ruberwa and other RCD/Goma leaders condemned the “mutiny” of Mutebutsi and Nkunda”.

“Nkunda’s forces withdrew from Bukavu on 10 June following international pressure and later rejoined their units in North Kivu, unsanctioned. Mutebutsi’s troops retreated to Rwanda. The transition government military authority and FARDC, with no members from RCD/Goma (ANC), was re-established in South Kivu while RCD/Goma retained control in North Kivu”.

JRS themselves witnessed the combat and recruitment of children in 2003-2004. In a report dated June 2003²⁸, they refer to child soldier training in Sange and Luvungi and quote a statement made by a Burundian child enlisted by the Maï Maï in commandant Nakabaka’s group.

This troubled context partly explains why most of the children were enlisted at this time. Most of them were between 13 and 14, the ideal age for recruitment into armed groups seeking to exploit their quest for identity and a social ideal in order to manipulate them.

These years were the beginning of a long martyrdom. The study reveals that children in the centre spent an average 32 months in an armed group. For a child aged 16, this is one sixth of his life...

Of those interviewed 66 percent learnt how to handle weapons before learning to read and **63 percent were soldiers or escorts**. Others worked as cooks, messengers, witch-doctors or scouts. Many of them filled several “roles” within the armed group. Life was very difficult for them and military training was accompanied by physical brutality in order to make them “better fighters”. They were also responsible for domestic work and frequently

²⁸ « South Kivu, DRC: New regression » JRS, June 2003

were abused as sexual slaves. Before combat, some were drugged to ease the fear which tore at their insides. These were the ones sent out in the front line...

The trauma suffered is not irreparable but all these children have to cope with serious physical and psychological after-effects resulting from these experiences. The CTO team does everything in their power to help them overcome their memories and rediscover the childhood they lost.

IV) A reward for cruelty: the problem of impunity

Who will pay for all the victims? DRC, supported by the international community, sacrifices justice for reconciliation (A) and, even though some of those responsible for the recruitment and exploitation of child soldiers are currently being pursued, international and national courts have limits which render the fight against impunity very difficult (B).

A) Reconciliation at all costs

Many of the commandants who recruited and exploited children in warfare are well known. Some of them have gone through the “brassage” process and have reached the upper ranks of FARDC, despite the fact that they are liable for proceedings as war criminals. Thanks to this process, DRC has bought peace and neutralised them.

Nombre des commandants ayant recruté et utilisé des enfants au sein de leurs troupes sont notoirement connus. Certains d'entre eux sont passés par le processus de brassage et ont obtenu un grade élevé au sein des FARDC²⁹, bien qu'ils soient passibles de poursuites en tant que criminels de guerre. Grâce à ce processus, la RDC a acheté la paix et les a neutralisés.

But what of the children and their families who have suffered and continue to suffer so that these persons can today hold down a secure army position? The DDR process provides a sort of reward for cruelty. The law of amnesty does not in any case cover war crimes and crimes against humanity. For this reason it is legitimate to ask why these former war lords live in peace and nobody troubles them.

The dogma of reconciliation is perverse since it privileges short term solutions. Fighting has died down in South Kivu, although some groups still refuse to be disarmed and demobilised. But for how much longer? Local people are not easily fooled and do not look kindly at those who abducted their children and committed serious human rights violations parading around in FARDC uniforms. Neither is the international community exempt from reproach, funding the DDR programme to the tune of 160 million euro without asking DRC to seek justice for those who lost their childhood fighting in armed groups. The culture of impunity is dangerous because it encourages violence.

B) The limits of international and national courts

Encouraging but still inadequate legal initiatives have been undertaken at national and international level. For example, on 17 August 2004, the Bunia court sentenced Commandant Rafiki Saba Aimable, former security chief of the Union of Congolese Patriots³⁰ (UPC), to a 20 year prison sentence. Kahwa Mandro, leader of PUSIC, was sentenced to life imprisonment. Thomas Lubanga Dyilo, leader of the UPC, was arrested and accused by the International Criminal Court (ICC) on 28 August for war crimes according to Article 8 of the Rome Statute and in particular for having “conscripted and enlisted children under the age of 15 years and made them take active part in hostilities in

²⁹ It must be noted as previously indicated that a grade does not signify persons have obtained responsibility. There is a genuine risk of rebellion. See the case of Captain Amuli Yakotumba.

³⁰ An armed group operating in Ituri.

DRC". The charges against him were confirmed by the preliminary division of the Court and the trial will resume shortly³¹. In addition, Floribert Ndjabu Ngabu, leader of the Nationalist and Integrationalist Front (FNI), is in gaol in Kinshasa but has not yet been charged by the ICC³².

However international justice is limited. The International Criminal Court can only issue sentences regarding events taking place after 1 July 2002, which hugely limits its juridicial potential. Furthermore it is called upon to try only the most highly responsible offenders, leaving national courts to try the others, with all the problems this entails³³.

Besides the Court has still not charged persons such as General Budja Mabe, former military commandant in the South Kivu region, whose soldiers killed Banyamulenge and Tutsi people in Bukavu in May 2004 on the basis of their ethnic origin.

Finally what can we say of those who recruited the children staying in the JRS centre in Uvira, live undisturbed while their victims struggle with their nightmares and attempt to return to a normal life? The Democratic Republic of Congo must realise that reconciliation requires justice and not the covering up of crime. The victims themselves can never forget.

31 « The ICC is preparing for its first trial » Reuters, 29/01/07

32 « Opinion is divided in Ituri District, northeast Congo, whether this militia leader, Thomas Lubanga, should stand trial for war crimes at the International Criminal Court in The Hague » IRIN, 30/01/07

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