



## General Assembly

Distr.  
GENERAL

A/HRC/6/NGO/15  
31 August 2007

ENGLISH AND  
FRENCH ONLY

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HUMAN RIGHTS COUNCIL  
Sixth session  
Item 10 of the provisional agenda

### TECHNICAL ASSISTANCE AND CAPACITY-BUILDING

**Written statement\* submitted by the International Federation of Action by  
Christians for the Abolition of Torture (FIACAT), a non-governmental  
organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 August 2007]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

**Concerns of FIACAT\* regarding torture and the situation of detainees in the East of the Democratic Republic of Congo (DRC).**

***Torture***

FIACAT is concerned by a specific kind of torture in the Province of Sud-Kivu: systematic rape, used as a tool of war. They may be followed by genitals mutilation or the introduction of iron or wooden objects or hands into the genitals, causing intense suffering or even permanent sterility. These practices often take place in the presence of other family members or members of the community. Although the Congolese state has adopted two new laws to combat rape and sexual violence (Act No 06/018 of 20 July 2006 and No 06/019 of 20 July 2006), soldiers and policemen, the main authors of these crimes, generally go unpunished and, if convicted, are sentenced unduly leniently.

FIACAT regrets that there is still no definition of torture in Congolese domestic law which comply with Article 1 of the United Nations Convention on torture. Its definition as a specific crime does not appear in the Criminal Code.

The only option for victims of torture is to invoke it as an aggravating factor for crimes such as kidnapping and arbitrary detention, in accordance with Article 67(2) of the Criminal Code, book II, which states that: *"if a person abducted, arrested or detained has been subjected to physical torture, this shall be punishable by between 5 and 20 years' imprisonment. If this torture has led to death, this shall be punishable by a life sentence or death"*.

***Situation of detainees***

Most of the detention centres are overcrowded and in a very poor state. The prisons and detention centres away from Bukavu are in a very poor state too, especially the prisons in Kalehe, Idjwi, Kamituga, Shabunda, Uvira and Bunyakiri, which, it is feared, will one day cave in on the prisoners.

In most prisons in Sud-Kivu there is no bedding, electricity or drinking water. Food is not distributed regularly. Food brought in by the families of prisoners, NGOs or churches is often turned back by the prison guards. Family visits may have to be paid for.

FIACAT denounces that in Sud-Kivu, certain detention centres (clandestine prisons and *amigos*<sup>†</sup>) are still run by the military, administrative and security services, thus escaping the monitoring of the Courts. There are, in particular:

- the prison of the *Garde républicaine* at La Botte;
- the prison at Camp Saïo;
- the prison of the 10th military region in Sud-Kivu;
- the prison of the *Agence Nationale des Renseignements* (ANR) in Bukavu;

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\* ACAT Sud-Kivu Branch also shares the views expressed in this statement.

† Place of detention run by the Congolese police.

- prisons in villages and territories, in particular those created illegally wherever there are military camps.

The persons detained in such clandestine detention are not registered formally. Even in official detention centres, records are kept irregularly. Another practice can be seen before certain Courts, in particular the one in Kavumu, where judges 'freeze' files for months, so that detainees at the central prison in Bukavu are not brought before the courts for months.

The rights of detainees to be examined by a doctor of their choice, to be fed, to have legal assistance and family visits, are often denied.

In certain detention centres, physical punishments are still meted out, such as the daily beating, and the inmates are made to perform chores such as slopping out and the cutting and transport of fire wood, etc. Prisoners, in the absence of prison vans, are transferred from prison to court barefoot, dragged through the town on a rope, which constitutes degrading treatment.

Women are separated from men at the central prison in Bukavu. However, minors are detained with the adults. There have also been cases of women being detained with their babies in terrible conditions. Persons on remand, those who have been convicted and military prisoners are all held together.

In most of the clandestine detention centres, men, women and children are held together.

#### ***Judgement of civilians by military Courts***

Many cases of civilians being judged by military Courts have been reported. For example, Alain Mulimbi and Serge Muhima, first witnesses and then charged with the murder of Serge Maheshe<sup>‡</sup> appeared before the military Court of the Bukavu garrison. Their lawyers asked for them to be tried by the High Court in Bukavu, but their request was denied.

#### **FIACAT calls on the Human Rights Council to adopt a resolution:**

- **Condemning the massive violation of Human rights perpetrated against civilians, above all the rape used as a tool of war;**
- **Maintaining the mandate of the Independent Expert on the situation of human rights in the Democratic Republic of the Congo.**

#### **FIACAT urge the Congolese authorities to:**

**Improve the conditions of detention, above all the poor state of the detention centres and the lack of food;**

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<sup>‡</sup> Journalist at Radio Okapi, savagely beaten in Bukavu by armed men during the night of 13 to 14 June 2007.

- **Ensure that every detainee is properly registered, is brought before a judge, receives the right to legal counsel, to be examined by a doctor of his choice and to have family visits;**
- **Fight against impunity, above all for the crime of torture;**
- **Take all relevant measures to apply the Independent Expert on the situation of human rights in the DRC's recommendations;**
- **Address a standing invitation to all UN human rights mechanisms, above all the UN Special Rapporteur on Torture.**

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