



His Excellency Dr. Adolphe Onsumba  
Minister of Defense  
Kinshasa  
Democratic Republic of Congo

21 July 2006

Dear Dr. Onsumba,

Human Rights Watch is writing to request that the Ministry of Defense urgently undertake investigations into war crimes and other violations of international humanitarian law allegedly committed by soldiers of the Forces Armées de la République Démocratique du Congo (FARDC) in central Katanga from 2003 through 2006.

Information collected by Human Rights Watch researchers in central Katanga and by other human rights organizations indicates that soldiers of the 6<sup>th</sup> Military Region in Katanga may have been responsible for summary executions, murder, torture, arbitrary arrests, rape, and looting of civilians. Many of the victims were suspected of being Mai Mai combatants or were civilians who were believed to have supported the Mai Mai. We particularly urge you to investigate accusations against soldiers of the 62<sup>nd</sup>, 63<sup>rd</sup> and 67<sup>th</sup> brigades and their commanders, as detailed below.

FARDC soldiers were also charged with illegal taxation of citizens and illegal participation in commercial activities. Sources inside the FARDC and international diplomats told Human Rights Watch researchers that the involvement of FARDC soldiers in such activities is exacerbated by rampant corruption at senior levels of the army resulting in irregular salary payments, and minimal food rations, medical assistance and logistical support.

In the attached submission, we provide details of some of the crimes allegedly committed by FARDC soldiers. This information was gathered by Human Rights Watch researchers who interviewed more than 200 victims and witnesses in central Katanga in March and April 2006. Among the crimes documented are:

- Summary execution and deliberate killing of at least sixty persons at prisons, places of detention or during military operations including at Kyobo, Mitwaba, Kasungeshi and Nambia amongst other places;
- Widespread and systematic use of torture, cruel and inhumane treatment of detainees;
- Arbitrary arrests of civilians, including children, suspected of being Mai Mai combatants;
- Rape, including of women detained by soldiers;
- Widespread looting and extortion.

The above acts are serious violations of article 3 common to the four Geneva Conventions of 1949 or of customary international humanitarian law, and are considered war crimes. Individuals are criminally responsible for war crimes they commit, and commanders are criminally responsible for war crimes committed pursuant to their orders. Under the doctrine of command responsibility, commanding officers are responsible for war crimes committed by persons under their command or authority if they knew or should have known of the crimes and took no measures to prevent them or punish the perpetrators.

International humanitarian law obligates states to investigate and prosecute alleged war crimes committed on their territory. We hope the information presented below will assist you in your investigations and in bringing the perpetrators to justice. Failure to hold war criminals accountable will only enforce a culture of impunity and hinder progress towards reform of the army and building the rule of law in Congo.

We understand that Congo is currently in the process of holding national elections, but justice cannot await the installation of a new government. We urge you to begin investigations immediately, both to establish the principle of accountability and to assure that valuable evidence is not lost with the passage of time.

Yours sincerely,

A handwritten signature in black ink, reading "A. Van Woudenberg". The signature is written in a cursive style with a large, sweeping flourish at the end.

Anneke Van Woudenberg  
Senior Researcher, DRC

**CC:** Gén. Joseph Ponde Isambwa, Auditeur général à Kinshasa  
Col. Maj. Eddy Mzadi, Auditeur militaire à Lubumbashi



# War Crimes Allegedly Committed by FARDC troops in Katanga

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## Background

In November 2005 the Forces Armées de la République Démocratique du Congo (FARDC) launched a military operation in central Katanga to put down a Mai Mai insurgency. “Mai Mai” is a general term for groups of combatants who came together principally to protect their home regions against attack by foreign armed groups or government armed forces. The vast majority of FARDC soldiers active in the military operation previously served in the former Congolese Armed Forces (*Forces Armées Congolaise*, FAC) created by the late President Laurent-Désiré Kabila. During the 1998-2003 war, FAC soldiers fought alongside Mai Mai combatants, who had been armed by the Congolese government, to hold back rebel advances in central Katanga led by the Rally for Congolese Democracy-Goma (*Rassemblement Congolaise pour la Démocratie-Goma*, RCD-Goma), a Congolese rebel group backed by neighboring Rwanda. In 2002 Rwandan troops withdrew from Congo, leading to a peace agreement and the incorporation of the RCD-Goma into the Congolese transitional government in 2003. Following the end of hostilities in Katanga, the central government largely abandoned the FAC troops in Katanga, delivering salaries and logistical support only rarely. FAC troops began to loot and extort goods from local civilians, and with the erosion of

discipline they began also to rape women. Faced with abuses against their communities and the lack of an official response, the Mai Mai moved to opposing central government troops and administrative agents.

In response to the insurgency, government authorities attempted to resolve the crisis through a range of ineffective and contradictory efforts, including paying Mai Mai leaders to stop hostilities and integrating some into the government army, providing them with military ranks. These efforts failed, and in November 2005 the Congolese transitional government launched a mopping-up military operation or “ratissage,” involving three FARDC brigades placed in strategic points within a triangle-shaped area of central Katanga.<sup>1</sup> The soldiers taking part in the operation were mostly former FAC troops who had not yet participated in the “brassage” process, a procedure aimed at retraining all rebel and government forces and reorganizing them into a single national army. Thus the operation set former FAC troops against their erstwhile Mai Mai allies.

### ***Identifying the Mai Mai***

During operations in Katanga, FARDC soldiers lacked clear policies and procedures for identifying Mai Mai combatants. They failed to distinguish between those who actually took up arms and the many civilians who were forced to join the movement but who rarely, if ever, participated in combat.<sup>2</sup> They also considered civilians, including women and children, as Mai Mai simply because they lived in the forest with the Mai Mai.

When questioned on their criteria for identifying Mai Mai combatants, FARDC officials told Human Rights Watch researchers that Mai Mai were those who were dirty, had no shoes, wore “gri-gri” (spiritual emblems such as bracelets or necklaces), or had undergone Mai Mai initiation rituals by being sprinkled with “magic water” or *labo*.<sup>3</sup>

One person told Human Rights Watch researchers how soldiers screened local residents near Dubie village to find Mai Mai. He said:

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<sup>1</sup> FARDC troops included the 62<sup>nd</sup> brigade in Pweto/Dubie, the 63<sup>rd</sup> brigade in Mitwaba, and the 67<sup>th</sup> brigade in Manono. Human Rights Watch interviews with FARDC officers, Dubie/Mutabi, March 23; Mitwaba, March 30; Manono, April 9; and Lubumbashi, April 14, 2006.

<sup>2</sup> For further information see the separate Human Rights Watch legal submission to the Minister of Justice, “War Crimes Allegedly Committed by the Mai Mai in Katanga,” July 2006.

<sup>3</sup> Human Rights Watch interviews with FARDC soldiers in Mutabi/Dubie, March 23; Mitwaba, March 30; Mukubu, April 3; Kakenza, April 7; and Manono, April 9, 2006.

When we arrived at the bridge the soldiers asked people to identify who in the group was Mai Mai. But there were no combatants in our group. Then they said that all those who had taken the *labo* must put their hands up. Many of us had been forced to take the *labo* from the Mai Mai. The soldiers said if we didn't put up our hands we would be punished later. I put up my hand as did many others. We were taken aside and later put in prison. I have never carried a gun and now they say I am Mai Mai. Why?<sup>4</sup>

In the combat between Mai Mai and FARDC troops during the Katanga operation, both sides have deliberately killed and injured civilians and destroyed or pillaged their property.<sup>5</sup> The human rights abuses committed resulted in the displacement of over 150,000 people and countless deaths. The suffering and abuses were so widespread that local residents termed this region of central Katanga “the triangle of death.”<sup>6</sup>

### **Box 1 – The Military Operation<sup>7</sup>**

The military operation was planned in Kinshasa and Lubumbashi by senior army officers including Lt. Gen. Kisempia Sungilanga Lombe, chief of defense staff of the FARDC; Gen. Sylvain Buki, chief of staff of ground forces; Gen. Widi Divioka, former head of the 6<sup>th</sup> Military Region; and Gen. Jean-Claude Tshibumbu, who directed operations in the 6<sup>th</sup> Military Region, amongst others. The operation had three phases:

**Phase I**—Public Awareness and Persuasion: from August to October 2005 civilian and military personnel aimed to negotiate with and encourage Mai Mai leaders to lay down their weapons.

**Phase II**—Operation Mopping Up (“*ratissage*”<sup>8</sup>) inside the triangle of three strategic towns, Manono, Dubie and Mitwaba. This phase ran from November 2005 to April 7, 2006 and consisted of military action against Mai Mai. It was partially suspended in

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<sup>4</sup> Human Rights Watch interview, Mutabi/Dubie, March 21, 2006.

<sup>5</sup> Ibid., and Human Rights Watch, “War Crimes Allegedly Committed by the Mai Mai.”

<sup>6</sup> Human Rights Watch interviews, Lubumbashi, March 19 and Mutabi/Dubie, March 20-23, 2006.

<sup>7</sup> Human Rights Watch interviews with FARDC officers including Gen. Sylvain Buki, chief of staff of ground forces, Kinshasa, April 18; Gen. Jean Claude Tshibumbu, acting head of the 6<sup>th</sup> Military Region, and his staff including Maj. John Mukongo, Lt. Joseph Kaki, Lt.-Col. Poteade, and Capt. Prosper Muyumba, Lubumbashi, April 14; Maj. Beya Amuri Jean, 62<sup>nd</sup> Brigade, Mutabi/Dubie, March 23; Maj. Tony Esiko, 67<sup>th</sup> Brigade, Manono, April 9; and Maj. Andre Monga Ekembe, Mitwaba, March 30, 2006.

<sup>8</sup> The operation is also sometimes referred to as “*nettoyage*” or cleaning-up.

April 2006 to permit United Nations (U.N.) officials and government authorities to negotiate with Mai Mai leader Gédéon Kyungu Mutanga (commonly known as Gédéon).

**Phase III**—Mopping Up of Upemba National Park, southwest of the triangle targeted in phase II and where Mai Mai combatants fled to escape the military operations. This phase started in December 2005 and continued at the time of writing.

## **Summary executions, murder and torture**

FARDC soldiers summarily executed or deliberately killed at least sixty suspected Mai Mai combatants and civilians at places of detention or during military operations in central Katanga from May 2005 to March 2006, including at Kyobo, Mitwaba, Kasungeshi, Muluvia, Nambia and Kishali. Some were killed by torture.

### ***Kyobo detention centre***

In late January and early February 2006, FARDC soldiers detained some twenty-five persons and summarily executed at least six of them in Kyobo village, southwest of Mitwaba. The arrests followed military action in response to earlier Mai Mai attacks in the area. Once in control of Kyobo, FARDC soldiers detained men, women and at least six children, one of whom was just six months old.<sup>9</sup> The children and possibly also some of the adults were detained arbitrarily. One person detained said, “The soldiers thought I was Mai Mai just because I had been living in the fields.”<sup>10</sup> In another case, a twenty-five-year-old woman and her young child were arrested because soldiers suspected her husband of being Mai Mai.<sup>11</sup>

Those detained were held in a house not far from the centre of Kyobo where they were tied up with rubber cords and tortured daily. The adult men and women were beaten with iron rods and burned with iron rods that had been heated. According to several direct eyewitnesses, FARDC Captain Héretien of the 63<sup>rd</sup> brigade supervised this center.<sup>12</sup>

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<sup>9</sup> Human Rights Watch interviews, Mitwaba, March 27, 28 and 30, 2006.

<sup>10</sup> Human Rights Watch interview, Mitwaba, March 27, 2006.

<sup>11</sup> Human Rights Watch interview, Mitwaba, March 30, 2006.

<sup>12</sup> Human Rights Watch interviews, Mitwaba, March 27, 28 and 30, 2006.



Several days after the detainees were brought to the center, Captain Héretien ordered several of them killed, including Kilemena, Mulunda, Firme Katola and Patya.<sup>13</sup> FARDC soldiers under his command then carried out the executions. One of the detainees said:

I was there when they killed some of the others. The captain gave the order and then [the soldiers] stabbed the men with the points of their guns. They killed them in front of us. They said the men were Mai Mai, but I knew them and I know they were not.<sup>14</sup>

Those killed at the Kyobo house were buried in shallow graves not far from it. At least two other detainees, including one called Kazadi Angele, were taken from the house and summarily executed near the bridge over the Lufira river, at the end of the village. Witnesses described how the FARDC soldiers killed the men by beating them with their guns, placed the bodies in bags, and threw them off the bridge into the river below.<sup>15</sup>

In mid-March 2006, after a number of weeks in detention in Kyobo, nineteen detainees were transferred to Kasungeshi and then to the military prison at the Mitwaba garrison. Here the women detainees were released after the intervention of the International Committee of the Red Cross (ICRC). Another two detainees required urgent medical treatment for wounds received during their detention in Kyobo.<sup>16</sup> At the end of March, the remaining detainees in Mitwaba had not been charged with any crime.

Those interviewed by Human Rights Watch researchers accused Captain Héretien of ordering and participating in torture as well as of ordering the killing of detainees.<sup>17</sup> A witness who visited the Kyobo detention centre in March 2006 says that he was greeted by Captain Héretien holding a two-foot-long iron rod in his hand.<sup>18</sup> The captain is alleged to have sent information obtained from detainees under torture to his superiors. A family member of one of the detainees who was killed told a Human Rights Watch researcher that Captain Héretien boasted to her about having killed Kazadi Angele.<sup>19</sup>

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<sup>13</sup> Human Rights Watch interviews, Mitwaba, March 27-30, 2006.

<sup>14</sup> Human Rights Watch interview, Mitwaba, March 27, 2006.

<sup>15</sup> *Ibid.*, and Human Rights Watch interview, Kasungeshi, March 29, 2006.

<sup>16</sup> Human Rights Watch interviews, Mitwaba, March 28, 2006. Human Rights Watch researchers visited the two detainees at the health centre in Mitwaba.

<sup>17</sup> Human Rights Watch interviews, Mitwaba, March 27-30, 2006.

<sup>18</sup> Human Rights Watch interview, Mitwaba, March 29, 2006.

<sup>19</sup> Human Rights Watch interview, Mitwaba, March 30, 2006.

At the time of these crimes, Captain Héretien reported to Capt. Vincent Madjuto Bakari, also known as “Sac Vide,” who was based in Kasungeshi not far from Kyobo.<sup>20</sup> In an interview with Human Rights Watch researchers, Captain Bakari said he had visited the detention centre in Kyobo. He insisted that detainees had been well treated and had spent no more than four days in detention before they were transferred to Mitwaba, on his orders.<sup>21</sup> Maj. Andre Monga Ekembe, based at Mitwaba, then commanded the 63<sup>rd</sup> brigade. In an interview with Human Rights Watch researchers, Major Ekembe denied the existence of any place of detention in Kyobo, although he must have known that detainees had recently arrived at the military garrison in Mitwaba from Kyobo and that two of them had required urgent medical attention. He insisted that the detainees from Kyobo had “caused atrocities,” though he was unable to provide further information to Human Rights Watch researchers about this allegation.<sup>22</sup>

### ***Kasungeshi prison***

FARDC soldiers also detained suspected Mai Mai combatants, including women and children, at the prison in Kasungeshi and beat and killed some of those detained. Local sources reported to Human Rights Watch researchers that at least seven persons had been killed while in detention between May 2005 and March 2006.<sup>23</sup> One witness said,

Three brothers were killed at the prison at the beginning of March 2006. They were buried at the cemetery. [The soldiers] buried them quickly and in shallow graves and many people saw the bodies a few days later.<sup>24</sup>

The Kasungeshi prison is a civilian jail used by FARDC soldiers to hold persons whom they have detained. After receiving permission from Captain Bakari, Human Rights Watch researchers visited the prison on March 29, 2006, but found it surprisingly empty. According to local sources and witnesses, six women, five children and four men had been removed from the prison only hours before the Human Rights Watch visit and transferred to the house of the FARDC military intelligence officer; Captain Bakari reportedly ordered the transfer.<sup>25</sup> A number of the detainees were from Kyobo and others were from Kialwe, another village where FARDC soldiers were reported to have

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<sup>20</sup> Ibid.

<sup>21</sup> Human Rights Watch interview with Capt. Vincent Madjuto Bakari, Kasungeshi, March 29, 2006.

<sup>22</sup> Human Rights Watch interview with Maj. Andre Monga Ekembe, Mitwaba, March 30, 2006.

<sup>23</sup> Human Rights Watch interviews, Kasungeshi and Mitwaba, March 29-30, 2006.

<sup>24</sup> Human Rights Watch interview, Kasungeshi, March 29, 2006.

<sup>25</sup> Ibid.

tortured and killed detainees.<sup>26</sup> One of the detainees removed from the prison was said to have witnessed the killing of three men mentioned above. Captain Bakari was unavailable to talk with Human Rights Watch researchers after the visit to the largely empty prison.

### ***Mitwaba prison***

FARDC soldiers of the 63<sup>rd</sup> brigade are accused of having summarily executed or tortured to death at least twenty detainees in Mitwaba prison between March and May 2005. Following an influx of newly displaced people into Mitwaba, FARDC soldiers with the help of a former Mai Mai commander, Kasereka, rounded up an estimated one hundred persons, including women and children, whom they suspected of being Mai Mai. Dozens of people came forward voluntarily after the soldiers promised that Mai Mai would be integrated into the government army; others were identified as Mai Mai—at least some of them falsely—by Kasereka.<sup>27</sup> They were then detained in Mitwaba prison, a civilian jail taken over by the FARDC for military purposes.

In the prison, men were held in three crowded cells and subjected to daily torture and cruel and inhumane treatment, including being refused food and water. The women were kept in a separate cell where they were raped (see below).

Some detainees were tortured to death in the prison, while others were summarily executed elsewhere.<sup>28</sup> One witness who had been held in a crowded cell with thirty-two others described what had seen in April 2005:

A man called Bene Masungu was beaten in front of us. He was accused of having killed government soldiers. When he was brought to the cell he had already been beaten and [the soldiers] continued. They tied him up, kicked him with their boots in the face, banged his head against the wall and hit him with sticks. He was barely alive. Then they took him away in a vehicle somewhere. The soldiers later told us he was dead.<sup>29</sup>

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<sup>26</sup> Human Rights Watch interviews, Kasungeshi and Mitwaba, March 29-30, 2006.

<sup>27</sup> Human Rights Watch interviews, Mitwaba, March 26-27, 2006.

<sup>28</sup> Human Rights Watch interviews, Mitwaba, March 26, 27 and 29, 2006. See also MONUC, "Final Report of special investigation mission into human rights violations and abuses committed in the Territory of Mitwaba, Katanga Province," February 13-19, 2006.

<sup>29</sup> Human Rights Watch interview, Mitwaba, March 27, 2006.

Another detainee said,

In the prison the military police would hit us three times every day—150 strokes in the morning, fifty strokes in the afternoon and another twenty-five strokes in the evening. They forced us to lie naked on the ground and then they would hit us one by one. They said they wanted to kill us as we were Mai Mai. We were given no food or water and by the tenth day people started to die. I had to help the soldiers carry the bodies out of the cells. I carried at least nine bodies.... There were more deaths after I left.<sup>30</sup>

Those who died in Mitwaba prison included Tangwe Mubinga, Bangwe Masengo Sokombi, Katubiya, Beret, Felicien Pushi-Nkonga, Mwilambwe Delanda, Stephan, and Kalemba Wa Bantu.<sup>31</sup>

Former detainees told Human Rights Watch researchers that military police identifiable by the insignia of “PM” (Police Militaire) on the sleeves of their uniforms, carried out the frequent beatings and killings in the prison.<sup>32</sup> Two victims identified four military police, Madimba, Kyungu, Patient and Papy, as having been the most brutal.<sup>33</sup>

Local administrators and other sources told Human Rights Watch researchers that a number of bodies were buried in a mass grave behind the prison. In 2005 FARDC officials blocked attempts by representatives of international organizations to investigate the alleged graves by claiming the area was mined.<sup>34</sup> In February 2006 human rights investigators of the United Nations peacekeeping force in Congo, MONUC, had brief access to the site and confirmed that the ground behind the prison “looked significantly different from other areas” and showed signs of “having been excavated.”<sup>35</sup>

Local sources also reported to Human Rights Watch researchers that an unknown number of detainees from the prison were allegedly executed and their bodies disposed

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<sup>30</sup> Human Rights Watch interview, Mitwaba, March 26, 2006.

<sup>31</sup> Human Rights Watch interviews with former detainees, Mitwaba, March 26-27; and with local sources, March 30, 2006.

<sup>32</sup> Human Rights Watch interviews, Mitwaba, March 26-27, 2006.

<sup>33</sup> Human Rights Watch interviews, Mitwaba, March 27, 2006.

<sup>34</sup> Human Rights Watch interviews, Mitwaba, March 25; and Lubumbashi, April 1, 2006.

<sup>35</sup> *Ibid.*, and MONUC, “Final Report of special investigation mission into human rights violations and abuses committed in the Territory of Mitwaba, Katanga Province.”

of near the village of Milongwe, just to the south of Mitwaba. They claimed that during April and May 2005, local residents discovered a number of bodies in a ditch, tied up and blindfolded. They believed these persons had been detained at Mitwaba prison.<sup>36</sup>

The head of the 63<sup>rd</sup> brigade in Mitwaba at the time, Maj. Andre Monga Ekembe, visited the prison during the time detainees were killed and subjected to torture and rape. One witness said, "I saw the major at the door of the prison."<sup>37</sup> Another detainee held at Mitwaba prison near the end of March 2005 claims to have seen Major Ekembe at the prison four times. He said, "On one visit Major Ekembe said we were lucky to be alive as we should have all died at the prison. I think they wanted to kill us all."<sup>38</sup> Other witnesses said they had seen other senior officers visiting the prison.<sup>39</sup>

In an interview with Human Rights Watch researchers Major Ekembe acknowledged that five detainees had died at Mitwaba prison, but claimed that his soldiers were not responsible. He said that an "invisible force," or spirit, had beaten the detainees and caused their deaths. Ekembe added that he had sent a report describing the incident to his superiors at the 6<sup>th</sup> Military Region in Lubumbashi, though he could not share it with Human Rights Watch as it was "a military secret."<sup>40</sup>

General Tshibumbu, the head of the 6<sup>th</sup> Military Region and his staff, when interviewed by Human Rights Watch researchers in Lubumbashi, said that they had not seen any such report from Major Ekembe. They claimed that they were unaware of the deaths and torture at Mitwaba prison, a claim that lacks credibility given that numerous international and local organizations, including MONUC staff, had raised concerns with the FARDC about events at Mitwaba prison by this time.

In April 2006 Major Ekembe was recalled to Lubumbashi after he obstructed efforts by MONUC and the provincial government to disarm the Mai Mai. He was later placed under house arrest, though no charges had been brought against him at the time of writing.

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<sup>36</sup> Human Rights Watch interviews, Mitwaba, March 27 and 29, 2006.

<sup>37</sup> Human Rights Watch interview, Mitwaba, March 26, 2006.

<sup>38</sup> Human Rights Watch interview, Mitwaba, March 27, 2006.

<sup>39</sup> Ibid.

<sup>40</sup> Human Rights Watch interview with Maj. Andre Monga Ekembe, Mitwaba, March 30, 2006.

### ***Nambia village***

In mid-2005, FARDC soldiers deliberately killed eight men in and around Nambia village. The residents of Nambia had fled to the forest following an earlier Mai Mai attack. FARDC soldiers who entered the village and found it largely empty came across an elderly woman who was there foraging for food and forced her to show them where residents were staying in the forest. A witness said,

When the soldiers found us they started to shoot straight away. They gave us no warning and just opened fire. They killed three men immediately. We were not even armed.<sup>41</sup>

FARDC soldiers then separated the men from the women and children and took four of them to Nambia village. According to relatives who later buried the bodies, the men's corpses indicated that they were beaten to death. Those killed in the attack on Nambia were Mwape, Ginance, Academie, Crispin, Jean also known as JP, Veve and Kibalakoko.<sup>42</sup> FARDC soldiers killed another man when he tried to keep a soldier from raping one of his female relatives.<sup>43</sup>

### ***Muluvia and Kishali villages***

Human Rights Watch researchers also documented deliberate killings of civilians by FARDC soldiers at Muluvia and Kishali, villages to the north of Dubie. In Muluvia, local sources reported that among the dozen or so killed in January and February 2006 were a man called Njongo, his wife and his grandchildren.<sup>44</sup> Soldiers claimed those killed were Mai Mai since they had not come out of the forest when the army arrived. A witness detained by the FARDC told Human Rights Watch researchers what he saw:

We were ordered to go and carry looted items for the soldiers from the people they had killed. I saw three bodies. They were already rotten. I ran. In the nearby fields others had also been killed but I didn't count them.<sup>45</sup>

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<sup>41</sup> Human Rights Watch interview, Mukubu, April 7, 2006.

<sup>42</sup> Human Rights Watch interviews, Mukubu, April 6-7, 2006.

<sup>43</sup> Human Rights Watch interview, Mukubu, April 6, 2006. We do not cite the name of the man in order to protect the identity of the rape victim.

<sup>44</sup> Human Rights Watch interviews, Mutabi/Dubie, March 23, 2006.

<sup>45</sup> Ibid.

Detainees being taken by FARDC soldiers to the military prison in Dubie passed through the village of Muluvia where local residents told them of some fifteen people who had had their throats slit by FARDC soldiers at the neighboring village of Kishali.<sup>46</sup>

## Rape

According to many local witnesses, FARDC soldiers carried out widespread rape of women and girls in various places in central Katanga including in and around Mitwaba, Dubie/Mutabi, Mukubu, and Manono.

Women detainees in Mitwaba prison were subjected to torture and were repeatedly gang raped by soldiers. One twenty-six-year-old woman said,

The soldiers put me in prison for two weeks and hit me every day and raped me. Every time there was a change of guards, I was raped again. Often it was three or four soldiers one after the other. They also beat me with bamboo sticks on my back and my buttocks. Sometimes the beatings would last for more than an hour. I was kept in a cell with six other women and they were raped and beaten as well.<sup>47</sup>

Human Rights Watch researchers documented more than forty cases of rape since 2003 by FARDC soldiers and dozens of other cases by FAC soldiers dating from between 2001 and 2003.<sup>48</sup> In the month of February 2006 alone, thirteen cases of rape were reported to a local health centre in one small town in central Katanga.<sup>49</sup>

Women who were raped were frequently accused of being Mai Mai by their military assailants. One victim said,

Three soldiers found me in the forest and said I was Mai Mai. They tore off my clothes and put me face down on the ground. One of them hit me with his gun and spread my legs. Then he raped me while the others

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<sup>46</sup> Ibid.

<sup>47</sup> Human Rights Watch interview, Mitwaba, March 27, 2006.

<sup>48</sup> Human Rights Watch interviews, central Katanga, March-April 2006.

<sup>49</sup> Human Rights Watch interview with health center officials, April 2006. Staff of the center asked that the name of the village not be cited to avoid any possibility that the victims be identified and stigmatized for having been raped.

watched. [A male relative] tried to stop it but they killed him. They made me pay them before they would release me. I still feel pain from the rape and am unable to have sex with my husband.<sup>50</sup>

In another incident, in February 2006, FARDC soldiers gang raped a fifty-year-old woman and her thirty-year-old daughter outside the village of Tambo. The mother told a Human Rights Watch researcher, “They said I was a Mai Mai. They shot into the air and hit me and then they raped us.”<sup>51</sup> The soldiers shot and killed her handicapped son and her seventy-year-old husband as they tried to flee.

Women who dared to report rape or other sexual violence against them received little or no assistance from the army, and justice was rarely pursued. In one case in Dubie in early 2006 a young woman collecting food was raped by a soldier as she made her way to a displacement camp. The case was reported to the camp committee who took the matter to the local FARDC commander. He claimed that the soldier would be fined and two months of his salary given to the victim as compensation, but the alleged rapist was not arrested and no judicial investigation was carried out. The soldier soon fled the area and no further action was taken.<sup>52</sup>

In June 2005 a victim of rape by a FARDC soldier in Mukubu reported it to military authorities. She told a Human Rights Watch researcher that when she explained the case but was unable to identify the perpetrator, the FARDC commander tried to hit her.<sup>53</sup>

### **Arbitrary arrests and lack of due process**

Between May 2005 and March 2006 FARDC soldiers arbitrarily detained or arrested hundreds of civilians accused of being Mai Mai. Once detained, the suspected Mai Mai have been treated many different ways, revealing the lack of any consistent official policy on how to deal with them. One group of forty-two persons, including two minors, was transferred from Dubie to Lubumbashi in mid-December 2005 and charged under military law with participation in an insurrectional movement<sup>54</sup> (the two minors were later released after MONUC human rights officials intervened). Many others are held

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<sup>50</sup> Human Rights Watch interview, Mukubu, April 6, 2006.

<sup>51</sup> Ibid.

<sup>52</sup> Human Rights Watch interview, Mutabi/Dubie, March 22, 2006.

<sup>53</sup> Human Rights Watch interview, Mukubu, April 6, 2006.

<sup>54</sup> Human Rights Watch interview with Col. Maj. Eddy Mzadi, auditeur militaire de Katanga, Lubumbashi, April 1, 2006. Human Rights Watch also verified prison records at Kasapa Prison, Lubumbashi, April 2, 2006.



without charge, in violation of Congolese and international human rights law. Senior FARDC officers at the 6<sup>th</sup> Military Region in Lubumbashi told Human Rights Watch researchers, “It is for their own protection that we keep them in prison. We are protecting them.”<sup>55</sup>

### **Box 2 – What to do with the Mai Mai?**

Government and military authorities have had no consistent policy on what to do with former Mai Mai combatants, and those accused of being Mai Mai and now detained in prisons or other places of detention. Among the current practices are the following:

- Sending them to participate in the national demobilization program funded by international donors.
- Sending them to a government demobilization scheme run by Pasteur Malunda that provides bicycles in exchange for weapons. Pasteur Malunda’s program has been criticized by U.N. officials as working against the nationally approved program.<sup>56</sup>
- Awarding them regular military status and grouping them into a new military brigade within the FARDC,<sup>57</sup> though they have received no military training or gone through the new army integration process.<sup>58</sup>
- Returning them to civilian life with ad hoc demobilization letters signed by FARDC officers.<sup>59</sup>
- Leaving them in places of detention, in a state of uncertainty about their fate.

## **Looting and extortion**

Many of the 200 victims and witnesses interviewed by Human Rights Watch researchers complained of widespread looting by FARDC soldiers, including of household items,

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<sup>55</sup> Human Rights Watch interview with Gen. Jean Claude Tshibumbu, acting head of the 6<sup>th</sup> Military Region, and his staff including Maj. John Mukongo, Lt. Joseph Kaki, Lt.-Col. Poteade, and Capt. Prosper Muyumba, Lubumbashi, April 14, 2006.

<sup>56</sup> Human Rights Watch interview with PAREC coordinator, Manono, April 11; Human Rights Watch interviews with U.N. representatives, Lubumbashi, March 19 and 30, 2006.

<sup>57</sup> The 32<sup>nd</sup> brigade, which numbers around 200 combatants.

<sup>58</sup> Human Rights Watch interviews with Maj. Tony Esiko, 67<sup>th</sup> Brigade, Manono, and with representatives of the 32<sup>nd</sup> Brigade, Manono, April 9, 2006.

<sup>59</sup> Ibid., and Human Rights Watch interview with demobilized Mai Mai combatants, Manono, April 9, 2006.

bicycles, poultry, and livestock. Soldiers looted from areas they are supposed to be protecting—towns, villages and displacement camps throughout central Katanga. One victim in a displacement camp in Dubie said, “The soldiers grab our property. They steal tents, cooking pots, buckets and blankets.... Some people are grabbed on the way to the fields, and the soldiers steal the food from them.”<sup>60</sup>

FARDC soldiers also extorted food and other goods and services from local residents, sometimes under the guise of taxation of commerce. In Mukanga, soldiers require fishermen and market traders to provide a percentage of their earnings in cash or goods.<sup>61</sup> In Mukubu, soldiers oblige each household to give two cups of cassava flour or corn each week; those who refuse are threatened or arrested.<sup>62</sup> One man in Mumbakalia told a Human Rights Watch researcher that soldiers beat him in March 2006 for refusing their demands:

[The soldiers] asked me for money. If you don't have any, they said, we will conclude that you are a Mai-Mai... I had no money, so they started to beat me. They beat my fist and deformed my hand. They beat me on the back with a wooden stick. My family then came with 2000 francs to release me.<sup>63</sup>

In many rural areas traders have stopped bringing their goods to market for fear of extortion by soldiers at roadblocks, and this has resulted in food shortages and high prices in many areas.

Illegal taxation by FARDC soldiers was particularly high in the town of Manono, the site of an old cassiterite mine exploited by artisanal miners. At the Manono airport traders shipping cassiterite pay FARDC soldiers an average of U.S.\$400 per plane for landing, security, freight and other fees.<sup>64</sup>

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<sup>60</sup> Human Rights Watch interview, Mutabi, March 21, 2006.

<sup>61</sup> Human Rights Watch interview, Mukanga, April 5, 2006.

<sup>62</sup> Human Rights Watch interview, Mukubu, April 6, 2006.

<sup>63</sup> Ibid.

<sup>64</sup> Human Rights Watch interview with commercial trader, Manono, April 11, 2006.

## Corruption inside the FARDC

Soldiers are paid poorly and irregularly and receive little in the way of food rations or medical and logistical assistance. These conditions certainly contribute to the regularity with which soldiers loot and extort civilian property. As of April 2006 the FARDC brigade in Manono received only \$2 per soldier per month for food and no funds for medical care.<sup>65</sup> The brigade also had minimal funds to pay for transportation costs, making it harder for senior commanders to oversee or discipline their troops.

FARDC officials at the 6<sup>th</sup> Military Region in Lubumbashi were unwilling to tell Human Rights Watch researchers how much money was set aside for the military operation in central Katanga, but provincial Governor Kisulu Ngoy claimed \$250,000 had been earmarked for this purpose. He told Human Rights Watch researchers that the money had not arrived and that it had been “stolen.”<sup>66</sup>

The level of corruption inside the FARDC has been well documented. One official working on a project for the European Union to help restructure the army told a Human Rights Watch researcher that senior officers steal at least \$3 million every month from money set aside for soldiers’ salaries. He said that reports documenting this level of corruption had been provided to international donors working on security sector reform, and to other diplomats.<sup>67</sup> Representatives of international donors told Human Rights Watch researchers that they had been raising this issue with the government on a private level and hoped to insist further on it after the 2006 elections.

## Military justice

Each brigade in the Congolese army is required to have a judicial inspector. Inspectors are supervised by an Auditeur Militaire charged with ensuring adherence to military laws within his region of responsibility. Human Rights Watch researchers were unable to meet any of the judicial officers assigned to the 62<sup>nd</sup>, 63<sup>rd</sup> or 67<sup>th</sup> brigades and were told that they were sick, on mission or simply not available.<sup>68</sup> The judicial inspector assigned

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<sup>65</sup> Human Rights Watch interview with FARDC soldier, Manono, April 9, 2006.

<sup>66</sup> Human Rights Watch interview with Governor Kisulu Ngoy, Lubumbashi, April 13, 2006.

<sup>67</sup> Human Rights Watch interviews with an E.U. official, April 19; MONUC officials, April 20; and international diplomats, Kinshasa, April 19-20, 2006. See also E.U. confidential document, “Note: Point de situation du projet chaine de paiement,” Kinshasa, April 7, 2006. Copy on file with Human Rights Watch.

<sup>68</sup> Human Rights Watch interviews, Mutabi/Dubie, March 23; Mitwaba, March 30; and Manono, April 10, 2006.

to the 63<sup>rd</sup> brigade in Mitwaba had returned to Lubumbashi after encountering difficulties with senior commanders.<sup>69</sup>

The Auditeur Militaire assigned to the 6<sup>th</sup> Military Region based in Lubumbashi told Human Rights Watch researchers that he lacked the resources to do his job properly. He said, “I cannot follow what is happening hundreds of kilometers from here. I don’t have logistical support. To go anywhere I need the support of MONUC.”<sup>70</sup> The Auditeur Militaire also admitted that he faced frequent attempts by senior military or political figures to interfere in judicial matters.

Human rights abuses committed by FARDC troops are not unique to Katanga. In January 2006 Special Representative of the U.N. Secretary-General Ambassador William Swing, presented a hundred-page dossier to President Joseph Kabila describing abuses by Congolese army soldiers, to which he continues to provide monthly updates. A few landmark judgments by military courts in March and April 2006 convicting soldiers for crimes against humanity and war crimes in Equateur province show a new level of commitment to justice by military prosecutors and judges. Congolese leaders must insist that others in the military justice system perform as well.

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<sup>69</sup> Human Rights Watch interview with Col. Maj. Eddy Mzadi, auditeur militaire, Lubumbashi, April 1, 2006.

<sup>70</sup> Ibid.