

DEMOCRATIC REPUBLIC OF CONGO

Deadly conspiracies?

Introduction

At least 100 people from the Kivu region of eastern Democratic Republic of Congo (DRC) are currently languishing without charge in detention centres in the capital Kinshasa and in the southeastern province of Katanga, suspected of plotting to overthrow the government of the DRC. The majority have been held incommunicado since late October and November 2000. Several dozen have "disappeared" from their initial place of detention, amid persistent reports that they may have been extrajudicially executed. Many have reportedly been tortured. Amnesty International is concerned both at the continuing incommunicado detention of these people, in violation of the DRC's obligations under accepted international standards, and the dangers of further violations of their basic human rights, including torture, "disappearance", extrajudicial execution and capital punishment.

The brutal crackdown began in late October 2000 after the government claimed to have uncovered a plot to mount a *coup d'état*, allegedly initiated by government opponents from the eastern provinces of North-Kivu and South-Kivu. The two provinces have been occupied since late 1998 by Congolese armed opposition groups and forces from Burundi, Rwanda and Uganda. During late 2000 and early 2001 anyone from the Kivu region, or with links to the region, appears to have been at risk of arrest and incommunicado detention without any judicial authorization or supervision. Many went into hiding or fled the country in order to avoid arrest. It is widely believed, although not reliably confirmed, that the suspected ringleaders of the alleged coup plot have been executed.

In the afternoon of 16 January 2001 President Laurent-Désiré Kabila was shot at one of his official residences in Kinshasa, reportedly by one of his own personal bodyguards. He later died of his wounds. President Kabila's son, Joseph Kabila, was sworn in as the new head of state on 26 January. According to some reports, the bodyguard who allegedly shot President Kabila was himself from the Kivu region.

Immediately after the assassination other members of the presidential guard from the Kivu region were arrested. Their fate remains unknown. In the following days several more people from the Kivu region were detained, some of whom were employed at the presidency. Amnesty International is concerned that all those detained in connection with the alleged coup plot, as well as those arrested since the president's assassination, are at serious risk of torture, "disappearance" and possible extrajudicial execution.

As well as facing the prospect of extrajudicial execution, it is possible that many of the detainees may be unfairly tried and sentenced to death by military courts. Such courts passed at least 25 death sentences during 2000, against which there was no right of appeal. At least 35 executions are known to have been carried out in and around Kinshasa during the year, some just hours after the trial.

Rumours of a coup plot

The figure reported to have been at the centre of the alleged coup plot was **Anselme Masasu Nindaga**. He had been one of the four leading figures of the *Alliance des forces démocratiques pour la libération du Congo* (AFDL), Alliance of Democratic Forces for the Liberation of Congo, the coalition of armed groups which, together with a number of foreign forces, brought Laurent-Désiré Kabila to power in May 1997. He played a key role in recruiting and training many combatants, including the so-called *kadogos*¹, or child soldiers, from the Kivu region who, together with former members of the Zairean army (ex-FAZ²) and former *gendarmes katangais* loyal to Laurent-Désiré Kabila, formed the core of the AFDL.

Soon after President Kabila took power, combatants recruited by Anselme Masasu Nindaga began to be increasingly sidelined. As urged by the international community, including Amnesty International, many of the *kadogos* were taken out of the *Forces armées congolaises* (FAC), Congolese Armed Forces, the DRC's new

¹*kadogo* in Kiswahili means small and has come to refer to child soldiers in several countries of eastern Africa. In the context of this report, *kadogo* is used to refer specifically to child soldiers recruited in eastern DRC to fight as part of the AFDL. Some of these *kadogos* may now be over the age of 18.

²*Forces armées zairoises*, the Zairean armed forces of former President Mobutu Sese Seko.

government army. However, they were replaced by new recruits from the Katanga region, the birthplace of President Kabila, many of whom were themselves child soldiers between the ages of 14 and 16. Anselme Masasu Nindaga became a *conseiller de sécurité*, security advisor, a post which afforded him no formal authority within the army structure.

In November 1997 he was arrested and in May 1998 sentenced to 20 years' imprisonment by a military court, which found him guilty of endangering state security, treason and forming a private militia. He was released from Buluo prison in the province of Katanga in March 2000, following a presidential amnesty for political prisoners, and subsequently returned to Kinshasa. During 1998 many *kadogos* and other combatants from the Kivu region were also sent away from the capital to other provinces, including to Bas-Congo, Bandundu, Kasai and Equateur, seemingly to dissipate a potential source of opposition to the government. Many subsequently made their way back to Kinshasa. During 1999 increasing numbers of these combatants who had remained in the FAC were sent to the frontline where, according to some reports, some may have been extrajudicially executed by fellow soldiers. Others were discharged from the army.

By 2000 it seems that many of the combatants loyal to Anselme Masasu Nindaga had become increasingly disillusioned with the government, both for having marginalised them but also for having failed to drive the armed opposition -- the *Rassemblement congolais pour la démocratie* (RCD), Congolese Rally for Democracy, and their Rwandese and Ugandan allies -- out of eastern DRC. While it remains unclear if these combatants would have been genuinely prepared to participate in a *coup d'état*, real signs of tension were becoming apparent as early as August 2000, when several soldiers were reportedly killed during a shoot-out at Tshatshi army barracks in Kinshasa. The shooting apparently broke out after a FAC unit was sent to the barracks to quell a revolt by a group of combatants, including some *kadogos*, who were refusing to be deployed to the frontline because they had not been paid.

In October a number of meetings were reportedly held in Kinshasa, including at the *Hôtel Intercontinental*, as well as in Maluku, a town around 100km northeast of the capital, allegedly in order to plan a coup. The arrests of those suspected of involvement began shortly after these meetings.

The crackdown begins

In the last week of October 2000 the authorities began to arrest dozens of people in connection with the alleged coup plot. They included members of the security forces as well as civilians. Almost all of those detained were from the eastern provinces of North-Kivu and South-Kivu. A small number were from the neighbouring province of Maniema. The arrests took place in Kinshasa and in Maluku and were carried out by several different security services, including the *Force d'intervention spéciale pour la défense de la capitale* (FIS), Special Intervention Force for the Defence of the Capital, a unit led by Brigadier General Jean Yav Naweji. In reported overall charge of the arrests was Colonel Eddy Kapend, the personal chief of staff to President Laurent-Désiré Kabila. The two army officers were themselves reportedly arrested in late February 2001 on alleged suspicion of involvement in the assassination of President Laurent-Désiré Kabila.

The Kivu detainees continue to be held in a number of different detention centres in Kinshasa, including at Kokolo military barracks, at detention centres run by the security service known as the *Détection militaire des activités anti-patrie* (DEMIAP), the Military Detection of Unpatriotic Activities, at the *Groupe Litho Moboti* (GLM) building run by the presidential guard, and at Kinshasa's main prison, the *Centre pénitentiaire et de rééducation de Kinshasa* (CPRK), Kinshasa Penitentiary and Reeducation Centre. Some are also held in unknown locations in the southeastern province of Katanga.

All of those detained are being held incommunicado and without charge. This is in violation of the detainees' basic rights, as provided for in several international treaties to which the DRC is party, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. The DRC's obligations under these treaties include ensuring freedom from arbitrary arrest, detention or imprisonment, the right to be brought promptly before a judge, the right to have prompt and regular access to lawyers, family visits and independent medical supervision and the right to a fair and public hearing. In addition, incommunicado detention can cause great psychological stress and thus amount to ill-treatment prohibited by the treaties mentioned above, as well as by the UN Convention against Torture, to which the DRC is also party.

The detainees are thought to number at least 100, although the true number may be significantly higher. The government has at no point acknowledged that large numbers of detainees from the Kivu region are being held and indeed appears determined to suppress

all information concerning these detainees. Some Congolese human rights activists who have spoken out about these arrests have themselves been targeted by the authorities and forced into hiding. In these circumstances, it has proved difficult to obtain comprehensive information and the details which follow are therefore illustrative rather than exhaustive.

Anselme Masasu Nindaga was among the first to be arrested at his home in Kinshasa in late October. He was transferred to an unknown destination in the province of Katanga on or around 24 November. Also thought to be held with him are several military commanders, including **Colonel Madoadoa**, **Colonel Kasongo** and **General Sebalende**.

Commander Vincent Madjaga, a naval commander from South-Kivu, was arrested by FIS soldiers at his home in the early hours of the morning on or around 26 October. He was reportedly whipped during his arrest and was wounded in the calf and the foot with a bayonette. He was held incommunicado in a basement cell in the GLM building until mid-November, when he was reportedly transferred to an unknown destination in Katanga province. **Dona Kisimba**, a member of the military, who was apparently with Vincent Madjaga at the time of his arrest, managed to escape but was later arrested. His wife and his older brother John Mudebu were reportedly taken into custody at the GLM for a week, before being released. They were not ill-treated.

Many members of the security services have also been detained. They include **Zebede Basubi** of DEMIAP and **Guillaume Rugumbira Lwagunja** and **Odon Mweze**, both from the security service known as the *Agence nationale de renseignements* (ANR), National Intelligence Agency, who were all arrested on or around 15 November. **Antoine Ngalamulume Mukwege**, a civilian working for the ANR, was arrested on 14 November. All four are from South-Kivu. Guillaume Rugumbira Lwagunja and Antoine Ngalamulume Mukwege were reportedly transferred to an unknown destination in Katanga province in mid-November.

Jeanine Mukanirwa, a human rights activist from Bukavu in South-Kivu was first arrested in Kinshasa on 12 December and held incommunicado at a DEMIAP detention centre. She is understood to have been arrested because she was suspected of helping a relative from Kivu to flee the DRC. She is a member of a Goma-based women's rights group, the *Programme d'Assistance aux Initiatives Femmes* (PAIF), Promotion and Support for Women's Initiatives. She was temporarily released on 15 January but was

required to report to DEMIAP on a daily basis. She was rearrested by DEMIAP on 26 January 2001.

A number of members of the presidential bodyguard from the Kivu region were also arrested in Kinshasa following the assassination of President Kabila. They reportedly included **Georges Mirindi**, **Jacques Kasereka**, **Bahati Rutale**, **Fraterne Chibunga** and **Julien Weah Nshombo**. It is not known where they are held. Also reportedly arrested on 16 January were **Jacques Chiruzza**, a director of communications at the presidency, and his deputy, **Désiré Nkurhinjirage Muchika**. Both men are army captains from South-Kivu. They are reportedly held incommunicado in the basement of the GLM building.

On 20 January **Kamwanya Bora Uzima** was arrested on board a plane at Kinshasa's Ndjili airport and reportedly taken to the GLM building. His plane was on a scheduled stop en route to Nairobi, Kenya, from Lagos, Nigeria. Originally from South-Kivu, Kamwanya Bora Uzima is a former member of the FAZ and an associate of Anselme Masasu Nindaga. He had recently left the DRC, first for Brazzaville in neighbouring Republic of Congo and then for Lagos, reportedly in the hope of obtaining political asylum.

In late January several individuals from the Kivu region were reportedly arrested by the Republic of Congo authorities in Brazzaville. They are thought to have included **Cyprien Bakenga Kakomere** and **Gervais Baguma Safari**, both ANR agents originally from South-Kivu. It appears that they had fled Kinshasa fearing arrest in connection with the alleged coup plot and were seeking political asylum. They were initially held without charge in police custody in Brazzaville but were later reportedly returned to Kinshasa where they are thought to remain in custody.

Amnesty International is concerned that, in addition to the human rights violations that incommunicado detention entails, each and every person named above, and those detainees whose identity the organization has not been able to confirm, are in danger of being tortured, executed or "disappearing".

A small minority of detainees arrested as part of the crackdown have been released. They include **Jean-Marie Rusimbuka**, a staff member of the United Nations Human Rights Field Office for the Congo (HRFOC), who was arrested at his home on 3

January 2001 and held at a DEMIAP detention centre. He was apparently arrested because he had regular contact with the family of Anselme Masasu Nindaga as the HRFOC program officer responsible for people of Tutsi origin at risk. He was released on 10 January after international pressure. Four detainees who had been transferred to Katanga are also reported to have been released, but their names are not yet known to AI.

There are a further four people, detained at the CPRK but not incommunicado, whose continuing detention could be linked to the arrests of people from the Kivu region. **Faustin Kibanacha**, a political activist, was arrested on 27 July by the ANR and interrogated about his participation at a political conference held in Stockholm, Sweden, between 12-14 February 2000. It appears that several key figures from the Kivu region attended the conference and the government may have considered this meeting to have formed part of the alleged coup plot. In the past several prominent figures have been arrested after returning from meetings abroad and the DRC authorities appear to routinely regard such meetings with suspicion and as a potential threat.

Also arrested on 27 July by the ANR because of his alleged links with Faustin Kibanacha was **Thomas Muulwa**, a customs inspector. **Isaac Akili**, a former *kadogo* also suspected of having links to Faustin Kibanacha, and a civilian, **Bibiche Sasa**, were arrested together in May and are also held at the CPRK. All four are charged with endangering state security and are among the few political prisoners held at the CPRK not to have benefitted from recent presidential amnesties.

Reported extrajudicial executions and “disappearances”

The current situation of most of the Kivu detainees remains deliberately shrouded in secrecy and it has proved extremely difficult to confirm many of the reports concerning them. It is certain that some detainees have been extrajudicially executed, including some who had reportedly "disappeared", but in only a small number of cases has Amnesty International been able to obtain specific and corroborated information on such executions.

In mid-November 2000, at least 30 detainees were reportedly extrajudicially executed at Tshatshi military barracks, where several dozen civilians and soldiers from the Kivu region were being held. For a period of around a week, five prisoners were reportedly taken from their cell every morning between 3am and 5am, taken down to the bank of the River Congo and shot dead. Their bodies were said to have been thrown into

the river. The executions reportedly only stopped when the guards, also from the Kivu region, refused to carry out any further executions.

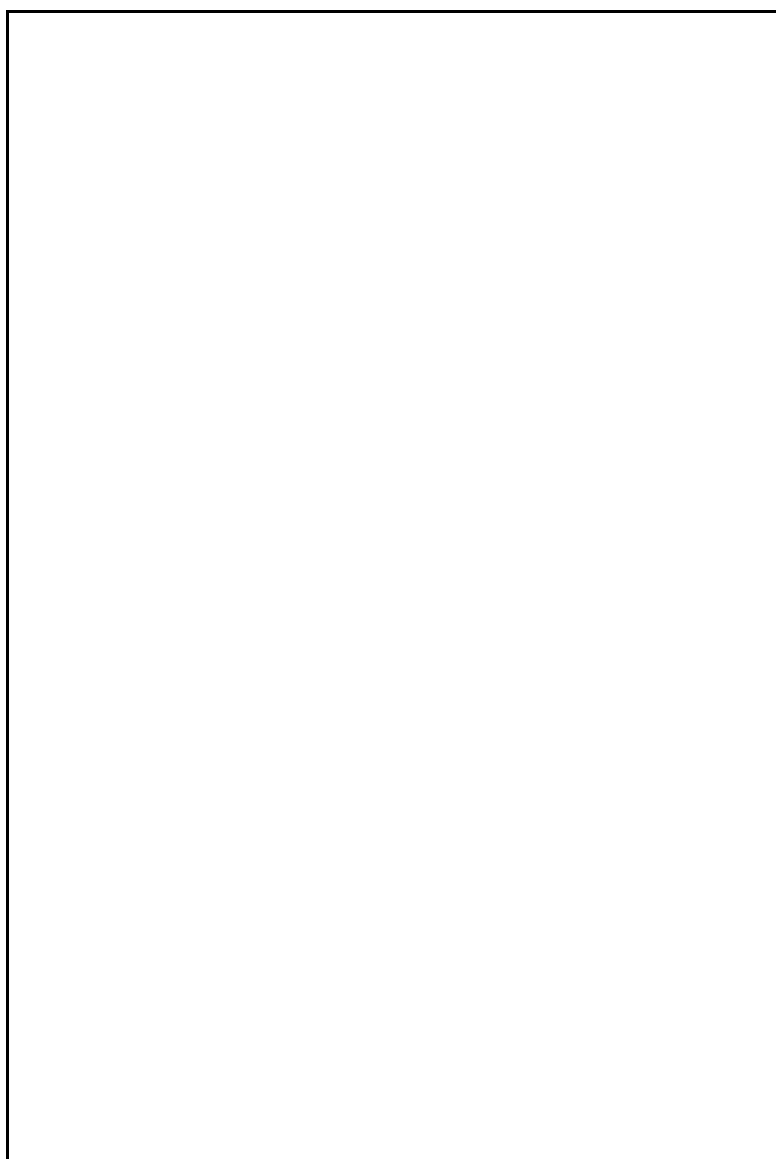
On 30 October **Olivier Rashidi**, a soldier, was reportedly shot dead at Kokolo military barracks. A DEMIAP agent known as **Chirimwami**, from Idjwi island on Lake Kivu, was arrested and also reportedly shot dead in November at an unknown location. Around 26 November **Ziko Kishero** from the Kivu region was reportedly shot when FIS agents came to arrest a *kadogo* with whom he was sharing accommodation in Kinshasa.

Rumours persist that **Anselme Masasu Nindaga** and some of the others transferred to Katanga province, including ANR agent **Antoine Ngalamulume Mukwege**, have been executed, but AI has been unable to verify this information. According to one unconfirmed report in February 2001, said to come from FAC soldiers captured by the armed opposition, Anselme Masasu Nindaga was executed on 24 November along with eight others, following a summary military trial. In December, the government angrily denied another report by a Congolese human rights group that Anselme Masasu Nindaga had been executed but they failed to reveal his whereabouts or to allow access to him.

Several detainees have also "disappeared" after being removed from their initial places of detention and taken to unknown destinations. They include **Aimée Ntabarusha Mungu**, a civil servant with the *Direction générale des migrations* (DGM), the General Directorate of Immigration, who was arrested at her home in Kinshasa together with her three-month-old son **David Mulume** on 13 November 2000. It appears she was arrested because she had been lodging someone from the Kivu region suspected of involvement in the alleged coup plot. She is herself originally from South-Kivu. The lodger was also arrested but his name is not known to AI.

Aimée Ntabarusha Mungu was initially held at a DEMIAP detention centre before being transferred to the GLM building, where she was held incommunicado. On 23 November she and her baby were taken away in a truck with several other detainees. According to eyewitnesses the truck was so full that she and her baby had to be forcibly squeezed onto it. Neither she, her baby nor any of the others in the truck have been seen since.

AI has received separate, but unconfirmed, reports that all of those in the truck were taken away to be extrajudicially executed.



On 28 February 2001 **Kamwanya Bora Uzima** was reportedly removed from the GLM building, where he had been held incommunicado for over a month, and taken to an unknown destination. Two of the guards at the GLM were reportedly taken away with him.

AI is gravely concerned that the dozens of detainees who have "disappeared" since their arrest are at risk of torture and possible extrajudicial execution, if indeed they are still alive.

Torture

AI has received reliable reports from former detainees that three people detained in connection with the

Aimée Ntabarusha Mungu and her son David Mulume

alleged coup plot were tortured to death at the

GLM in November. They had been detained in a cell in the basement of the building. Their names are not currently known to AI. Many detainees have reportedly been tortured to

make them confess their involvement or reveal the names of people involved in the alleged coup plot.

Jacques Chiruzza and **Désiré Nkurhinjirage Muchika** were reportedly subjected to beatings over a number of days in the basement of the GLM, where they continue to be held. They have reportedly been refused medical treatment for their injuries.

During his detention at the ANR, **Isaac Akili** was beaten around the head with rifle butts, tortured with electric shocks and shown a hole that had been dug in the ground and told that it was going to be his grave. **Bibiche Sasa** was taken from her cell in the middle of the night and also threatened with death; she is currently suffering from hypertension and a heart condition. Both remain at the CPRK.

Torture is a human rights violation strictly prohibited under international law in all circumstances. In addition to prohibiting torture and ill-treatment, the DRC's obligations under international treaties include taking effective legislative, administrative, judicial or other measures to prevent acts of torture, to investigate thoroughly and impartially all complaints of torture or ill-treatment, to prosecute suspected perpetrators in accordance with international standards of fair trial and to punish those found guilty, and to compensate victims of torture or ill-treatment.

AI refused access to detainees

On 30 November 2000 AI delegates and members of the United Nations Human Rights Field Office for the Congo (HRFOC) visiting the CPRK were prevented from seeing a group of detainees whom they knew to be detained at the prison in connection with the alleged coup plot. The delegation was visiting the CPRK in order to interview detainees and to assess their conditions of detention and the prison authorities had promised them unrestricted access to all parts of the prison.

Reliable information had been received that up to 34 detainees were being held incommunicado in a disused cell-block at the CPRK, known unofficially as *pavillon onze* (Block Eleven - see cover photograph). As the delegation approached the block, they saw prison staff lock the main entrance door and depart rapidly with the keys. Despite repeated requests, the prison authorities claimed that the keys to the block could not be found and that it would therefore not be possible to gain access. They further maintained that the

block was in the process of being renovated and that no prisoners had been detained there for several months. However, the delegates could clearly hear the sound of several people at prayer coming from one of the cells on the first floor of the block.

AI delegates returned to the CPRK the following day and were finally given access to Block Eleven. Although the block was by then empty, the delegates detected remains of food and other clear signs that one of the cells on the first floor had been occupied within the previous few hours. The prison authorities continued to claim that no prisoners were kept in Block Eleven and said that the signs of recent use came from workmen who occasionally used the block during their breaks. AI was later able to confirm that the prisoners had been temporarily moved to another block within the CPRK.

It is understood that many of those held incommunicado at the CPRK had been arrested in late October 2000 in the town of Maluku just north of Kinshasa. They were reportedly transferred to the CPRK on the evening of 24 November and detained in Block Eleven. They were held together there in a single cell measuring approximately 3m x 4m. There were no toilets or running water in the whole block. AI considers that their conditions of detention amounted to cruel, inhuman and degrading treatment.

In mid-December at least 10 of these detainees were reportedly taken from the CPRK to an unknown destination, possibly to Kasapa prison in Katanga province. They reportedly included military officer **Désiré Kubuya** from North-Kivu, DEMIAP agents **Joël Lubumbula Ngandu** and **Zebede Basubi**, and police officer **Jimmy Katende**, all from South-Kivu. The others were reportedly transferred to other blocks within the CPRK, including **Patrick Malikidogo**, a former member of the security services from North-Kivu.

Death sentences carried out during 2000

AI is concerned that many of those detained in connection with the alleged coup may face unfair, summary trials and possible death sentences.

Despite assurances given both to AI in 1999 and to the UN High Commissioner for Human Rights in 2000 that the government was committed to a moratorium on executions, the death penalty has continued to be applied at an alarming rate in the DRC.

As many as 200 members of the security forces and civilians have been executed since the current government came to power in May 1997.

At least 35 people are known to have been executed in Kinshasa and Maluku during 2000. Amnesty International does not have figures for the number of death sentences carried out in other regions of the DRC under government control, but fears that the overall number of executions carried out during the year is likely to be higher.

In Kinshasa alone at least 25 death sentences were handed down during 2000 by the *Cour d'ordre militaire* (COM), Military Order Court, a court which does not meet international fair trial standards. There is no right of appeal against the sentences of the court, and, although the president of the DRC has the power to commute death sentences, in practice it is doubtful if there is always time for the president to review the sentences before they are carried out. In the past people sentenced to death by the COM have been executed within days or even hours of their trial. The new president, Joseph Kabila, is reported to have recently given renewed assurances that civilians will no longer be tried before the COM, which is a development which Amnesty International would welcome. However, similar assurances given by the DRC Government in the past were never put into practice.

The most recent executions known to have taken place were on 12 December 2000, when eight prisoners from the CPRK, reportedly including three civilians, were executed by firing squad. Among them was a police officer, **Kabangi Ngoy**, who had been sentenced by the COM the previous day for a murder committed four days earlier. On 15 January 2000, **Kasongo**, a 14-year-old child soldier, and 22-year-old **Mumba Kabemba** were executed within 30 minutes of their trial, after being found guilty of murder. The imposition of the death penalty on children, under any circumstances, is strictly prohibited in international law, especially under Article 37(a) of the Convention on the Rights of the Child, to which the DRC is party.

Many defendants are sentenced to death for economic and other non-violent crimes. **Makengo Makengo**, a fisherman from Boma in the south-western province of Bas-Congo, was arrested on 28 July 1999 for selling meat without a permit at a market in Boma. The meat came from a cow which he had allegedly found dead on the banks of a river where he was fishing. Later the same day he was brought before the COM, who

apparently construed the knife he had used to cut up the cow to be a weapon and on that basis found him guilty of armed robbery, for which he was sentenced to death. Apart from clearly not being given adequate time to prepare his defence, it is doubtful if Makengo Makengo understood all of the court proceedings as he does not speak French. He reportedly only realised that he had been sentenced to death after he arrived at the CPRK and was told by fellow prisoners that he was being held in the block reserved for those on death row.

Unwarranted secrecy often surrounded executions. For example in September 2000, five soldiers and three civilians were taken from the CPRK in the middle of the night and reportedly executed at the *Inspectorat de police de Kinshasa* (IPK), Police Inspectorate of Kinshasa. No official announcement was made and no names were released. Indeed it remains unclear whether these executions followed judicial procedures. At the end of 2000 up to 60 people remained on death row at the CPRK.

Amnesty International is opposed to the death penalty in all circumstances, considering it a violation of the basic right to life, as well as the ultimate form of cruel, inhuman and degrading punishment. The imposition and execution of this penalty in the DRC immediately following summary trials which do not respect the most basic rights of defendants to a fair trial is wholly unacceptable.

Amnesty International's recommendations

Amnesty International calls on the DRC Government:

- to immediately make known the names and the whereabouts of all detainees from the Kivu region arrested since late October 2000, including those who have reportedly "disappeared" since their arrest;
- to grant families, doctors and lawyers immediate access to the detainees and ensure that they receive any medical treatment they may require;
- to ensure that, if they are to be charged with a recognisable criminal offence, the detainees receive a prompt and fair trial which conforms to international standards and which excludes the application of the death penalty;

- to immediately and unconditionally release anyone who has not been charged with a recognisable criminal offence and who is detained solely on the basis of their origin;
- to order an impartial investigation into reports that some of the detainees have been severely tortured and that some may have been extrajudicially executed, to bring to justice anyone found responsible for such violations and to compensate the victims or their families.

Amnesty International calls on the international community:

- to urge the DRC Government to make known the whereabouts and fate of the detainees from the Kivu region and to take steps to ensure that the detainees are protected from the risk of torture, extrajudicial execution and "disappearance";
- to urge an end to incommunicado detention in the DRC and to press for all political prisoners to be given prompt trials which conform to international standards for fair trial;
- to urge the DRC government to make good its public assurances, including to the United Nations, and to impose an immediate moratorium on all executions, with a view to abolishing the death penalty altogether.