

WOMEN'S INITIATIVES FOR GENDER JUSTICE

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H.E. Mr Ban Ki-moon
Secretary-General of the United Nations
United Nations
Room S-3800
NY, NY 10017

17 June 2009

Dear Secretary-General Ban Ki-moon,

We write to you regarding the preparation of your report on Security Council Resolution 1820¹ addressing sexual violence against women in armed conflicts and ending impunity for these crimes.

The Women's Initiatives for Gender Justice works with women most affected by armed conflicts and advocates for the International Criminal Court (ICC) to investigate and prosecute gender-based crimes where there is evidence of such crimes, in each situation under its investigation.

Since 2004 we have been actively engaged in the pursuit of justice, accountability for sexualized and other violence in each of the situations before the ICC, specifically Northern Uganda, the Democratic Republic of the Congo (DRC), Darfur and the Central African Republic (CAR). In addition, for the past two years we have been closely involved in the peace talks and ongoing process regarding Northern Uganda and more recently we have become engaged in peace-related activities in eastern DRC.

At this time we wish to draw your attention, and that of the Security Council, to the implementation challenges regarding Resolution 1820, in particular the absence of its application and that of Resolution 1325², within UN-sponsored peace talks and related agreements.

Specifically we refer you to the Peace Agreement between the Government of the DRC and le Congrès National pour la Défense du Peuple militia (CNDP)³, signed 23 March 2009.

Security Council Resolution 1325

As you well know, Resolution 1325 recognises the important role of women in the prevention and resolution of conflicts and in peace-building, and stresses the importance of their participation and full involvement in all efforts for the maintenance and promotion of peace and security.

¹ S/Res/1820 (2008), United Nations Security Council, 5916th meeting, 19 June 2008.

² S/Res/1325/2000, United Nations Security Council, 4213th meeting, 31 October 2000.

³ National Congress for the Defence of the People.

Prior to the signing of the Peace Agreement between the Government of the DRC and the CNDP, there were several negotiations held in Nairobi and Goma, sponsored and co-facilitated by the United Nations and the African Union.

A small group of women's rights and peace activists from the Kivus, eastern DRC, travelled to Nairobi in 2008 to attend the first of such Peace Talks but were denied access to the building, discouraged from attending and ultimately excluded from the Talks. Between the 'Nairobi 1' and 'Nairobi 2' negotiation sessions, Congolese women held an impromptu meeting with the UN Co-facilitator of the Peace Talks, UN Special Envoy President Obasanjo, when he was visiting Goma as part of the peace process. This was not a prearranged meeting, but women upon hearing President Obasanjo was coming to Goma, decided to assemble at the airport in the hope of speaking with him. The President graciously allowed time in his schedule for this brief spontaneous meeting.

A delegation of women from the Kivus went to Rwanda in September 2008, to urge the Rwandan Government to support an end to the conflict in eastern DRC. Similarly, in December women also met with a representative of the CNDP urging them to stay committed to the peace talks and to sign the Peace Agreement.

Despite these efforts, women were excluded from having access to the formal peace process, the negotiations, the principal delegations, and the draft texts under consideration. In what appears to be a direct contradiction of Resolution 1325, women were not engaged as participants, decision-makers or peace-builders.

Security Council Resolution 1820

Security Council Resolution 1820, passed in 2008, addresses amongst other issues the importance of ending impunity for those who have committed crimes of sexual violence during armed conflict.

While everyone welcomes the demobilization of the CNDP, the Peace Agreement between the Government of the DRC and the CNDP is in some respects highly unsatisfactory, specifically in the following areas:

- The promulgation of an amnesty law from June 2003 to the date of its enactment;
- The integration of members of the CNDP police and armed units into the Congolese National Police and Armed Forces respectively, with recognition of the ranks of former CNDP members.

Amnesty Provision

Article 3 of the Agreement outlines the Amnesty provision and states that the Government will 'enact a law of amnesty for the period June 2003 to the date of its enactment in accordance with international law'.⁴ This article also notes that the CNDP has 'expressed concerns over certain provisions of the bill already enacted by the National Assembly which

⁴ Clause 3.1. Peace Agreement between the Government and the National Congress for the Defence of the People, 23 March 2009.

it views as restricting the grounds for amnesty'.⁵ As it currently stands it is possible the Amnesty clause could exempt perpetrators of gender-based crimes from being held accountable for these acts.

The provisions outlined in Article 3 do not provide assurances that crimes of sexual violence will be excluded from the grounds accepted for amnesty. With the absence of explicit statements in the Principal Agreement regarding gender-based violence it is therefore required that this issue be addressed at the 'implementation' stage of the Agreement, for which we advocate direct and vigilant oversight by a United Nations team. Such a team should be inclusive of personnel with expertise in gender issues and sexualised violence, preferably in the context of armed conflicts.

Integration of Militia into State Security Forces

The provisions relating to the integration of the CNDP into the Congolese police and armed forces are also extremely concerning. Provision 5.5 of the Agreement indicates that a 'special police unit' will be formed 'arising out of the process of integrating the CNDP policemen into the Congolese National Police'. The role of this special police unit will be to ensure 'the security of refugees and displaced people returning home'. As such, some of those initially responsible for creating the conditions, instigating the attacks and destroying the homes and villages which led to the widespread displacement of the civilian population, will now be involved, under the terms of the Agreement, in assisting IDPs to return to their former homes. The security issues, the vulnerability of IDPs in this process, and the 'perpetrators' now assuming a legitimate state role, adds to the weight of injustice experienced by communities in eastern DRC.

Resolution 1820 requires that all parties to armed conflicts take measures to protect civilians including women and girls from all forms of sexual violence including 'vetting armed and security forces to take into account past actions of rape and other forms of sexual violence'.⁶ The Peace Agreement includes several provisions which relate to the integration of the CNDP police and militia into the Congolese Army (the FARDC) but does not state any policy or mechanism to 'vet' those being integrated regarding the possible past commission of crimes of sexual violence. The absence of provisions for a vetting mechanism, and the lack of requirement for formal training of CNDP police and soldiers prior to integration, raises considerable concerns. In particular, these concerns relate to the possible perpetration of gender-based crimes in the future by those who have previously committed such acts, and the absence of accountability for their past commission. Such oversights in the Principal Agreement must now be addressed at the implementation phase.

It is our view that the United Nations has the responsibility for not only the peace process and the Agreement so produced, but that it also has a 'monitoring' responsibility, as a co-sponsoring party, to ensure implementation of the Agreement in accordance with international law and Security Council Resolutions.

⁵ Clause 3.3. Peace Agreement between the Government and the National Congress for the Defence of the People, 23 March 2009.

⁶O.P 3. Resolution 1820.

Leadership and Recommendations

Mr Secretary-General, we raise these issues at this time cognizant of your current work preparing a Report for the Security Council on Resolution 1820.

A review conducted by UNIFEM⁷ in April 2009, of a sample of 21 major peace negotiations since 1992, indicates that only 2.4% of signatories to the peace agreements reviewed were women and that no women had been appointed as Chief Mediators to any of these negotiations. Most strikingly, no women have ever been appointed as Chief Mediators in UN-sponsored peace talks.

It is our conviction that the United Nations and the Security Council in particular, has a responsibility to ensure the following:

- That the mandate provided to UN-appointed Mediators and Special Envoys for peace talks include an explicit requirement for the appointees to ensure and demonstrate implementation of Resolutions 1325 and 1820 in the commission of their duties;
- That the UN implements O.P 3 of Resolution 1325 regarding the appointment of ‘more women as special representatives and envoys’. Towards the achievement of this goal we propose that the UN establishes gender benchmarks for the appointment of Chief Mediators to UN-sponsored peace talks. Such benchmarks could consider a ‘gender range’ such as no less than 45% and no more than 55% of individuals of either gender are appointed as Chief Mediators or Special Envoys for peace processes over a two-year cycle;
- That the *process* of peace talks is conducted in accordance with the Security Council Resolutions including, but not limited to, Resolution 1325;
- That the Peace Agreements and outcomes of such processes are in accordance with international law and Security Council Resolutions including, but not limited to, Resolution 1820; and
- That the activities, outcomes and establishment of national mechanisms and bodies formed to implement UN-sponsored Peace Agreements are in accordance with international law and Security Council Resolutions.

Consistent leadership and direct implementation of Resolutions 1325 and 1820 are required if the brokering of peace is to achieve justice for women, reconciliation for communities, and peace for all.

Sincerely,

Brigid Inder
Executive Director
Women’s Initiatives for Gender Justice

⁷Women’s Participation in Peace Negotiations: Connections between Presence and Influence, UNIFEM, April 2009.

Supported by 65 NGOs from eastern DRC representing over 180 Congolese organizations.

Signatories:

ESSAIM

Association des Femmes pour le Progrès Social et Culturel (AFPSC)

Centre d'Education et de Recherche pour les Droits des Femmes (CERDF)

Groupe des Associations de Défense des Droits de l'Homme et de la Paix (GADHOP)

Observatoire de la Parité en RDC

Groupe des Associations d'Appui au Développement et à la Participation Populaire (CENADEP)

SAUTI YA MAMA MUKONGOMANI – Masisi, Rutshuru, Pinga, Kitshanga, Kanyabayonga, Walikale

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Initiatives des Femmes en Situations Difficiles pour le Développement Intégré (IFESIDI – Bukavu)

Action Sociale pour la Paix et le Développement (ASPD)

Synergie des Femmes Contre les Violences Sexuelles (SFVS)

Initiative Congolais pour la Justice et la Paix (ICJP)

Coalition Congolaise pour la Justice Traditionnelle

ADDF

SOFEPADI

Espoir Après Viol et Abandon (EVA)

Associations des Mamans pour la Paix et le Développement en Ituri

ASSORMARPI

Collectif des Associations des Femmes de Beni

Encadrement des Femmes Indigènes et Ménages Vulnérable (EFIM)

FFP

PPSSP

AMACCO

CEVOSA

UFAP – Beni

FJDF

AFAPRO

Genre et Enfant

AFNAC

ONC

ADDF – Beni

CAF – ANIC

CVDH – Beni

EP – Beni

Association des Femmes pour le Progrès Social et Culturel (AFPSC)

Centre d'Encadrement en Art Culinaire (EAC)

Africa Justice Peace and Development (AJPD)

Action pour le Désenclavements des Milieux Rurales (ADEMIR)

Associations des Mamans Unies pour le Développement (AMIDE)
Groupe d’Action et d’Appui pour un Développement Endogène (GRAADE)
Association de Coopératives de Nyabiondo (ACOPANYA)
Réveil des Femmes pour le Développement Intégrée (RFEDI)
Association pour la Promotion Familiale et le Développement
Fondation des Veuves Musulmanes pour la Charité (FVMC)
Syndicat des Femmes Travailleuses
UCOOFABEL /LOFEPACO
Comité de Barazades – Femmes de la Ville de Beni
Solidarité
Habitantes de la Commune de Rwanguba
Soc. Civile Ituri
AFTI
Assoc. Ituri
FOMILARV
APPROSARE
OFEP
Securitas Congo
FOMI
PAMA
FLEVICA
REFED
AFPDI
CAFCO