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**REPORT ON HUMAN RIGHTS VIOLATIONS  
COMMITTED IN KILWA IN THE MONTH OF  
OCTOBER 2004.**

**January 2005**

*War crimes and crimes against humanity, wherever they have been committed and whenever they have been committed, must be the subject of an enquiry. Where proof exists against individuals establishing that they have committed such crimes, they must be sought out, brought to justice, and if they are found guilty, they must be punished.*

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## INTRODUCTION

On 14 October 2004, national and foreign radios, passing on information from some humanitarian sources, announced that the town of Kilwa, situated 350 kms from Lubumbashi, had fallen into the hands of the “Maï Maï and ex-Katangan police officers nicknamed tigers”, who declared during a meeting that they wanted to liberate the whole province of Katanga in order to establish an independent State.<sup>1</sup>

On 18 October 2004, following an offensive by the government army, the town was retaken. According to Radio Okapi, quote : “the confrontations led to around 30 deaths among the rebels”<sup>2</sup>, while the coordinator for the Belgian Médecins Sans Frontières organisation (acronym : MSF/Belgium) for the Great Lakes declared that : “reports have indicated that between 9 and 150 civilians were killed during the recapture of the town by the Armed Forces of the DR Congo (acronym : FARDC), and that many people had to flee”<sup>3</sup>.

Confusion was maintained around this situation by the transitional government through its Information and Press Minister Mr. Henri MOVA SAKANYI regarding both the identity of the aforementioned rebels and their demands. He simply declared to the press that the tension caused in Kilwa was the work of Maï Maï fighters – an armed militia – and of troops who were not otherwise identified.

For his part, the Governor of the province, Mr. KISULA NGOY, without revealing the violent acts committed against the civil population, declared during his press conference on 16/10/2004 that “On 13/10/2004, two hundred individuals appeared in the village of Katanda. These individuals were able to cross over and reach Kilwa. They disarmed the few soldiers who were in Kilwa. There were not many soldiers, there were eight of them. At 11 a.m. a meeting was held by a major called KAZADI MUKALAY TWITE who attacked everyone who represented power, except the police, in other words, the army authorities. This man affirmed that all the Katangan leaders were aware of their movement for the liberation of (*cont. next page*)

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<sup>1</sup> The Radio of the United Nations Observation Mission in the Congo, MONUC, and Radio France International, RFI, in their news bulletins on 14/10/2004.

<sup>2</sup> <http://www.digitalcongo.net/fullstory.php?id=43921>

<sup>3</sup> After the evacuation, a MSF team went back to Kilwa to evaluate the humanitarian needs [http://www.msf.be/fr/terrain/pays/afrique/congo\\_news\\_35.shtml](http://www.msf.be/fr/terrain/pays/afrique/congo_news_35.shtml).

But the Governor of the province of Katanga, Mr. KISULA NGOY had declared during his press conference which was held on 16/10/2004 that there had not been any deaths among the government forces which had conducted the counter-attack nor among the population who had remained there (Read the newspaper QUIPROQUO N° 160 of 20/10/2004).

Katanga. According to this man, KAZADI MUKALAY TWITE, it was intended that this movement which had just begun in Kilwa would spread to Pweto, Kasenga and Lubumbashi before invading all of Katanga. Mr. KAZADI distributed arms to the population. There were some police officers who received arms. There were some young people who received arms... What was the number of people who had first seized Kilwa? According to the head of the administrative office, there were not more than twenty of them in Katanga. But when they move towards Kilwa, when they distribute arms to the young people, when there are some people in the opposition who accept arms, the number will increase.”<sup>4</sup>

The humanitarian sources quoted by Radio Okapi had maintained that the troops who had occupied the city of Kilwa were made up of former Katangan police officers who had been driven back from the mining zones in Angola and who had joined the Mai Mai militia led by the warlord Gédéon KYUNGU for the purpose of seizing Kilwa.<sup>5</sup>

In relation to these events, the ASADHO/Katanga had recorded several testimonies giving details of violent acts committed against the civilian population who did not take part in the hostilities both by the aforementioned rebels and by the government forces.<sup>6</sup>

Following the aforementioned events, several persons were the subject of abductions, arrests and arbitrary detention by the military authorities of the 6<sup>th</sup> Military Region who accused them of collaborating in the insurrection in Pweto, Likasi and Lubumbashi.<sup>7</sup>

In the face of this situation, the ASADHO/Katanga deemed it necessary to send an investigative mission there mainly for the purpose of verifying the allegations of human rights violations, to identify those responsible and to evaluate the climate there on the day following the aforementioned events. Thus, from 4 to 15/12/2004, this investigative mission met some victims and their family members, members of the civil society and members of the People’s Party for Reconstruction and Development (acronym : PPRD), and finally, the officers and executives in the public administration. The commanders of the FARDC and the Congolese National Police in Kilwa did not deign to meet the mission.

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<sup>4</sup> Read the newspaper QUIPROQUO N° 160 of 20/10/2004, page 4.

<sup>5</sup> Gédéon Kyungu is a Mai Mai chief who committed violent acts against the population and spread terror in the Ndubie-Kilwa-Mitwaba axis and Pweto.

<sup>6</sup> The civil society in Kilwa had submitted a report to ASADHO/Katanga relating these facts.

<sup>7</sup> Read the press release from the ASADHO/Katanga No 014/2004 of 28/10/2004 entitled “Arbitrary detention in the 6<sup>th</sup> Military Region of Lubumbashi”.

But because of the insecurity maintained by elements of the FARDC which was still present in the territory of Pweto in general and in the town of Kilwa in particular, this investigative mission was obliged to quickly leave Kilwa and to return to Lubumbashi without meeting other victims and witnesses.

This present report has only been made possible by the testimonies collected from the victims, the members of the civil society and members of the PPRD, the agents and executives in the public administration in Kilwa, and in the surrounding villages, Kasenga, Pweto, Likasi and Lubumbashi.

The ASADHO/Katanga would like to take this opportunity to thank all these people who, moreover, have asked to remain anonymous for their own safety, and encourages them to continue to struggle against impunity by actively denouncing all human rights violations which are committed around them.

## I. PRESENTATION OF KILWA

Kilwa is a town situated near Lake Moero, in the sector of Moero, in the territory of PWETO, in the district of Upper Katanga in the south-east of the province of Katanga around fifty kilometres from Zambia. It is 350 kms from the town of Lubumbashi. Its population, which is estimated at around 10,000 inhabitants, earns its living mainly from fishing.

This town is completely enclosed and can only be reached after many sacrifices because of the bad condition of the road and troublesome dealings with the police and the administration aggravated by several makeshift road blocks which have been erected by some public services.<sup>8</sup>

There are road blocks 15 kms from Lubumbashi at the village of Kikanda; 17 kms, called Antenne; 41 kms; 90 kms at the village of Minga; 120 kms at the village of Sapwe; 150 kms at the village of Kasomeno; 180 kms at the village of Bowa; 210 kms at the village of Sange; 217 kms in Kabiashe; 250 kms in Lupembe; 300 kms in Mukupa and at the entry to Kilwa at the post office.

## II. SEIZING OF KILWA BY THE REBELS

On 14/10/2004 around 2.30 a.m. the population of Kilwa was woken by the rattling of bullets which continued until 9 a.m.

At around 10 a.m. Mr. Alain KAZADI MUKALAYI<sup>9</sup>, president of the “Revolutionary Movement for the Liberation of Katanga (acronym : MRLK)”, wearing black trousers, a black and white striped polo shirt and sandals and surrounded by his body guards wearing civilian clothes, held a meeting (*cont. next page*)

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<sup>8</sup> The following services are present at each road block : the National Information Agency (acronym : ANR) ; the Road Safety Police (acronym : PSR) ; the Congolese National Police (acronym : PNC). In order for a truck to get through, the driver must pay 1,000 Congolese Francs (FC) without being given a receipt, while cyclists must hand over packages of salted fish.

<sup>9</sup> Mr. Alain KAZADI MUKALAYI is a follower of the Mbidi Kiluwe sect. He is very well known in the village of Katanda (25 kms from Kilwa) where he has been living since August 2004. He made many trips between Kilwa and Zambia. According to several witnesses who were questioned by ASADHO/Katanga, the attack started from this village. Indeed, coming from the Katufi village located on the Zambian island of Shimba, Mr. KAZADI and his men, most of whom are members of his wife's family, arrived in Kilwa on 13 October 2004 around 8 p.m. and stripped most of the soldiers of their arms without meeting any resistance. Some soldiers did manage to flee to inform the Territory Administration.

in front of a large crowd at the Changa na mayi Company at the Kilwa market

In total, he commanded around thirty men, most of whom were minors without any known military training, who had been recruited from Pweto and only carried light arms. Their headquarters were set up at the Kilwa police station.

In his speech, Alain KAZADI began by proclaiming himself "Major General" and then declared that he had come to make Katanga an independent country. Lastly, he declared that his movement had the support of six countries including Russia. At the same time, he informed the population that the "President of the Democratic Republic of the Congo, Major General Joseph KABILA, was already fleeing" and that he had the support of all the Katangan former police officers, including Colonel Adémar ILUNGA alias KOTE KUBAYA KISU MAKALI<sup>10</sup>.

He promised to undertake large scale military action in the hours ahead to quickly make Katanga independent.<sup>11</sup>

Discussing the political history of the Democratic Republic of the Congo, Alain KAZADI explained to the population that "Lumumba was a hemp smoker and only Kasa-Vubu knew Katanga's problem." He finished his speech in the following terms : "Didn't Mr. Kyungu wa Kumwanza tell you that on 14 October 2004 the Katangan former police officers would come to liberate Katanga? Because before coming here I had already spoken to the other Katangan leaders."<sup>12</sup> After answering some questions from the population, he went to the office of MSF/Belgium to call for calm from its administrators and to ask them not to flee. In the meantime, a large number of fishermen

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<sup>10</sup> According to several testimonies collected by ASADHO/Katanga, Colonel Ademar ILUNGA is the commander of the 62<sup>nd</sup> brigade of the FARDC which recaptured the town of Kilwa. He is implicated in the illegal exploitation of copper minerals in quarries in the territory of Pweto, as well as in the trading of fish, nuts and corn using military trucks. He is also accused of having previously ordered violent acts (looting, murder and extortion) to be carried out against the civilian population of the village of Kampangwe located 200 kms from Kilwa in October 2003, for the reason that they were in league with the Maï Maï militia of Gédéon KYUNGU. He allegedly also carried out similar acts in the village of Kabanga, located 80 kms from Kilwa in March 2004 to seize the harvest from the population. It is for this reason that the population in the territory of Pweto continues to call for his departure.

- KOTE KUBAYA KISU MAKALI means : "Bad in every way and cutting knife".

<sup>11</sup> He declared that he had been in contact with Colonel Adémar ILUNGA in the district of Kamalondo in Lubumbashi for the attack on Kilwa. The latter is indeed a Katangan former police officer who was trained in handling arms in Angola.

<sup>12</sup> Mr. Kyungu wa Kumwanza is a senator, national First Vice President and President of the Katangan federation of the political party called "Union of the Federalist Nationalists of the Congo" (acronym : UNAFEC).



who spoke Kibemba and around thirty young people were enlisted by force to join the troops of the MRLK.

It should be noted that all the police officers<sup>13</sup> in Kilwa, around thirty in number, had freely joined the ranks of the MRLK. Their commander, Lieutenant KUNDA MUSOPELO, was present at the meeting organised by the aforementioned movement. During the whole day of 14/10/2004, Alain KAZADI's men fired bullets into the air without attacking the population or their goods. They also taught the new recruits how to handle arms.

Around 3 p.m. the insurgents went to the port of Kilwa to loot fuel and food before occupying all the strategic points in the town.

The firing continued and the population, who were not convinced by the declarations made by the leader of this movement, decided to evacuate the town in the direction of Pweto, Lukonzola, Lubumbashi and the Zambian island of Shimba located 7 kms from Kilwa, or to take refuge in the villages located along the road to Lubumbashi, notably in Kankumbwa and Mukupa. Another group decided to go into the fields.

As the families who had chosen to take refuge in Zambia were crossing Lake Moero in boats, eleven people drowned when a boat capsized.

Among them, we can list :

- Mrs. Françoise, a nurse at the referral hospital in Kilwa, and her baby who was around one or two months of age and was called JENOVIC ;
- Miss KALEMBE, the young sister of Mrs. Françoise and a student at the Lube Institute;
- Mr. Kyungu, a fisherman by trade and his young brother who is not otherwise identified;
- Mrs. KATAYI's baby ;
- A boy of around 11 years of age who is not otherwise identified ;
- Mrs. CHOLA, around 25 years of age ;
- A housewife who sold alcoholic drinks who is not otherwise identified ;
- A woman who is not otherwise identified and her baby.<sup>14</sup>

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<sup>13</sup> Most of these police officers are former members of the Popular Self-Defence Forces (acronym : FAP), a paramilitary militia created in 1998 by the Government of the now deceased President Laurent Désiré KABILA to counter the advance of the rebels from the Congolese Assembly for Democracy (acronym : RCD).

<sup>14</sup> According to several testimonies collected by ASADHO/Katanga, the bodies of all these people were buried on the Zambian island of Shimba, by order of the Zambian immigration officials. They were buried by Congolese who did not have the appropriate materials. The bodies of Miss Kalembe and Mrs. Françoise, her older sister, were buried in the same grave and the remains of Mr. Kyungu and his younger brother were buried in a second grave.

On 15/10/2004 at around 9 a.m., Mr. Alain KAZADI ordered the liberation of all the soldiers and police officers who were locked up in the teachers' house. The reason given was that his movement had not come to kill but only to change ideas.

Shortly afterwards, he proceeded to distribute money to some women and children. The amount was 3,000 FC per person. He had bought forty packages of salted fish for a total amount of 100,000 FC, which he distributed to a certain number of people.<sup>15</sup>

Moreover, there are certain prior facts which prove that the insurgents had the benefit of complicity from within the ranks of the political-administrative, military and police authorities. The majority of the soldiers had been relieved of their duties, which only left fourteen of them who remained at the insistence of their commander. The previous day at around 11 a.m. all the heavy weapons had been evacuated to Lubumbashi and on the same day, Colonel Adémar ILUNGA moved some of his children from Kilwa to Lubumbashi. A few days before the events, the Territory Administrator<sup>16</sup> transferred all his goods to the convent of the Sisters of the congregation of the "Little Sisters of the Presentation".

All this happened on Wednesday 13 October 2004, in other words, one day before the attack on the town of Kilwa by Alain KAZADI's men.

Secret meetings were also held in preparation for the capture of the town of Kilwa between the natives of that town. These were organised at the home of Professor RICHARD, a teacher at the Lube Institute, who has been missing since the attack on Kilwa.

### **III. RECAPTURE OF KILWA BY GOVERNMENT TROOPS**

On Friday 16 October 2004 in the early hours of the morning, rumours were spreading that Colonel Adémar was going to launch an assault to recapture the town of Kilwa. At around 2 p.m. his troops launched a first bomb which fell near the convents of the Little Sisters of the Presentation and the Catholic priests without causing any major material damage or loss of human life. The *(cont. next page)*

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<sup>15</sup> A package generally contains six fish and its sale price at the time of the events was 2,500 FC. Testimonies increasingly confirm the fact that Mr. Alain KAZADI initially had \$12,000. The rest of this money had been taken when he was arrested by Colonel Adémar ILUNGA, the chief of the sector, Mr. Louis KALUNGA MUCEKI, and the head of administration, Mr. Aser KASANDA NGOY.

<sup>16</sup> He had left only his wife and a few children in the town.

second bomb fell in the Kinsari quarter where six houses were destroyed and the third fell in the Katenge quarter where civil property was seriously damaged.

There were several houses which were damaged in the aforementioned quarters, as in the Cimetièrè quarter, including :

- Two houses belonging to Mr. KABULO in the Cimetièrè quarter ;
- One house belonging to the widow KIPAMPA in the Cimetièrè quarter ;
- One house belonging to Mr. MPALA in the Kinsari quarter ;
- One house belonging to Mrs. Virginie in the Kinsari quarter ;

Around 3 p.m. the loyalist troops recaptured the whole town of Kilwa without meeting any resistance. From 7 p.m. they started looting shops and other abandoned residences. A jeep from the Anvil Mining company<sup>17</sup> was used to transport the looted goods, which were placed in the village of Kiankalamu situated 25 kms from Kilwa. Towards 3 a.m. the Changa na mayi depot belonging to Mr. MWAMBA was attacked without success.

The violent acts which accompanied the recapture of Kilwa had gradually forced the population to return to the bush. Those who tried to return to Kilwa were subjected to drastic checking before being forced to go to the office of the FARDC staff headquarters to attend a meeting held by a commander nicknamed "Chinja-Chinja". In this meeting, the latter condemned the population for "having welcomed the rebels" and made threats against those he called "collaborators". He added that your lives have been saved thanks to the commander of operations, meaning Colonel Adémar ILUNGA.

Very few members of the population participated in this meeting because a lot of people were continuing to hide in the bush. When commander Chinja-Chinja asked the participants to return to their homes, everyone started fleeing in the direction of the bush. Thus, for the second time, most of the population of Kilwa had left town.

A few hours later, the government forces resumed combing the area, which obliged the few civilians who had remained to also flee in order to escape their violent acts. In the face of this situation, the soldiers started to threaten them in these terms : "if you leave your houses, they will be looted and burned."

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<sup>17</sup> Anvil Mining is a company that works the mining deposit which is rich in copper and silver in the village of Dikulushi located 55 kms from Kilwa.

The leader of the assailants, the now deceased Alain KAZADI MUKALAYI who had taken refuge in the village of Kankumbwa around 50 kms from Kilwa after the counter-attack by the government troops, was handed over by the population on 17/10/2004.

He received serious injuries caused by bullets which the soldiers of the 6<sup>th</sup> Military Region fired into his stomach despite the fact that he did not show any resistance, because he had neither troops nor arms with him. He died there after a few hours as a result of his injuries, contrary to the version given by the Commander of the 6<sup>th</sup> Military Region, Brigadier General Dieugentil ALENGBIA NZAMBE, according to which he died on Wednesday 27/10/2004 in the Camp Vangu military referral hospital in Lubumbashi.<sup>18</sup>

#### **IV. HUMAN RIGHTS VIOLATIONS COMMITTED BY THE REBELS**

The rebel troops committed some violent acts during the forty-eight hours that they held Kilwa. They forcibly enlisted under-age children, gave them arms and ordered them to loot the administrative quarter.<sup>19</sup> The reason they gave for this was that everything located there constituted goods which had been wrongfully acquired by the representatives of power.

Thus, on the order of Mr. Alain KAZADI MUKALAYI, the following houses were looted by armed individuals from the M.R.L.K<sup>20</sup> :

- The residence of the Territory Administrator,
- The residence of the Head of the Sector,
- The residence of the Head of the Administrative Office,
- The residence of the Branch Manager of the General Office of Administrative and State Revenue,
- The residence of the FARDC Commander,
- The residence of Dr. Philippe, the doctor in charge of the KILWA hospital,
- The residence of Dr. Patrick IRUNG,
- The residence of Dr. Jules.

These same individuals wrecked the police office, carried away part of the documents and burned others.

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<sup>18</sup> As proof, Alain KAZADI did not receive any visit from members of his family and was not presented to the press, as the authorities usually do in this type of case.

<sup>19</sup> The administrative quarter is where the officials live, in particular the head of the sector and the FARDC commander. It is situated not far from the port of Kilwa.

<sup>20</sup> He gave this order to the population when they asked him for food.

Mr. KAZADI and his men continued their actions as they moved towards the port where there was a large stock of fuel belonging to the Anvil Mining company and its extra-long vehicles (trucks) loaded with minerals which were waiting to be transported to Zambia. All the fuel, trucks, batteries and personal effects of the drivers were looted by individuals from the M.R.L.K.

When the operators of the (milling) mills complained about the lack of fuel, Mr. Alain KAZADI MUKALAYI called on the services of Mr. EKO alias MUKULUKULU to distribute it to them free of charge. Afterwards, the latter was given 160 lashes with a whip on the order of Mr. Alain KAZADI MUKALAYI for having diverted eighty drums of heating oil.

## V. HUMAN RIGHTS VIOLATIONS COMMITTED BY GOVERNMENT TROOPS

The FARDC soldiers led by Colonel Adémar ILUNGA committed serious human rights violations. There were summary executions, looting, extortion, and arbitrary arrests and detention.

### 1. SUMMARY EXECUTIONS<sup>21</sup>

Several summary executions were carried out by the government forces when Kilwa was recaptured, mainly in the quarter of the plain which was commanded by Colonel TSHUTSHU, in the port area and in the village of Sensele located 3 kms from Kilwa, where the 62<sup>nd</sup> FARDC Brigade commanded by Colonel Adémar ILUNGA had set up its staff headquarters. Most of the persons executed were killed because they were suspected of being either rebels, or collaborators with the rebels, even though they did not have any arms.<sup>22</sup>

Friday 16 October 2004 :

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<sup>21</sup> The soldiers boasted in the town that they had killed a lot of people, particularly young boys. One of these soldiers is known by the nickname of "United States".

<sup>22</sup> In his press conference on 16/10/2004, the Governor of Katanga also maintained that the insurgents had distributed arms to the population, to the police and to some young people. He also admitted that there had been 30 deaths, including 9 by drowning, without giving any more details about the other 21 deaths (In this connection, read the newspaper QUIPROQUO N° 160 of 20/10/2004, page 4). However, several testimonies collected by the ASADHO/Katanga have revealed that the insurgents did not possess enough arms to be able to distribute them to the population, to the police and to young people. Moreover, the Governor himself admitted that there were only 8 soldiers in Kilwa. The former head of police in Kilwa, Mr. KUNDA MUSOPELO, declared that he led a company of only 30 men who had a few AKA arms.

Mr. SEVERA who was helping two women who have not otherwise been identified to close their luggage at Kilwa hospital so that they might flee, was arrested before being summarily executed by Adémar ILUNGA's soldiers. The two women were undressed, tortured and then raped.<sup>23</sup> The 15 year old daughter of one of these women was raped by 7 soldiers and then taken to the hospital where she was treated by a person who has asked to remain anonymous ;

Mr. Stanislas MUNTU NAKAKWE, presiding magistrate of the customary tribunal, who was fleeing on his bicycle towards the village of Kakinga, was killed by Colonel Adémar ILUNGA in person because he was a rebel ;

Mr. KIMANDA, a fisherman, was killed by soldiers

A madman known by the nickname of the Zimbabwean was killed as he was walking peacefully around the town ;

Mr. MUKOROBORO, a mentally disturbed person who was well known in the town was also killed for no reason ;

47 boys who have not been otherwise identified, some of whom had been enlisted to join the M.R.L.K. troops, were brought together by the soldiers and executed using a rocket at the Kabanga river on the orders of Colonel Adémar ;

Mr. SOIRO, a nurse in the Kilwa general hospital, was killed by soldiers on the road as he was going home ;

23 people, mainly women, children and old people, who were fleeing Kilwa for Zambia, were arrested, bound and killed with machine-gun fire by soldiers who had taken them for rebels. Mr. MUSINGE, 58 years of age, who escaped this massacre, was seriously injured.

Mr. KAPIA and his son who is not otherwise identified, who had been enlisted in the ranks of the M.R.L.K, were killed by Colonel Adémar's soldiers, even though they were unarmed.

Mrs. KITENGE KALUNGA, the mother of four children, received a bullet to the head. The soldiers took her 30 crates of Simba beer, 45,500 FC, her clothing and her cooking utensils.

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<sup>23</sup> For fear of being rejected by their husbands, these two women have asked to remain anonymous. This is the case with several other women who refused to give statements to the ASADHO/Katanga for the same reason.

**Saturday 17 October 2004 :**

Monsieur NYEMBO, a fisherman, was killed near the market at around 7 p.m. and his body was found on Sunday 18/10/2004 ;

Mr. MWAPE, a police officer, who had joined the M.R.L.K was killed at the general police headquarters ;

Mr. NDEKANDEKA, a farmer residing in the mission quarter, was killed in his house as he was preparing to go to bed ;

Mr. ULIMWENGU NOMBELE, a student about 20 years of age, was killed in his parents' home ;

Mr. ULIMWENGU YEKULI, about 28 years of age, was killed in his parents' home ;

Mr. YUMA LUKUMAYI, a fisherman, was killed in his home ;

2 boys, who have not otherwise been identified, were killed by soldiers on the road to Dikulushi ;

A group of people who were trying to reach Zambia by boat on Lake Moero were bombarded and seven bodies were able to be retrieved by fishermen ;

The persons who were killed were buried in common graves<sup>24</sup> firstly by soldiers on Friday 16 October and Saturday 17 October, then by Red Cross aid workers on Sunday 18 October 2004. This means that the Red Cross has only part of the number of victims in its statistics. To this date, the population of Kilwa remains traumatised by these summary executions.

Mrs. MWAMBA Elisée, who was three months pregnant, was mercilessly beaten by the soldiers. She was admitted to hospital where she was treated for 7 days.

In addition, several testimonies collected by the ASADHO/Katanga have declared that whipping was carried out by the soldiers against certain police officers who had joined the ranks of the rebels.

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<sup>24</sup> There is a common grave on the western side of the airfield and two in Sensele (3 kms from the town) in the place where Anvil Mining's heavy vehicles took laterite to improve the road.

## **2. LOOTING AND EXTORTION**

The inhabitants of the village of Kazi Muzuri, a village located 100 kms from Kilwa, have declared to the ASADHO/Katanga that they heard Colonel Adémar ILUNGA's soldiers threatening to loot everything and to leave nothing behind as they made their way to Kilwa for the counter-offensive.

These threats were indeed carried out as they looted private homes, food stores and pharmacies, giving as the reason that they were looking for hidden rebels. These so-called "combing" operations gave the government forces the opportunity to unjustly take possession of the goods of individuals ;

M.S.F/Belgium's sentries have declared that they only escaped from the violent acts after handing money over to the executioners, who had seriously threatened them with death if their demands were not met.

### **Saturday 16 December 2004 :**

Almost all the shops and food stores were looted, with the exception of those belonging to Mr. BAYLON, designated by the name of "Pole Pole"<sup>25</sup>, the brother-in-law of Colonel Adémar ILUNGA, and to Mr. MWAMBA, called the "Changa na Mayi Company". For this second shop, Mr. MWAMBA's wife, Mrs. ODIA KABAMBA, had to give the soldiers who came to threaten her with death the sum of 70,000 FC plus \$ US 1,420<sup>26</sup> ;

The houses were systematically looted by soldiers who took food (fish, corn, etc.), radios, mattresses, bicycles, shoes, clothes etc. by force ;

The Anvil Mining vehicles which had been commandeered for the occasion were used to transport the looted goods. Four trucks filled with looted objects for Colonel Adémar ILUNGA were firstly stored at the home of Mr. NKULU MULOPWE, his friend and personal witch-doctor who lived in the village of MUSESHE, 7 kms from Kilwa, before moving them as a priority to his residence in Pweto, located 150 kms from Kilwa ;

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<sup>25</sup> It was in this food store that Colonel Adémar had set up his headquarters. Each time the soldiers went to ask Baylon for money, he graciously offered them beer.

<sup>26</sup> According to certain sources, Colonel Adémar, who knew the soldiers who committed this crime, managed to retrieve this money but never gave it back to Mrs. ODIA.



The other soldiers had moved the goods which they had looted for their own benefit to their camp, and they sold them again afterwards for next to nothing.<sup>27</sup> Other looted goods were stockpiled in the village of Kiankalamu, 25 kms from Kilwa before being transported to Pweto ;

Mr. SUNGULWA who lived in the Kinsari quarter and who worked for the NGO Caritas, had his 250 iron sheets and all the furniture in his house looted ;

Mr. MLEBINIGR, an official with the NGO Caritas in Kilwa had his personal effects looted by a group of soldiers and security officers led by Mr. MWELWA PEZELA of the ANR ;

Father CHAMPO's 26 room hotel was looted by soldiers under the command of Colonel Adémar ILUNGA and with the help of Mr. KEMBO, an ANR officer. They helped themselves to his suitcases, diplomas, beds, etc.

A major part of the hotel has been occupied until today by the aforementioned soldiers, and the other part is occupied by Mr. KEMBO ;

Mr. Jean Paul MUKOMO had his five bicycles, including two brand new ones, looted by the aforementioned soldiers ;

Mr. Pierrot NTAMBWE, was forced to hand over a Sharp brand radio, a clock and a mattress at his house ;

Mr. LUHEMBWE TUMBA, an Anvil Mining officer, was forced to hand over a mattress, a pair of shoes and 6 cooking bowls during the looting.

### **3. ARRESTS AND ARBITRARY DETENTION**

People have been arrested and detained in the houses. Some were arrested for having collaborated with the rebels and others for trying to resist the looting and/or extortion of their goods. Lastly, others were arrested because of their ethnic or political affiliations.<sup>28</sup>

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<sup>27</sup> During its enquiry, Asadho/Katanga learned that the soldiers offered to sell the goods for next to nothing to the same population, either in their camp, or in the town. A man who wishes to remain anonymous declares that he met a man wearing his shoes, and a pastor from the church in the square whose bicycle was taken away by the soldiers only had it returned to him after he had paid them the sum of 3,000 FC.

<sup>28</sup> The Governor of the province had confirmed in his press conference on 16/10/2004 that "the people in the opposition had accepted arms" without giving any proof. In its enquiry on the scene, the ASADHO/Katanga noted that only the People's Party for Reconstruction and Development (acronym : PPRD) had established itself in Kilwa.

For example

**In Kilwa :**

Messrs CHOLA, YUMBA, KISHALA and Elie MAKAMBA were arrested on 18/10/2004 and detained in a house which had been commandeered, because they were accused of providing assistance to the insurgents ;

Mr. LENGE was arrested and detained in the military camp for having tried to resist seizure of a truck battery which he had in his house ;

Mr. KALEMBWE had suffered the same fate when he tried to protect a suitcase containing his personal goods ;

Messrs LENGE and KATEMBWE remained in detention until the investigative mission of the ASADHO/Katanga arrived in Kilwa on 04/12/2004, whereas CHOLA, YUMBA, KISHALA and Elie MAKAMBA had been released on 21/10/2004 after they each paid the amount of 8,000 FC without being given a receipt ;

Other places were used as houses for arbitrary and prolonged detention. These were the police cell, the central prison, the house diagonally opposite the Anvil Mining company's Guest House and the Kabiata hotel ;

It was reported to the ASADHO/Katanga by several witnesses that in the evening, the soldiers proceeded to remove certain detainees whom they took to an unknown destination and who are still missing today<sup>29</sup> ;

Mr. KUNDA MUSOPELO, a former police commander in Kilwa who was more than 60 years old, was arrested on the orders of Colonel Adémar ILUNGA, and then transferred to Lubumbashi during the night of 18 to 19/10/2004. He was found a few days later in a 6<sup>th</sup> Military Region cell where he had been the victim of atrocious torture according to the testimonies of members of his family.

His wife was only able to visit him a few days later after she insisted, and only after he had fallen ill as a result of his torture. He remained in detention in the 6<sup>th</sup> Military Region for one month and two days, then he was transferred to the (*cont. next page*)

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<sup>29</sup> Mr. KYUNGU BUALYA, former FARDC commander in Kilwa between 2000 and 2003. was removed from the cell in the Kabiata Hotel and secretly transferred to the 6<sup>th</sup> Military Region cell in Lubumbashi.

Kasapa prison where he is still being detained today without being brought before a magistrate to enable him to organise representation for his defence.<sup>30</sup> The people detained in Kilwa did not have the right either to receive visits from member of their family or to have food. They only received a glass of water in the morning and in the evening. They were subjected to torture so that they would confess their alleged collaboration with the insurgents<sup>31</sup> ;

Some of them were nevertheless liberated when the United Nations Observation Mission in the Congo (acronym : MONUC) announced that it would be sending a mission to investigate the situation on site.

#### **In Pweto :**

On 17/10/2004, Father CHAMPO MUMBA, who was in charge of placing bridges on the road linking the towns of Kilwa – Kabagu-Ndubie as part of the NGO Caritas and BCCO, was arrested in Pweto by two soldiers. He was detained in the territory cell until 19/10/2004 and transferred to Kilwa on 20/10/2004 because he had “collaborated with the insurgents”. On the same day, he was sent on board the ANVIL MINING plane to Lubumbashi where he was detained in the 6<sup>th</sup> Military Region ; it was formally forbidden for him to receive visits, or to have the benefit of assistance from counsel.

On 23/10/2004 his colleague, Father MPALA MBABULA and his counsel Mr. Cyprien KAUBO, who had arrived at around 3 p.m. to visit him and bring him food, were arrested and detained in the Military Police cell in the MUTOMBO camp on the orders of Major ZELWA KATANGA, known as “DJADJIDJA”, after their mobile phones had been confiscated. It was only possible to free them on 26/10/2004 at around 11 a.m. following several interventions, including one by the ASADHO/Katanga.

Mr. Isaac MUKINDA, a lawyer at the Court of Appeal in Lubumbashi, who had gone to their place of detention to bring them (*cont. next page*)

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<sup>30</sup> -Article 20, paras 3 and 4 of the transitional Constitution stipulates that the person in police custody has the right to be in immediate contact with his family and his counsel, and that the police custody cannot exceed forty-eight hours. After this time period has expired, the detainee must be released or put at the disposal of the competent judicial authority.

-Article 21, paras 3 and 4 of the transitional Constitution stipulates that every person has the right to defend himself alone or to be assisted by a lawyer or a defence attorney of his choice. Every person who is prosecuted has the right to demand that he be heard in the presence of a lawyer or a defence attorney of his choice. This applies at all levels of the penal process, including the police enquiry and the pre-jurisdictional investigation.

<sup>31</sup> Article 20, para 5 of the transitional Constitution stipulates that every detainee must be treated in such a way as to preserve his life, his physical and mental health as well as his dignity.

legal assistance in turn found himself the object of serious threats of arrest from the aforementioned major, before being sent away without any consideration.<sup>32</sup>

The military authorities of the 6<sup>th</sup> Military Region had extended the arrests and arbitrary detention to the towns of Lubumbashi et Likasi based purely on suspicion.<sup>33</sup>  
For example :

**In Lubumbashi :**

**On 26/10/2004**, Mr. Christian MWANDO, the provincial president of the political party “National Union of Federalist Democrats” (acronym : UNADEF) was seized at around 8 a.m. on the road to his work by soldiers who took him to the 6<sup>th</sup> Military Region cell where he was detained for two weeks in relation to the events in Kilwa ;

**On 27/10/2004 at around 1 p.m.**, Mr. NTOLE TSHIGUBU, an official with the Regional Tax Office, was seized by individuals from the Military Police (PM) in his work place without a warrant or orders for a mission. He was then taken and detained in the 6<sup>th</sup> Military Region cell because he had been implicated in the events in Kilwa ;

**On 17/11/2004**, Messrs KILO and ZAPEPA, fishermen and fish dealers who were on a business trip in Lubumbashi, were seized at the Njanja market in the district of Kampemba and detained in a cell in the LIDO camp by soldiers of the 6<sup>th</sup> Military Region. They were only freed two weeks later, without knowing the reason for their detention.

**In Likasi :**

**On 05/11/2004 at around 2 p.m.**, Mr. Pierre KITOKO MUT-BIKGHAUS, residing at N° 5 Avenue de la Justice, in the town of Likasi, was seized at the Squart Sud Hotel where he worked, by Major John MULONGO of the 6<sup>th</sup> Military Region, accompanied by five armed soldiers.

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<sup>32</sup>Read the press release from the ASADHO/Katanga N° 014/2004 of 28/10/2004 entitled : “Arbitrary detention in the 6<sup>th</sup> Military Region of Lubumbashi”.

<sup>33</sup>In its press release N° 2004/CDH/032, the Centre for Human Rights and Humanitarian Law (acronym : CDH) was concerned to learn that the military security service, commonly called DEMIAP, was holding a list of 25 people belonging to political groups and associations, most of whom came from South Katanga, whom it was intending to arrest based purely on suspicions that they had been complicit in the attack on Kilwa.

-DEMIAP means : Military Detection of Activities against the Homeland.

They had put him in a Toyota jeep-type vehicle, with the registration number KT 7436 B, and then taken him to Lubumbashi where he was detained in a cell in the Mutombo camp. He remained there until 06/11/2004 and he was then transferred and detained in the 6<sup>th</sup> Military Region cell until 08/11/2004 allegedly for the purposes of the investigation in relation to the events in Kilwa.

## CONCLUSION

From 14 to 16/10/2004 a lightly armed group of around thirty people from the M.R.L.K. led by Mr. Alain KAZADI, member of a magico-religious sect called "Mbidi Kiluwe" and dealer in minerals and fish, had occupied the town of Kilwa with the complicity of some politico-administrative authorities, police officers and soldiers of that place. The reason given was that they wanted to liberate the province of Katanga from the rest of the DR Congo.

During their occupation, which lasted forty-eight hours, the insurgents had forcibly enlisted some minors within their movement whom they instructed in the use of arms, before inciting them to carry out looting of public goods. Their leader, the now deceased Alain KAZADI, was guilty of arrests and arbitrary detention, as well as of degrading and inhumane treatment of Mr. EKO alias "Mukulukulu" and certain police officers.

From 16/10/2004, the government forces led by Colonel Adémar ILUNGA, had taken total control of Kilwa without encountering the slightest resistance. During their counter-attack, these forces violated the rules and customs of war established by the Hague Convention of 1907, and by the Geneva Convention of 1949 along with their additional protocols which respectively contain stipulations on the conducting of hostilities, the protection of public persons and their goods, and on prisoners of war. Thus, they committed summary executions, looting, extortion, arrests and arbitrary detention. The military commanders, notably Colonel Adémar ILUNGA, participated in, tolerated and encouraged these serious violations of human rights.

In Pweto, Likasi and Lubumbashi, certain people including Mr. Christian MWANDO, the provincial president of the UNADEF political party, an opposition party, were arrested and detained by the DEMIAP department based purely on suspicions. The right to receive visits, to be heard in the presence of counsel, to be treated with dignity and to be brought before a competent judicial authority after the expiry of the time frame for police custody, which was guaranteed to them by the transitional Constitution during a police enquiry procedure, was refused to them. Others continue to rot in detention in places (*cont. next page*)

which are unknown to the members of their families, while Mr. KUNDA MUSOPELO is still detained in the Kasapa prison, without the possibility of being brought before a magistrate so that he may defend himself against the charges made against him.

The territory of Pweto in general and the town of Kilwa in particular are still oppressed by insecurity which does not allow for the normal resumption of agricultural and fishing activities.

## **RECOMMENDATIONS**

So as not to ensure impunity for the people responsible for the acts which have been described above and in order to obtain reparation for the victims of the damage suffered, the ASADHO/Katanga recommends :

### ***To the government :***

- That an independent investigative commission should be established in order to identify those responsible for the violations of human rights and international humanitarian law committed in Kilwa, Pweto, Likasi and Lubumbashi from October 2004 until today, so as to bring them to justice ;

That the reform of the army should be accelerated so as to equip the DR Congo with an army which respects human rights and international humanitarian law even in exceptional circumstances such as those where public order needs to be re-established;

That the individuals led by Colonel Adémar Ilunga should be relieved of their duties so that a climate of serenity may be restored in the territory of Pweto ;

That the order should be given for the unconditional liberation of all persons who continue to be detained by the DEMIAP in relation to the events in Kilwa ;

That all the troublesome dealings with the police and the administrations which the citizens are subjected to on the road leading to Kilwa should be stopped.

### ***To DEMIAP :***

- that the rights guaranteed to people during the judicial enquiry process should be respected and that torture should not be used.

**ASADHO/KATANGA**<sup>34</sup>

African Association for the defence of Human Rights

**PRESS RELEASE N° 014 /2004****“Arbitrary detention in the 6<sup>th</sup> military region of Lubumbashi”**

The African Association for the defence of Human Rights, Katanga representation (acronym : Asadho/Katanga) is seriously concerned by the detention of people by the authorities in the 6<sup>th</sup> Military Region of Lubumbashi in violation of the rights which are attributed to them by the transitional Constitution and international conventions.

After the events which occurred in the town of Kilwa at the beginning of October 2004, Father Arnold CHAMPO MUBU from the Kilwa/Kasenga diocese was arrested in the town of Pweto on 18/10/2004 and taken to Lubumbashi on 20/10/2004 on board a plane from the Anvil Mining company. He is detained in the 6<sup>th</sup> Military Region cell because “he lodged assailants in his house”.

On Saturday 23/10/2004 his colleague Father MPALA MBABULA and his counsel Mr. Syprien KAUBO who went there around 3 p.m. to visit him and bring him food were arrested and detained in the Military Prison cell of the Mutombo camp on the orders of Major ZELWA KATANGA, called “DJADJIDJA” after their mobile phones were confiscated, because “the military hierarchy has strictly forbidden visits to Father Arnold CHAMPO, even visits from lawyers.” They were detained for more than forty-eight hours before being freed on 26/10/2004 around 11 a.m. following several interventions. Their lawyer, Mr. Isaac MUKINDI, who had tried to give them legal assistance was seriously threatened with arrest by the aforementioned major.

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<sup>34</sup> *Non-political non-governmental organisation for the defence and promotion of human rights ; affiliated to the International Commission of Jurists (CIJ, Geneva), the World Organisation Against Torture (OMCT, Geneva), the International Federation for Human Rights (FIDH, Paris), the Coalition for the International Criminal Court, member of AFRONET and SAHRINGON (NGO Networks in southern Africa), the Interafrican Union for Human Rights (Ouagadougou) ; which has the status of Observer in the African Commission on Human and Peoples' Rights. Has an office for liaising with the international institutions in Geneva, Switzerland.*

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Furthermore, Mr. Christian MWANDO, the provincial president of the political party "National Union of Federalist Democrats" (acronym : UNADEF) was seized on 26/10/2004 at around 8 a.m. on the road to his work by soldiers. He is detained in the 6<sup>th</sup> Military Region cell in relation to the events in Kilwa, without the possibility of being assisted by his lawyer, and beyond the legal time frame for police custody.

The Asadho/Katanga notes that the 6<sup>th</sup> Military Region authorities, in their position as Judicial Police Officers, have been guilty of violations concerning visiting rights ; concerning release or placing at the disposal of the competent judicial authorities after the legal time frame for police custody has expired ; concerning the right to benefit from treatment which preserves life ; and concerning being heard in the presence of a lawyer of one's choice on all levels of the criminal procedure, including the police enquiry, which are guaranteed to all citizens by virtue of articles 19, para 2<sup>35</sup> ; 20, paras 3 and 4<sup>36</sup> ; and 21, paras 3 and 4<sup>37</sup> of the transitional Constitution.

It reiterates that the rights which are guaranteed to citizens by the Constitution are sacred and that both civil and military authorities are required to respect them so as not to engage their personal responsibilities.<sup>38</sup>

It is for this reason that the Asadho/Katanga recommends

**To the transitional government :**

- that respect for the rights of citizens should be ensured by means of a judicial investigation ;

that the persons who are arbitrarily detained should be taken from the 6th Military Region to the public prosecutor's office in Lubumbashi to allow them to receive visits from the members of their family and to have the benefit of assistance from their lawyers ;

**To the higher military prosecutor's office in Lubumbashi :**

- that prosecution should be instigated against those who have been guilty of violating the rights of individuals, such as Major ZELWA KATANGA, called "DJADJIDJA".

Issued in Lubumbashi, on 28/10/2004  
**ASADHO/KATANGA**

<sup>35</sup> Article 19 para 2 : "No one may be prosecuted or arrested except by virtue of the law and in the form that it prescribes."

<sup>36</sup> Article 20 paras 3 and 4 : "The person who is in police custody has the right to immediately contact his family and his counsel."

<sup>37</sup> Article 21 paras 3 and 4 : "Every person has the right to defend himself alone or to be assisted by a lawyer or a defence attorney of his choice. Every person who is prosecuted has the right to demand that he be heard in the presence of a lawyer or a defence attorney of his choice. This applies at all levels of the penal process, including the police enquiry and the pre-judicial investigation."

<sup>38</sup> Article 61 : "The respect of human rights and the fundamental liberties established in the present constitution is imperative for all citizens and public authorities."



**What we are.**

We are a section of the African Association for the Defence of Human Rights (acronym : ASADHO), which is a non-political NGO for the defence and protection of human rights created on 10 January 1991 in Kinshasa by a group of doctors, journalists and jurists under the name of the Zairian Association for the Defence of Human Rights (acronym : AZADHO).

It was established in the province of Katanga, then called Shaba, on 22 August 1993 under the name of the AZADHO/Shaba.

Following the change of name of the country (from Zaire to the Democratic Republic of the Congo) in 1997 and of certain provinces, the AZADHO/Shaba changed into the African Association for the Defence of Human Rights, Katanga section (acronym : ASADHO/Katanga).

In 1998, following the government measure banning the ASADHO throughout the whole republic, the ASADHO/Katanga worked in secret for two years and five months.

It is run by a management committee of five people, including four lawyers, who work on a volunteer basis.

**Mandate**

The mandate of the ASADHO/Katanga is : the promotion and protection of human rights.

**The promotional work consists of :**

- Popularising international norms relating to human rights and humanitarian law ;
- Training the population in human rights, democracy and good government ;
- Keeping a library to facilitate research in human rights for members and for people outside the organisation, particularly pupils, students, teachers, university professors, independent researchers, government officials and civil society organisers.

**The protection work consists of :**

- Monitoring of violations of human rights (investigations of allegations of violations of human rights, etc.) ;
- Systematic denunciation of the aforementioned violations by the publication of press releases, open letters, newsletters and reports ;
- Free legal and judicial assistance for victims of violations of human rights.

**Work in networks**

***On the provincial and national level:*** the ASADHO/Katanga is a member of :

- The Renadhoc (National network of NGOs for the defence of human rights in the DRC),
- The Gaderes (Action group for the demobilisation and reintegration of soldier children),
- The CADHOK (Meeting of the associations for the defence of human rights in Katanga)
- The Reprodhoc (Provincial network of NGOs for human rights)

***On the regional and international level :*** the ASADHO/KATANGA is affiliated to :

- The Coalition for the International Criminal Court (CICC, New York);
- The International Commission of Jurists (CIJ, Geneva) ;
- The World Organisation against Torture (OMCT, Geneva) ;
- The International Federation for Human Rights (FIDH, Paris) ;
- The Interafrican Union for Human Rights (UIDH, Ouagadougou),
- The AFRONET and SAHRINGON (NGO Network in southern Africa) ;
- It has the status of observer at the African Commission on Human and Peoples' Rights (Banjul, Gambia).

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